2009 ACTS

First Regular Session and Special Session
116th Indiana General Assembly

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ACTS 2009

Laws enacted by the

116th GENERAL ASSEMBLY

at the

FIRST REGULAR SESSION
(2009)

VOLUME I

(P.L.1-2009 through P.L.80-2009)

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

Office of Code Revision
Legislative Services Agency

PREFACE TO 2009 ACTS

ARRANGEMENT

This edition of the Acts of Indiana includes all laws from the Regular and Special Sessions of the 116th General Assembly. The laws are arranged into two categories: first, laws of a permanent nature that amend the Indiana Code or laws that are temporary or special in nature and that do not amend the Code; and second, joint resolutions (if any).

Public Law 1 of the 2009 First Regular Session of the 116th General Assembly (P.L.1-2009) is a technical, nonsubstantive act to correct technical errors in Indiana's statutory law.

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

PRINTING CODE

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

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2008 General Assembly.

Upon the recommendation of the Code Revision Commission, the Legislative Council authorized a change in the style in which bills are printed to highlight the manner in which "blind amendments" are resolved in the technical correction bill prepared by the Code Revision Commission. A "blind amendment" occurs when two or more enrolled acts amend the same section of law but fail to indicate how they are to be read together. P.L.1-2009 (HEA 1198-2009), the technical correction bill prepared for the 2009 Regular Session of the General Assembly, uses an *italic typeface* to indicate that one or more words contained in a law enacted in 2008 were absent from other versions of the law enacted in the same session. P.L.1-2009 (HEA 1198-2009) in 2009 resolves the differences by striking superfluous words and inserting additional words as needed to harmonize the various versions of the law.

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

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

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

PUBLIC LAW CITATION FORM

The public law citation form incorporates the year the public law was enacted as a part of the public law number. For example, Public Law 1 enacted by the 116th First Regular Session is cited as P.L.1-2009.

CERTIFICATION

IC 2-6-1.5 requires the Indiana Legislative Council to supervise the preparation, indexing, and distribution of the session laws. Under IC 2-6-1.5, the Speaker of the House of Representatives and President Pro Tempore of the Senate must certify that the printed session laws have been compared with the enrolled acts and joint resolutions and have been found correct. The certificate can be seen by clicking on "Certificate" on the Table of Contents page.

CASH STATEMENT

Article 10, Section 4 of the Constitution of the State of Indiana requires that an "accurate statement of the receipts and expenditures of the public money, shall be published with the laws of each regular session of the General Assembly". The cash statement can be seen by clicking on "2008 Cash Statement" on the Table of Contents page.

TABLES

The Table of Citations Affected sets out each section of the Code that has been affected by legislation enacted at the First Regular Session or Special Session of the 116th General Assembly. The Table of Citations Affected can be seen by clicking on "Table of Citations Affected" on the Table of Contents page.

The Bill Numbers to Public Law Numbers table provides cross-references from House and Senate bill numbers to public law numbers for the First Regular Session and Special Session of the 116th General Assembly. This table can be seen by clicking on "Bill Numbers to Public Law Numbers" on the Table of Contents page.

The Public Law Numbers to Bill Numbers table provides cross-references from House and Senate public law numbers to bill numbers for the First Regular Session and Special Session of the 116th General Assembly. This table can be seen by clicking on "Public Law Numbers to Bill Numbers" on the Table of Contents page.

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A subject index for the legislation enacted at the First Regular Session and Special Session of the 116th General Assembly can be seen by clicking on "Index" on the Table of Contents page.

LAWS OF INDIANA

passed at the
SECOND REGULAR SESSION
115TH GENERAL ASSEMBLY

P.L.1-2009
[H.1198. Approved April 30, 2009.]

AN ACT to amend the Indiana Code concerning general provisions.

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

SECTION 1. IC 1-1-3.5-5, AS AMENDED BY P.L.2-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The governor shall forward a copy of the executive order issued under section 3 of this chapter to:

(1) the director of the Indiana state library;
(2) the election division; and
(3) the Indiana Register.

(b) The director of the Indiana state library, or an employee of the Indiana state library designated by the director to supervise a state data center established under IC 4-23-7.1, shall notify each state agency using population counts as a basis for the distribution of funds or services of the effective date of the tabulation of population or

corrected population count.

(c) The agencies that the director of the Indiana state library must notify under subsection (b) include the following:

(1) The auditor of state, for distribution of money from the following:

(A) The cigarette tax fund in accordance with IC 6-7-1-30.1.

(B) Excise tax revenue allocated under IC 7.1-4-7-8.

(C) The local road and street account in accordance with IC 8-14-2-4.

(2) The board of trustees of Ivy Tech Community College for the board's division of Indiana into service regions under IC 21-22-6-1.

~~(3) The lieutenant governor, for the distribution of money from the rural development fund under IC 4-4-9.~~

~~(4)~~ **(3)** The division of disability and rehabilitative services, for establishing priorities for community residential facilities under IC 12-11-1.1 and IC 12-28-4-12.

~~(5)~~ **(4)** The department of state revenue, for distribution of money from the motor vehicle highway account fund under IC 8-14-1-3.

~~(6)~~ **(5)** The Indiana economic development corporation, for the evaluation of enterprise zone applications under IC 5-28-15.

~~(7)~~ **(6)** The alcohol and tobacco commission, for the issuance of permits under IC 7.1.

~~(8)~~ **(7)** The Indiana library and historical board, for distribution of money to eligible public library districts under IC 4-23-7.1-29.

~~(9)~~ **(8)** The state board of accounts, for calculating the state share of salaries paid under IC 33-38-5, IC 33-39-6, and IC 33-41-2.

SECTION 2. IC 3-10-1-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19.5. Notwithstanding section 19 of this chapter, the county election board may alter the prescribed ballot order to place the names of the candidates for the following offices before the names of the candidates for county judicial offices:

(1) Prosecuting attorney.

(2) Clerk of the circuit court.

(3) The county offices listed in ~~section 19(4)~~ **section 19(b)(4)** of this chapter.

SECTION 3. IC 3-11-6.5-1, AS AMENDED BY P.L.164-2006,

SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) As used in this section, "department" refers to the Indiana department of administration established by IC 4-13-1-2.

(b) The department shall award quantity purchase agreements to vendors for new voting systems or upgrades or expansion of existing voting systems by counties.

(c) Both of the following must apply before the department may issue a quantity purchase agreement to a voting system vendor:

(1) The commission has found that all of the following would be enhanced by the vendor's new or upgraded voting system:

(A) Reliability of a county's voting system.

(B) Efficiency of a county's voting system.

(C) Ease of use by voters.

(D) Public confidence in a county's voting system.

(2) The commission has otherwise approved the vendor's new voting system or the upgrade or expansion of the existing voting system for use under this title.

(d) The quantity purchase agreement must include options for a county to:

(1) purchase;

(2) lease-purchase; or

(3) lease;

new voting systems or upgrades or expansion of existing voting systems.

(e) The purchase of new voting systems or upgrades or expansions of existing voting systems by a county or under a quantity purchase agreement entered into by the department under this section is considered an acquisition by the state for purposes of 42 U.S.C. 15401 if the voting system, upgrade, or expansion complies with 42 U.S.C. 15481 through 15502.

(f) Each county shall purchase at least one (1) voting system under this section for each polling place in the county to meet the requirements set forth under IC 3-11-15-13 **(repealed).**

SECTION 4. IC 3-11.5-4-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. If an envelope containing an absentee ballot has been marked "Rejected" and the voter appears in person at the precinct before the polls close, the voter may

vote as any other voter voting in person if the voter presents the precinct election board with the certificate issued under ~~section 13(c)~~ **section 13(f)** of this chapter.

SECTION 5. IC 4-4-10.9-1.2, AS AMENDED BY P.L.162-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.2. "Affected statutes" means all statutes that grant a power to or impose a duty on the authority, including but not limited to IC 4-4-11, IC 4-4-11.4, IC 4-4-21, ~~IC 4-4-31,~~ IC 4-13.5, IC 5-1-16, **IC 5-1-16.5,** IC 8-9.5, IC 8-14.5, IC 8-15, IC 8-15.5, IC 8-16, IC 13-18-13, IC 13-18-21, IC 13-19-5, **and** IC 14-14. ~~and IC 20-12-63.~~

SECTION 6. IC 4-4-11.5-19, AS AMENDED BY P.L.181-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) On or before January 1 of each year, the IFA shall determine the dollar amount of the volume cap for that year.

(b) Each year the volume cap shall be allocated among the categories specified in section 18 of this chapter as follows:

Type of Bonds	Percentage of Volume Cap
Bonds issued by the IFA	9%
Bonds issued by the IHCDA	28%
Bonds issued by the ISMEL	1%
Bonds issued by local units or other issuers under section ~~18(a)(3)~~ **18(a)(4)** of this chapter	42%
Bonds issued by local units or other issuers under section ~~18(a)(4)~~ **18(a)(5)** of this chapter	20%

(c) Except as provided in subsection (d), the amount allocated to a category represents the maximum amount of the volume cap that will be reserved for bonds included within that category.

(d) The IFA may adopt a resolution to alter the allocations made by subsection (b) for a year if it determines that the change is necessary to allow maximum usage of the volume cap and to promote the health and well-being of the residents of Indiana by promoting the public purposes served by the bond categories then subject to the volume cap.

(e) The governor may, by executive order, establish for a year a

different dollar amount for the volume cap, different bond categories, and different allocations among the bond categories than those set forth in or established under this section and section 18 of this chapter if it becomes necessary to adopt a different volume cap and bond category allocation system in order to allow maximum usage of the volume cap among the bond categories then subject to the volume cap and to promote the health, welfare, and well-being of the residents of Indiana by promoting the public purposes served by the bond categories then subject to the volume cap.

SECTION 7. IC 4-4-31.4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The commission consists of fifteen (15) voting members and two (2) nonvoting members. The voting members of the commission consist of the following:

(1) Six (6) Native American Indians, each from a different geographic region of Indiana.

(2) Two (2) Native American Indians who have knowledge in Native American traditions and spiritual issues.

(3) The commissioner of the department of correction or the commissioner's designee.

(4) The commissioner of the commission for higher education or the commissioner's designee.

(5) The commissioner of the state department of health or the commissioner's designee.

(6) The secretary of ~~the office of~~ family and social services or the secretary's designee.

(7) The director of the department of natural resources or the director's designee.

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

(9) The commissioner of the department of workforce development or the commissioner's designee.

(b) The nonvoting members of the commission consist of the following:

(1) One (1) member of the house of representatives appointed by the speaker of the house of representatives.

(2) One (1) member of the senate appointed by the president pro tempore of the senate.

(c) The governor shall appoint each Native American Indian member of the commission to a term of four (4) years, and any vacancy occurring shall be filled by the governor for the unexpired term. Before appointing a Native American Indian member to the commission, the governor shall solicit nominees from Indiana associations that represent Native American Indians in the geographic region from which the member will be selected. Not more than one (1) member may represent the same tribe or Native American Indian organization or association.

(d) A member of the commission may be removed by the member's appointing authority.

SECTION 8. IC 4-6-12-3.5, AS ADDED BY P.L.145-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.5. (a) As used in this chapter, "residential real estate transaction" includes:

(1) mortgage lending practices;

(2) real estate appraisals; and

(3) other practices;

performed or undertaken in connection with a single family residential mortgage transaction or the refinancing of a single family residential mortgage transaction.

(b) Not later than July 1, 2008, the unit shall:

(1) establish a new toll free telephone number; or

(2) designate an existing toll free telephone number operated or sponsored by the office of the attorney general;

to receive calls from persons having information about suspected fraudulent residential real estate transactions.

(c) The toll free telephone number required by this section shall be staffed by:

(1) employees or investigators of the unit who have knowledge of the laws concerning residential real estate transactions;

(2) representatives of any of the entities described in section 4(a)(8) through 4(a)(10) of this chapter who have knowledge of the laws concerning residential real estate transactions; or

(3) a combination of persons described in subdivisions (1) and (2).

The attorney general shall designate persons to staff the toll free telephone number as required by this subsection.

(d) Unless otherwise prohibited by law, the unit shall ensure that

information received from callers to the toll free telephone number is shared with any entity described in section 4 of this chapter that has jurisdiction over the matter not later than fifteen (15) business days after the date the unit determines the appropriate entity to which the information should be referred. The unit shall establish uniform procedures for:

(1) responding to calls received;

(2) protecting:

(A) the anonymity of callers who wish to report information anonymously; or

(B) the identity of callers who request that their identity not be disclosed;

(3) documenting and verifying information reported by callers; and

(4) transmitting reported information to the appropriate entities described in section 4 of this chapter within the time required by this subsection.

(e) The unit shall publicize the availability of the toll free telephone number established **or designated** under this section in a manner reasonably designed to reach members of the public.

SECTION 9. IC 4-13-16.5-1, AS AMENDED BY P.L.3-2008, SECTION 5, AND AS AMENDED BY P.L.87-2008, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Commission" refers to the governor's commission on minority and women's business enterprises established under section 2 of this chapter.

(c) "Commissioner" refers to the deputy commissioner for minority and women's business enterprises of the department.

(d) "Contract" means any contract awarded by a state agency for construction projects or the procurement of goods or services, including professional services. *For purposes of this subsection, "goods or services" may not include the following when determining the total value of contracts for state agencies:*

(1) Utilities.

(2) Health care services (as defined in IC 27-8-11-1(c)).

(3) Rent paid for real property or payments constituting the price

of an interest in real property as a result of a real estate transaction.

(e) "Department" refers to the Indiana department of administration established by IC 4-13-1-2.

(f) "Minority business enterprise" or "minority business" means an individual, partnership, corporation, limited liability company, or joint venture of any kind that is owned and controlled by one (1) or more persons who are:

(1) United States citizens; and

(2) members of a minority group or a qualified minority nonprofit corporation.

(g) "Qualified minority or women's nonprofit corporation" means a corporation that:

(1) is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;

(2) is headquartered in Indiana;

(3) has been in continuous existence for at least five (5) years;

(4) has a board of directors that has been in compliance with all other requirements of this chapter for at least five (5) years;

(5) is chartered for the benefit of the minority community or women; and

(6) provides a service that will not impede competition among minority business enterprises or women's business enterprises at the time a nonprofit applies for certification as a minority business enterprise or a women's business enterprise.

(h) "Owned and controlled" means:

(1) if the business is a qualified minority nonprofit corporation, a majority of the board of directors are minority;

(2) if the business is a qualified women's nonprofit corporation, a majority of *the members of* the board of directors are women; or

(3) if the business is a business other than a qualified minority or women's nonprofit corporation, having:

(A) ownership of at least fifty-one percent (51%) of the enterprise, including corporate stock of a corporation;

(B) control over the management and active in the day-to-day operations of the business; and

(C) an interest in the capital, assets, and profits and losses of the business proportionate to the percentage of ownership.

(i) "Minority group" means:

(1) Blacks;

(2) American Indians;

(3) Hispanics; *and*

(4) Asian Americans. ~~*and*~~

~~*(5) other similar minority groups.*~~

(j) "Separate body corporate and politic" refers to an entity established by the general assembly as a body corporate and politic.

(k) "State agency" refers to any authority, board, branch, commission, committee, department, division, or other instrumentality of the executive, including the administrative, department of state government.

SECTION 10. IC 4-15-10-8, AS ADDED BY P.L.10-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) For purposes of this section, "civil air patrol" refers to the Indiana wing of the civil air patrol.

(b) For purposes of this section, "emergency service operation" includes the following operations of the civil air patrol:

(1) Search and rescue missions designated by the Air Force Rescue Coordination Center.

(2) Disaster relief, when requested by the Federal ~~or state~~ Emergency Management Agency **or the department of homeland security established by IC 10-19-2-1.**

(3) Humanitarian services, when requested by the Federal ~~or state~~ Emergency Management Agency **or the department of homeland security established by IC 10-19-2-1.**

(4) United States Air Force support designated by the First Air Force, North American Aerospace Defense Command.

(c) An employee may not be disciplined for absence from work if:

(1) the employee is a member of the civil air patrol;

(2) the employee has notified the employee's immediate supervisor in writing that the employee is a member of the civil air patrol;

(3) in the event that the employee has already reported for work on the day of the emergency service operation, the employee secures authorization from the employee's supervisor to leave the employee's duty station before leaving to engage in the emergency service operation; and

(4) the employee presents a written statement to the employee's immediate supervisor from the commander or other officer in charge of the civil air patrol indicating that the employee was engaged in an emergency service operation at the time of the employee's absence from work.

SECTION 11. IC 4-23-7-5.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.3. (a) The Indiana library and historical board may, on the recommendation of the director of the state library, sell, lease, exchange, or otherwise dispose of library materials under:

(1) ~~IC 4-13-2-12,~~ **IC 5-22-21;** or

(2) ~~IC 4-13-2-12.5.~~ **IC 5-22-22.**

(b) The Indiana library and historical board may, on the recommendation of the director of the state library and in accordance with policies and procedures adopted by the board, sell, donate, or exchange library materials to or with other public or nonprofit libraries or historical societies.

(c) The Indiana library and historical board may, on the recommendation of the director of the state library, adopt policies and procedures for evaluating a proposal to:

(1) accept gifts of;

(2) sell;

(3) exchange; or

(4) otherwise dispose of;

library materials described in IC 4-23-7.1-3.

SECTION 12. IC 5-1-16-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) The bonds must be dated, must bear interest at such rates (fixed or variable), must mature at such times not exceeding forty (40) years from their date, and may be made redeemable before maturity at such prices and upon terms and conditions determined by the authority. The bonds, including any interest coupons to be initially attached thereto, must be in the forms and denominations and payable at such places, as the authority determines. The bonds shall be executed by the manual or facsimile signature of the chairman or vice chairman of the authority, and the seal of the authority, or facsimile seal, shall be affixed or imprinted on the bonds. The seal shall be attested by the manual or facsimile signature of the ~~executive~~ **public finance** director. ~~of the authority.~~

However, one (1) of the signatures must be manual, unless the bonds are authenticated by the manual signature of an authorized officer of a trustee for the bondholders. Any coupons attached must bear the facsimile signature of the chairman or vice chairman of the authority. If an officer's signature or a facsimile of whose signature appears on any bonds or coupons, and the officer ceases to be an officer before the delivery of and payment for such bonds, such signature or such facsimile is nevertheless valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery and payment. The bonds may be issued in coupon or in fully registered form, or both, or may be payable to a specific person, as the authority determines, and provision may be made for the registration of any coupon bonds as to principal alone or as to both principal and interest, for the conversion of coupon bonds into fully registered bonds without coupons, and for the conversion into coupon bonds of any fully registered bonds without coupons. The duty of conversion may be imposed upon a trustee in a trust agreement.

(b) The principal of, redemption premium, if any, and interest on such bonds shall be payable solely from and may be secured by a pledge of all or any part of the proceeds of bonds, revenues derived from the lease or sale of health facility property or realized from a loan made by the authority to finance or refinance in whole or in part health facility property, revenues derived from operating health facility property, including insurance proceeds, or any other revenues provided by a participating provider.

(c) The authority shall sell the bonds at prices it determines, at public or private sale.

(d) The authority may provide for the issuance of bonds of the authority for the purpose of refunding any bonds of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase or maturity of such bonds, and, if considered advisable by the authority, for the additional purpose of paying all or any part of the cost of health facility property.

(e) The proceeds of any bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds either on their earliest or any subsequent redemption

date or upon the purchase or at the maturity thereof and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the authority. Subject to the provisions of any trust indenture to the contrary, any such escrowed proceeds, pending such use, may be invested and reinvested in such obligations as are determined by the authority in order to assure the prompt payment of the principal and interest and redemption premium, if any, on the outstanding bonds to be so refunded. The interest, income, and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be so refunded. Only after the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income, and profits, if any, earned or realized on the investments thereof shall be returned to the authority or the participating providers for use by them in any lawful manner. All such bonds are subject to this chapter in the same manner and to the same extent as other bonds issued under this chapter.

SECTION 13. IC 5-1-16-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. All money of the authority, except as otherwise provided in this chapter, shall be deposited as soon as practical in a separate account in banks or trust companies organized under the laws of Indiana or in national banking associations. The money in these accounts shall be paid by checks signed by the ~~executive~~ **public finance** director or other officers or employees of the authority as the authority authorizes. All deposits of money shall, if required by the authority, be secured in such a manner as the authority determines to be prudent, and all banks or trust companies are authorized to give security for the deposits.

SECTION 14. IC 5-2-1-9, AS AMENDED BY P.L.128-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. The rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy

meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, law enforcement training centers, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the board.

(10) Minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice training programs for law enforcement officers. The course must cover the following topics:

(A) Examination of the human and sexual trafficking laws (IC 35-42-3.5).

(B) Identification of human and sexual trafficking.

(C) Communicating with traumatized persons.

(D) Therapeutically appropriate investigative techniques.

(E) Collaboration with federal law enforcement officials.

(F) Rights of and protections afforded to victims.

(G) Providing documentation that satisfies the Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B) requirements established under federal law.

(H) The availability of community resources to assist human and sexual trafficking victims.

(b) Except as provided in subsection (l), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), (l), (r), and (s), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy or at a law enforcement training center under section 10.5 or 15.2 of this chapter, the basic training

requirements established by the board under this chapter.

(e) This subsection does not apply to:

(1) a gaming agent employed as a law enforcement officer by the Indiana gaming commission; or

(2) an:

(A) attorney; or

(B) investigator;

designated by the securities commissioner as a police officer of the state under ~~IC 23-2-1-15(i).~~ **IC 23-19-6-1(i).**

Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

(1) law enforcement officers;

(2) police reserve officers (as described in IC 36-8-3-20); and

(3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, the lawful use of force, and the operation of an emergency vehicle. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of at least forty (40) hours of course work. The board may prepare the classroom part of the pre-basic course using available technology in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including postsecondary educational institutions.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for

continued employment unless the officer satisfactorily completes the mandatory inservice training requirements established by rules adopted by the board. Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the board, and training concerning human and sexual trafficking. The board may approve courses offered by other public or private training entities, including postsecondary educational institutions, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to either of the following:

(1) An emergency situation.

(2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

(1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.

(2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having not more than one (1) marshal and two (2) deputies.

(4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(i) The board shall adopt rules under IC 4-22-2 to establish an executive training program. The executive training program must include training in the following areas:

(1) Liability.

(2) Media relations.
(3) Accounting and administration.
(4) Discipline.
(5) Department policy making.
(6) Lawful use of force.
(7) Department programs.
(8) Emergency vehicle operation.
(9) Cultural diversity.

(j) A police chief shall apply for admission to the executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the executive training program within six (6) months of the date the police chief initially takes office. However, if space in the executive training program is not available at a time that will allow completion of the executive training program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available executive training program that is offered after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not continue to serve as the police chief until completion of the executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

(1) the police chief of any city;
(2) the police chief of any town having a metropolitan police department; and
(3) the chief of a consolidated law enforcement department established under IC 36-3-1-5.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the executive training program.

(l) A fire investigator in the division of fire and building safety appointed after December 31, 1993, is required to comply with the basic training standards established under this chapter.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

(n) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) has not been employed as a law enforcement officer for at least two (2) years and less than six (6) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement; and

(3) completed at any time a basic training course certified by the board before the officer is hired under subdivision (1).

(o) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) has not been employed as a law enforcement officer for at least six (6) years and less than ten (10) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement;

(3) is hired under subdivision (1) in an upper level policymaking position; and

(4) completed at any time a basic training course certified by the board before the officer is hired under subdivision (1).

A refresher course established under this subsection may not exceed one hundred twenty (120) hours of course work. All credit hours received for successfully completing the police chief executive training program under subsection (i) shall be applied toward the refresher course credit hour requirements.

(p) Subject to subsection (q), an officer to whom subsection (n) or (o) applies must successfully complete the refresher course described in subsection (n) or (o) not later than six (6) months after the officer's date of hire, or the officer loses the officer's powers of:

(1) arrest;

(2) search; and

(3) seizure.

(q) A law enforcement officer who has worked as a law enforcement officer for less than twenty-five (25) years before being hired under subsection (n)(1) or (o)(1) is not eligible to attend the refresher course described in subsection (n) or (o) and must repeat the full basic training

course to regain law enforcement powers. However, a law enforcement officer who has worked as a law enforcement officer for at least twenty-five (25) years before being hired under subsection (n)(1) or (o)(1) and who otherwise satisfies the requirements of subsection (n) or (o) is not required to repeat the full basic training course to regain law enforcement power but shall attend the refresher course described in subsection (n) or (o) and the pre-basic training course established under subsection (f).

(r) This subsection applies only to a gaming agent employed as a law enforcement officer by the Indiana gaming commission. A gaming agent appointed after June 30, 2005, may exercise the police powers described in subsection (d) if:

(1) the agent successfully completes the pre-basic course established in subsection (f); and

(2) the agent successfully completes any other training courses established by the Indiana gaming commission in conjunction with the board.

(s) This subsection applies only to a securities enforcement officer designated as a law enforcement officer by the securities commissioner. A securities enforcement officer may exercise the police powers described in subsection (d) if:

(1) the securities enforcement officer successfully completes the pre-basic course established in subsection (f); and

(2) the securities enforcement officer successfully completes any other training courses established by the securities commissioner in conjunction with the board.

(t) As used in this section, "upper level policymaking position" refers to the following:

(1) If the authorized size of the department or town marshal system is not more than ten (10) members, the term refers to the position held by the police chief or town marshal.

(2) If the authorized size of the department or town marshal system is more than ten (10) members but less than fifty-one (51) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next rank and pay grade immediately below the police chief or town marshal.

(3) If the authorized size of the department or town marshal system is more than fifty (50) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next two (2) ranks and pay grades immediately below the police chief or town marshal.

SECTION 15. IC 5-2-6-23, AS ADDED BY P.L.104-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) As used in this section, "board" refers to the sexual assault victim advocate standards and certification board established by subsection (c).

(b) As used in this section, "rape crisis center" means an organization that provides a full continuum of services, including hotlines, victim advocacy, and support services from the onset of the need for services through the completion of healing, to victims of sexual assault.

(c) The sexual assault victim advocate standards and certification board is established. The board consists of the following twelve (12) members appointed by the governor:

(1) A member recommended by the prosecuting attorneys council of Indiana.

(2) A member from law enforcement.

(3) A member representing a rape crisis center.

(4) A member recommended by the Indiana Coalition Against Sexual Assault.

(5) A member representing mental health professionals.

(6) A member representing hospital administration.

(7) A member who is a health care professional (as defined in IC 16-27-1-1) qualified in forensic evidence collection and recommended by the Indiana chapter of the International Association of Forensic Nurses.

(8) A member who is an employee of the Indiana criminal justice institute.

(9) A member who is a survivor of sexual violence.

(10) A member who is a physician (as defined in IC 25-22.5-1-1.1) with experience in examining sexually abused children.

(11) A member who is an employee of the office of **the secretary of** family and social services.

(12) A member who is an employee of the state department of health, office of women's health.

(d) Members of the board serve a four (4) year term. Not more than seven (7) members appointed under this subsection may be of the same political party.

(e) The board shall meet at the call of the chairperson. Seven (7) members of the board constitute a quorum. The affirmative vote of at least seven (7) members of the board is required for the board to take any official action.

(f) The board shall:

(1) develop standards for certification as a sexual assault victim advocate;

(2) set fees that cover the costs for the certification process;

(3) adopt rules under IC 4-22-2 to implement this section;

(4) administer the sexual assault victims assistance account established by subsection (h); and

(5) certify sexual assault victim advocates to provide advocacy services.

(g) Members of the board may not receive a salary per diem. Members of the board are entitled to receive reimbursement for mileage for attendance at meetings. Any other funding for the board is paid at the discretion of the director of the office of management and budget.

(h) The sexual assault victims assistance account is established within the state general fund. The board shall administer the account to provide financial assistance to rape crisis centers. Money in the account must be distributed to a statewide nonprofit sexual assault coalition as designated by the federal Centers for Disease Control and Prevention under 42 U.S.C. 280 et seq. The account consists of:

(1) amounts transferred to the account from sexual assault victims assistance fees collected under IC 33-37-5-23;

(2) appropriations to the account from other sources;

(3) fees collected for certification by the board;

(4) grants, gifts, and donations intended for deposit in the account; and

(5) interest accruing from the money in the account.

(i) The expenses of administering the account shall be paid from money in the account. The board shall designate not more than ten percent (10%) of the appropriation made each year to the nonprofit corporation for program administration. The board may not use more than ten percent (10%) of the money collected from certification fees to administer the certification program.

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

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

(l) The governor shall appoint a member of the commission each year to serve a one (1) year term as chairperson of the board.

SECTION 16. IC 5-10.2-2-11, AS AMENDED BY P.L.72-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Based on the actuarial investigation and valuation in section 9 of this chapter, each board shall determine:

(1) the normal contribution for the employer, which is the amount necessary to fund the pension portion of the retirement benefit;

(2) the rate of normal contribution;

(3) the unfunded accrued liability of the public employees' retirement fund, the pre-1996 account, and the 1996 account, which is the excess of total accrued liability over the fund's or account's total assets, respectively; and

(4) the rates of contribution for the state expressed as a proportion of compensation of members, which would be necessary to:

(A) amortize the unfunded accrued liability of the state for thirty (30) years or for a shorter time period requested by the budget agency or the governor; and

(B) prevent the state's unfunded accrued liability from increasing.

(b) Based on the information in subsection (a), each board may determine, in its sole discretion, contributions and contribution rates for individual employers or for a group of employers.

(c) The board's determinations under subsection (a):

(1) are subject to section 1.5 of this chapter; and

(2) for an employer making a contribution to the Indiana state teachers' retirement fund, may not include an amount for a retired

member of the Indiana state teachers' retirement fund for whom the employer may not make contributions during the member's period of reemployment as provided under ~~IC 5-10.2-4-8(c).~~ **IC 5-10.2-4-8(d).**

SECTION 17. IC 5-10.2-3-1, AS AMENDED BY P.L.72-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as provided ~~under IC 5-10.2-4-8(c),~~ **in IC 5-10.2-4-8(d),** each member's creditable service, for the purpose of computing benefits under this article, consists of all service in a position covered by a retirement fund plus all other service for which the retirement fund law gives credit.

(b) No member may be required to pay any contributions for service before the member is covered by this article as a condition precedent to receiving benefits under this article. However, the member must furnish proof of the service to the board of the fund under which the member claims service.

(c) A member who has past service as an employee of the state or a participating political subdivision in a position which was not covered by the retirement fund is entitled to credit for this service if the position becomes covered before January 1, 1985, by the Indiana state teachers' retirement fund, the public employees' retirement fund, or the retirement fund for the state board of accounts and if the member submits proof of the service to the secretary of the fund in which the member claims service.

(d) A member who has past service in a position that was not covered by the retirement fund is entitled to credit for this service if the position becomes covered after December 31, 1984, by a fund while the member holds that position or another position with the same employer and if the member submits proof of the service to the director of the fund in which the member claims service.

(e) The proof required by this section must:

(1) be submitted in a form approved by the director;

(2) contain dates and nature of service and other information required by the director; and

(3) be certified by the governing body or its agent.

(f) A member who is a state employee is entitled to service credit for the time the member is receiving disability benefits under a disability plan established under IC 5-10-8-7.

(g) If a participant in the legislators' defined benefit plan does not become entitled to a benefit from that plan, the PERF board or the TRF board shall include the participant's service in the general assembly in the determination of eligibility for, and computation of, benefits under PERF or TRF at the time the participant would be eligible to receive benefits under PERF or TRF. After benefits commence under PERF or TRF with the general assembly service included, the participant's general assembly service may not be used for the computation of benefits under IC 2-3.5-4.

(h) A member may receive service credit for all or a part of the member's creditable service in another governmental retirement plan under IC 5-10.3-7-4.5 and IC 5-10.4-4-4. A member may not receive credit for service for which the member receives service credit in another retirement plan maintained by a state, a political subdivision, or an instrumentality of the state for service that PERF or TRF would otherwise give credit.

(i) A member may use all or a part of the member's creditable service under PERF or TRF in another governmental retirement plan under the terms of the other plan. Creditable service used under the other governmental retirement plan may not be used in PERF or TRF.

SECTION 18. IC 5-10.2-3-2, AS AMENDED BY P.L.72-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Subject to IC 5-10.2-2-1.5, as used in this section, "compensation" means:

(1) the basic salary earned by and paid to the member; plus

(2) the amount that would have been a part of the basic salary earned and paid except for the member's salary reduction agreement established under Section 125, 403(b), or 457 of the Internal Revenue Code.

(b) Except in cases where:

(1) the contribution is made on behalf of the member; or

(2) a retired member of the Indiana state teachers' retirement fund may not make contributions during a period of reemployment as provided ~~under IC 5-10.2-4-8(c),~~ **in IC 5-10.2-4-8(d);**

each member shall, as a condition of employment, contribute to the fund three percent (3%) of ~~his~~ **the member's** compensation.

(c) Except as provided ~~under IC 5-10.2-4-8(c),~~ **in IC 5-10.2-4-8(d),** a member of a fund may make contributions to the member's annuity

savings account in addition to the contributions required under subsection (b). The total amount of contributions that may be made to a member's annuity savings account with respect to a payroll period under this subsection may not exceed ten percent (10%) of the member's compensation for that payroll period. The contributions made under this subsection may be picked-up and paid by an employer as provided in subsection (d).

(d) In compliance with rules adopted by each board, an employer, under Section 414(h)(2) of the Internal Revenue Code, may pick-up and pay the contributions under subsection (c), subject to approval of the board and to the board's receipt of a favorable private letter ruling from the Internal Revenue Service. The employer shall reduce the member's compensation by an amount equal to the amount of the member's contributions under subsection (c) that are picked-up by the employer. Each board shall by rule establish the procedural requirements for employers to carry out the pick-up in compliance with Section 414(h)(2) of the Internal Revenue Code.

(e) A member's contributions and interest credits belong to the member and do not belong to the state or political subdivision.

SECTION 19. IC 5-10.4-7-1, AS AMENDED BY P.L.72-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The administrative officers of a school corporation or other institution covered by the fund shall:

(1) notify each person to be employed in a teaching position that the person's obligations under this article are a condition of employment; and

(2) make the obligations a part of the teacher's contract.

(b) Except in cases where:

(1) the contribution is made on behalf of the member; or

(2) a retired member of the Indiana state teachers' retirement fund may not make contributions during a period of reemployment as provided under ~~IC 5-10.2-4-8(c),~~ **IC 5-10.2-4-8(d);**

a teacher's contract shall be construed to require the deduction of contributions to meet the teachers' contractual obligations to the fund and the state.

SECTION 20. IC 5-10.4-7-3, AS AMENDED BY P.L.72-2007, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Unless the member's contribution is

made on behalf of the member or the member is a retired member who may not make contributions during a period of reemployment as provided under ~~IC 5-10.2-4-8(c),~~ **IC 5-10.2-4-8(d),** the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall:

(1) deduct from each member's salary the member's contribution for the fund; and

(2) issue to each member, on behalf of the board, a statement for each contribution deducted.

(b) The statement described in subsection (a)(2) is evidence that the member has credit from the fund for payment of the stated contribution.

SECTION 21. IC 5-10.4-7-7, AS AMENDED BY P.L.72-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Not later than January 15, April 15, July 15, and October 15 of each year, the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall make a report to the board on a form furnished by the board and within the time set by the board. Amendatory reports to correct errors or omissions may be required and made.

(b) The report required by subsection (a) must include:

(1) the name of each member employed in the preceding reporting period, except substitute teachers;

(2) the total salary and other compensation paid for personal services to each member in the reporting period;

(3) the sum of contributions made for or by each member, except for a retired member who may not make contributions during a period of reemployment as provided under ~~IC 5-10.2-4-8(c);~~ **IC 5-10.2-4-8(d);**

(4) the sum of employer contributions made by the school corporation or other institution, except for a retired member for whom or on whose behalf an employer may not make contributions during a period of reemployment as provided under ~~IC 5-10.2-4-8(c);~~ **IC 5-10.2-4-8(d);**

(5) the number of days each member received salary or other compensation for teaching services; and

(6) any other information that the board determines necessary for the effective management of the fund.

(c) As often as the board determines necessary, the board may review or cause to be reviewed the pertinent records of any public entity contributing to the fund under this article.

SECTION 22. IC 5-11-19-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) After June 30, 1986, field examiners and other employees of the state board of accounts shall be included as members of PERF and shall be treated as though they were members of PERF during their employment with the state board of accounts. Creditable service that was properly allowed by the FERF board of trustees as of June 30, 1986, shall be recognized by the PERF board of trustees as creditable service.

(b) Notwithstanding subsection (a), the members of FERF who were members on April 1, 1967, are entitled to receive retirement, survivor, disability, and all other benefits as provided by IC 5-11-15-13 **(repealed)** before July 1, 1986.

SECTION 23. IC 5-20-1-4, AS AMENDED BY P.L.133-2008, SECTION 1, AND AS AMENDED BY P.L.145-2008, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The authority has all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the power:

(1) to make or participate in the making of construction loans ~~*to sponsors of*~~ *for* multiple family residential housing ~~*that is federally assisted or assisted by a government sponsored enterprise, such as the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Agricultural Mortgage Corporation, the Federal Home Loan Bank, and other similar entities*~~ *under terms that are* approved by the authority;

(2) to make or participate in the making of mortgage loans ~~*to sponsors of*~~ *for* multiple family residential housing ~~*that is federally assisted or assisted by a government sponsored enterprise, such as the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Agricultural Mortgage Corporation, the Federal Home Loan Bank, and other similar entities*~~ *under terms that are* approved by the authority;

(3) to purchase or participate in the purchase from mortgage

lenders of mortgage loans made to persons of low and moderate income for residential housing;

(4) to make loans to mortgage lenders for the purpose of furnishing funds to such mortgage lenders to be used for making mortgage loans for persons and families of low and moderate income. However, the obligation to repay loans to mortgage lenders shall be general obligations of the respective mortgage lenders and shall bear such date or dates, shall mature at such time or times, shall be evidenced by such note, bond, or other certificate of indebtedness, shall be subject to prepayment, and shall contain such other provisions consistent with the purposes of this chapter as the authority shall by rule or resolution determine;

(5) to collect and pay reasonable fees and charges in connection with making, purchasing, and servicing of its loans, notes, bonds, commitments, and other evidences of indebtedness;

(6) to acquire real property, or any interest in real property, by conveyance, including purchase in lieu of foreclosure, or foreclosure, to own, manage, operate, hold, clear, improve, and rehabilitate such real property and sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purposes of the authority;

(7) to sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction loan, a land development loan, a mortgage loan, or a loan of any type permitted by this chapter;

(8) to procure insurance against any loss in connection with its operations in such amounts and from such insurers as it may deem necessary or desirable;

(9) to consent, subject to the provisions of any contract with noteholders or bondholders which may then exist, whenever it deems it necessary or desirable in the fulfillment of its purposes to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, loan to lender, or contract or agreement of any kind to which the authority is a party;

(10) to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing;
(11) to include in any borrowing such amounts as may be deemed necessary by the authority to pay financing charges, interest on the obligations (for a period not exceeding the period of construction and a reasonable time thereafter or if the housing is completed, two (2) years from the date of issue of the obligations), consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;
(12) to make and publish rules respecting its lending programs and such other rules as are necessary to effectuate the purposes of this chapter;
(13) to provide technical and advisory services to sponsors, builders, and developers of residential housing and to residents and potential residents, including housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;
(14) to promote research and development in scientific methods of constructing low cost residential housing of high durability;
(15) to encourage community organizations to participate in residential housing development;
(16) to make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, limited liability company, or other organization or entity necessary or convenient to accomplish the purposes of this chapter;
(17) to accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;
(18) to sue and be sued in its own name, plead and be impleaded;
(19) to maintain an office in the city of Indianapolis and at such other place or places as it may determine;
(20) to adopt an official seal and alter the same at pleasure;
(21) to adopt and from time to time amend and repeal bylaws for

the regulation of its affairs and the conduct of its business and to prescribe rules and policies in connection with the performance of its functions and duties;

(22) to employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor;

(23) notwithstanding IC 5-13, but subject to the requirements of any trust agreement entered into by the authority, to invest:

(A) the authority's money, funds, and accounts;

(B) any money, funds, and accounts in the authority's custody; and

(C) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority;

(24) to make or participate in the making of construction loans, mortgage loans, or both, to individuals, partnerships, limited liability companies, corporations, and organizations for the construction of residential facilities for individuals with a developmental disability or for individuals with a mental illness or for the acquisition or renovation, or both, of a facility to make it suitable for use as a new residential facility for individuals with a developmental disability or for individuals with a mental illness;

(25) to make or participate in the making of construction and mortgage loans to individuals, partnerships, corporations, limited liability companies, and organizations for the construction, rehabilitation, or acquisition of residential facilities for children;

(26) to purchase or participate in the purchase of mortgage loans from:

(A) public utilities (as defined in IC 8-1-2-1); or

(B) municipally owned gas utility systems organized under IC 8-1.5;

if those mortgage loans were made for the purpose of insulating and otherwise weatherizing single family residences in order to conserve energy used to heat and cool those residences;

(27) to provide financial assistance to mutual housing associations (IC 5-20-3) in the form of grants, loans, or a

combination of grants and loans for the development of housing for low and moderate income families;

(28) to service mortgage loans made or acquired by the authority and to impose and collect reasonable fees and charges in connection with such servicing;

(29) subject to the authority's investment policy, to enter into swap agreements (as defined in IC 8-9.5-9-4) in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7;

(30) to promote and foster community revitalization through community services and real estate development;

(31) to coordinate and establish linkages between governmental and other social services programs to ensure the effective delivery of services to low income individuals *and families, including individuals or families facing or experiencing homelessness;*

(32) to cooperate with local housing officials and plan commissions in the development of projects that the officials or commissions have under consideration;

(33) to take actions necessary to implement its powers that the authority determines to be appropriate and necessary to ensure the availability of state or federal financial assistance; and

(34) to administer any program or money designated by the state or available from the federal government or other sources that is consistent with the authority's powers and duties.

The omission of a power from the list in this subsection does not imply that the authority lacks that power. The authority may exercise any power that is not listed in this subsection but is consistent with the powers listed in this subsection to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.

(b) The authority shall ~~*structure and administer any program conducted*~~ *ensure that a mortgage loan acquired by the authority* under subsection (a)(3) or *made by a mortgage lender with funds provided by the authority under subsection* (a)(4) ~~*in order to assure that no mortgage loan shall*~~ *is not* knowingly ~~*be*~~ made to a person whose adjusted family income, ~~*shall exceed*~~ *as determined by the authority, exceeds* one hundred twenty-five percent (125%) of the median income for the geographic area ~~*within which the person resides and at least forty percent (40%) of the mortgage loans so financed*~~

~~*shall be for persons whose adjusted family income shall be below eighty percent (80%) of the median income for such area.*~~ *involved. However, if the authority determines that additional encouragement is needed for the development of the geographic area involved, a mortgage loan acquired or made under subsection (a)(3) or (a)(4) may be made to a person whose adjusted family income, as determined by the authority, does not exceed one hundred forty percent (140%) of the median income for the geographic area involved. The authority shall establish procedures that the authority determines are appropriate to structure and administer any program conducted under subsection (a)(3) or (a)(4) for the purpose of acquiring or making mortgage loans to persons of low or moderate income. In determining what constitutes low income, moderate income, or median income for purposes of any program conducted under subsection (a)(3) or (a)(4), the authority shall consider:*

(1) the appropriate geographic area in which to measure income levels; and

(2) the appropriate method of calculating low income, moderate income, or median income levels including:

(A) sources of;

(B) exclusions from; and

(C) adjustments to;

income.

~~*(c) In addition to the powers set forth in subsection (a), the authority may, with the proceeds of bonds and notes sold to retirement plans covered by IC 5-10-1.7, structure and administer a program of purchasing or participating in the purchasing from mortgage lenders of mortgage loans made to qualified members of retirement plans and other individuals. The authority shall structure and administer any program conducted under this subsection to assure that:*~~

~~*(1) each mortgage loan is made as a first mortgage loan for real property:*~~

~~*(A) that is a single family dwelling, including a condominium or townhouse, located in Indiana;*~~

~~*(B) for a purchase price of not more than ninety-five thousand dollars ($95,000);*~~

~~*(C) to be used as the purchaser's principal residence; and*~~

~~*(D) for which the purchaser has made a down payment in an*~~

~~*amount determined by the authority;*~~

~~*(2) no mortgage loan exceeds seventy-five thousand dollars ($75,000);*~~

~~*(3) any bonds or notes issued which are backed by mortgage loans purchased by the authority under this subsection shall be offered for sale to the retirement plans covered by IC 5-10-1.7; and*~~

~~*(4) qualified members of a retirement plan shall be given preference with respect to the mortgage loans that in the aggregate do not exceed the amount invested by their retirement plan in bonds and notes issued by the authority that are backed by mortgage loans purchased by the authority under this subsection.*~~

~~*(d) As used in this section, "a qualified member of a retirement plan" means an active or retired member:*~~

~~*(1) of a retirement plan covered by IC 5-10-1.7 that has invested in bonds and notes issued by the authority that are backed by mortgage loans purchased by the authority under subsection (c); and*~~

~~*(2) who for a minimum of two (2) years preceding the member's application for a mortgage loan has:*~~

~~*(A) been a full-time state employee, teacher, judge, police officer, or firefighter;*~~

~~*(B) been a full-time employee of a political subdivision participating in the public employees' retirement fund;*~~

~~*(C) been receiving retirement benefits from the retirement plan; or*~~

~~*(D) a combination of employment and receipt of retirement benefits equaling at least two (2) years.*~~

~~*(e)*~~ *(c)* The authority, when directed by the governor, shall administer programs and funds under 42 U.S.C. 1437 et seq.

~~*(f)*~~ *(d)* The authority shall identify, promote, assist, and fund home ownership education programs conducted throughout Indiana by nonprofit counseling agencies certified by the authority using funds appropriated under section 27 of this chapter. The attorney general and the entities listed in IC 4-6-12-4(a)(1) through IC 4-6-12-4(a)(10) shall cooperate with the authority in implementing this subsection.

~~*(g)*~~ **(e)** *The authority shall:*

(1) oversee and encourage a regional homeless delivery system that:

(A) considers the need for housing and support services;

(B) implements strategies to respond to gaps in the delivery system; and

(C) ensures individuals and families are matched with optimal housing solutions;

(2) facilitate the dissemination of information to assist individuals and families accessing local resources, programs, and services related to homelessness, housing, and community development; and

(3) each year, estimate and reasonably determine the number of the following:

(A) Individuals in Indiana who are homeless.

(B) Individuals in Indiana who are homeless and less than eighteen (18) years of age.

(C) Individuals in Indiana who are homeless and not residents of Indiana.

SECTION 24. IC 5-22-6.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The state, a state agency, and a governmental body described in ~~IC 5-22-2-2(1)~~ **IC 5-22-2-13(1)** through ~~IC 5-22-2-2(4)~~ **IC 5-22-2-13(4)** shall award a contract for collection services using any procedure authorized by statute.

(b) A unit of local government or an agency of a unit of local government may award a contract for collection services using any procedure authorized by statute.

SECTION 25. IC 5-28-30-21, AS ADDED BY P.L.162-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]: Sec. 21. Any guarantees by the corporation under the guaranty program are exempt from the registration and other requirements of ~~IC 23-2-1~~ **IC 23-19** and any other securities registration laws.

SECTION 26. IC 6-1.1-1-11, AS AMENDED BY P.L.131-2008, SECTION 2, AND AS AMENDED BY P.L.146-2008, SECTION 48, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Subject to the limitation contained in subsection (b), "personal property" means:

~~*(1) nursery stock that has been severed from the ground;*~~
~~*(2) florists' stock of growing crops which are ready for sale as pot plants on benches;*~~
~~*(3)*~~ *(1)* billboards and other advertising devices which are located on real property that is not owned by the owner of the devices;
~~*(2) motor vehicles, mobile houses, airplanes, boats not subject to the boat excise tax under IC 6-6-11, and trailers not subject to the trailer tax under IC 6-6-5;*~~
~~*(3)*~~ ~~*(4)*~~ **(2)** foundations (other than foundations which support a building or structure) on which machinery or equipment:
(A) held for sale in the ordinary course of a trade or business;
(B) held, used, or consumed in connection with the production of income; or
(C) held as an investment;
is installed; ~~*and*~~
~~*(4)*~~ ~~*(5)*~~ **(3)** all other tangible property (other than real property) which: ~~*is being:*~~
~~*(A) held for sale in the ordinary course of a trade or business;*~~
~~*(B) held, used, or consumed in connection with the production of income; or*~~
~~*(C)*~~ *(A) is being* held as an investment; *or*
(B) is depreciable personal property; and
~~*(6)*~~ **(4)** *mobile homes that do not qualify as real property and are not described in* ~~*subdivision (5).*~~ **subdivision (3).**

(b) Personal property does not include the following:
(1) Commercially planted and growing crops while ~~*they are*~~ in the ground.
(2) Computer application software. ~~*that is not held as*~~
(3) Inventory. ~~*(as defined in IC 6-1.1-3-11).*~~

SECTION 27. IC 6-1.1-2-7, AS AMENDED BY P.L.131-2008, SECTION 3, AND AS AMENDED BY P.L.146-2008, SECTION 50, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. *(a) As used in this section, "nonbusiness personal property" means personal property that is not:*
(1) held for sale in the ordinary course of a trade or business;
(2) held, used, or consumed in connection with the production of income; or
(3) held as an investment.

(b) The following property is not subject to assessment and taxation under this article:

(1) A commercial vessel that is subject to the net tonnage tax imposed under IC 6-6-6.

(2) A motor vehicle ~~*or trailer*~~ that is subject to the annual license excise tax imposed under IC 6-6-5.

(3) A *motorized* boat *or sailboat* that is subject to the boat excise tax imposed under IC 6-6-11.

(4) Property used by a cemetery (as defined in IC 23-14-33-7) if the cemetery:

(A) does not have a board of directors, board of trustees, or other governing authority other than the state or a political subdivision; and

(B) has had no business transaction during the preceding calendar year.

(5) A commercial vehicle that is subject to the annual excise tax imposed under IC 6-6-5.5.

(6) Inventory.

~~*(6)*~~ **(7)** *A recreational vehicle or truck camper that is subject to the annual excise tax imposed under IC 6-6-5.1.*

~~*(7)*~~ **(8)** *The following types of nonbusiness personal property:*

(A) All-terrain vehicles.

(B) Snowmobiles.

(C) Rowboats, canoes, kayaks, and other human powered boats.

(D) Invalid chairs.

(E) Yard and garden tractors.

(F) Trailers that are not subject to an excise tax under:

(i) IC 6-6-5-5.5;

(ii) IC 6-6-5.1; or

(iii) IC 6-6-5.5.

SECTION 28. IC 6-1.1-5.5-3, AS AMENDED BY P.L.144-2008, SECTION 3, AND AS AMENDED BY P.L.146-2008, SECTION 94, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 3. (a) For purposes of this section, "party" includes:

(1) a seller of property that is exempt under the seller's ownership; or

(2) a purchaser of property that is exempt under the purchaser's ownership;

from property taxes under IC 6-1.1-10.

(b) *Subject to subsections (g) and (h),* before filing a conveyance document with the county auditor under IC 6-1.1-5-4, all the parties to the conveyance must do the following:

(1) Complete and sign a sales disclosure form as prescribed by the department of local government finance under section 5 of this chapter. All the parties may sign one (1) form, or if all the parties do not agree on the information to be included on the completed form, each party may sign and file a separate form. *For conveyance transactions involving more than two (2) parties, one (1) transferor and one (1) transferee signing the sales disclosure form is sufficient.*

(2) Before filing a sales disclosure form with the county auditor, submit the sales disclosure form to the county assessor. The county assessor must review the accuracy and completeness of each sales disclosure form submitted immediately upon receipt of the form and, if the form is accurate and complete, stamp *or otherwise approve* the form as eligible for filing with the county auditor and return the form to the appropriate party for filing with the county auditor. If multiple forms are filed in a short period, the county assessor shall process the forms as quickly as possible. For purposes of this subdivision, a sales disclosure form is considered to be accurate and complete if:

(A) the county assessor does not have substantial evidence when the form is reviewed under this subdivision that information in the form is inaccurate; and

(B) ~~*the form:*~~ *both of the following conditions are satisfied:*

(i) ~~*substantially conforms to the sales disclosure form prescribed by the department of local government finance under section 5*~~ *The form contains the information required by section 5(a)(1) through 5(a)(16) of this chapter as that section applies to the conveyance transaction, subject to the obligation of a party to furnish or correct that information in the manner required by and subject to the penalty provisions of section 12 of this chapter. The form may not be rejected for failure to contain information other than that*

required by section 5(a)(1) through 5(a)(16) of this chapter. ~~*and*~~

(ii) *The form* is submitted to the county assessor in a format usable to the county assessor.

(3) File the sales disclosure form with the county auditor.

(c) ~~*Except as provided in subsection (d),*~~ The auditor shall *review each sales disclosure form and process any* ~~*homestead credit and*~~ *deduction for which the form serves as an application under IC 6-1.1-12-44.* ~~*and IC 6-1.1-20.9-3.5.*~~ *The auditor shall* forward each sales disclosure form to the county assessor. *The county assessor shall verify the assessed valuation of the property for the assessment date to which the application applies and transmit that assessed valuation to the auditor.* The county assessor shall retain the forms for five (5) years. The county assessor shall forward the sales disclosure form data to the department of local government finance and the legislative services agency in an electronic format specified jointly by the department of local government finance and the legislative services agency. The county assessor shall forward a copy of the sales disclosure forms to the township assessors in the county. The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.

(d) In a county containing a consolidated city, the auditor *shall review each sales disclosure form and process any* ~~*homestead credit and*~~ *deduction for which the form serves as an application under IC 6-1.1-12-44.* ~~*and IC 6-1.1-20.9-3.5.*~~ *The auditor* shall forward the sales disclosure form to the appropriate township assessor *(if any). The township assessor shall verify the assessed valuation of the property for the assessment date to which the application applies and transmit that assessed valuation to the auditor.* The township *or county* assessor shall forward the sales disclosure form to the department of local government finance and the legislative services agency in an electronic format specified jointly by the department of local government finance and the legislative services agency. The forms may be used by the county assessing officials, *the county auditor,* the department of local government finance, and the legislative services agency for the

purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.

(e) If a sales disclosure form includes the telephone number or Social Security number of a party, the telephone number or Social Security number is confidential.

(f) County assessing officials, *county auditors,* and other local officials may not establish procedures or requirements concerning sales disclosure forms that substantially differ from the procedures and requirements of this chapter.

(g) Except as provided in subsection (h), a separate sales disclosure form is required for each parcel conveyed, regardless of whether more than one (1) parcel is conveyed under a single conveyance document.

(h) Only one (1) sales disclosure form is required for the conveyance under a single conveyance document of two (2) or more contiguous parcels located entirely within a single taxing district.

SECTION 29. IC 6-1.1-12-12, AS AMENDED BY P.L.144-2008, SECTION 16, AND AS AMENDED BY P.L.146-2008, SECTION 108, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Except as provided in section 17.8 of this chapter *and subject to section 45 of this chapter,* a person who desires to claim the deduction provided in section 11 of this chapter must file an application, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, mobile home not assessed as real property, or manufactured home not assessed as real property is located. With respect to real property, the application must be filed during the ~~*twelve (12) months before June 11 each*~~ year for which the individual wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the application must be filed during the twelve (12) months before March 31 of each year for which the individual wishes to obtain the deduction. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing.

(b) Proof of blindness may be supported by:

(1) the records of ~~*a county office of family and children,*~~ the division of family resources or the division of disability and

rehabilitative services; or

(2) the written statement of a physician who is licensed by this state and skilled in the diseases of the eye or of a licensed optometrist.

(c) The application required by this section must contain the record number and page where the contract or memorandum of the contract is recorded if the individual is buying the real property, mobile home, or manufactured home on a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home.

SECTION 30. IC 6-1.1-12-14, AS AMENDED BY P.L.144-2008, SECTION 18, AND AS AMENDED BY P.L.3-2008, SECTION 35, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) Except as provided in subsection (c) and except as provided in section 40.5 of this chapter, an individual may have the sum of twelve thousand four hundred eighty dollars ($12,480) deducted from the assessed value of the tangible property that the individual owns (or the real property, mobile home not assessed as real property, or manufactured home not assessed as real property that the individual is buying under a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home if the contract or a memorandum of the contract is recorded in the county recorder's office) if:

(1) the individual served in the military or naval forces of the United States for at least ninety (90) days;

(2) the individual received an honorable discharge;

(3) the individual either:

(A) has a total disability; or

(B) is at least sixty-two (62) years old and has a disability of at least ten percent (10%); ~~and~~

(4) the individual's disability is evidenced by:

(A) a pension certificate or an award of compensation issued by the United States Department of Veterans Affairs; or

(B) a certificate of eligibility issued to the individual by the Indiana department of veterans' affairs after the Indiana department of veterans' affairs has determined that the individual's disability qualifies the individual to receive a

deduction under this section; *and*

(5) the individual:

~~*(1)*~~ **(A)** *owns the real property, mobile home, or manufactured home; or*

~~*(2)*~~ **(B)** *is buying the real property, mobile home, or manufactured home under contract;*

on the date the statement required by section 15 of this chapter is filed.

(b) Except as provided in subsection (c), the surviving spouse of an individual may receive the deduction provided by this section if the individual would qualify for the deduction if the individual were alive.

(c) No one is entitled to the deduction provided by this section if the assessed value of the individual's tangible property, as shown by the tax duplicate, exceeds one hundred forty-three thousand one hundred sixty dollars ($143,160).

(d) An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section against that real property, mobile home, or manufactured home.

SECTION 31. IC 6-1.1-12-16, AS AMENDED BY P.L.144-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) Except as provided in section 40.5 of this chapter, a surviving spouse may have the sum of eighteen thousand seven hundred twenty dollars ($18,720) deducted from the assessed value of his or her tangible property, or real property, mobile home not assessed as real property, or manufactured home not assessed as real property that the surviving spouse is buying under a contract that provides that ~~he~~ **the surviving spouse** is to pay property taxes on the real property, mobile home, or manufactured home, if the contract or a memorandum of the contract is recorded in the county recorder's office, and if:

(1) the deceased spouse served in the military or naval forces of the United States before November 12, 1918;

(2) the deceased spouse received an honorable discharge; and

(3) the surviving spouse:

~~(1)~~ **(A)** owns the real property, mobile home, or manufactured home; or

~~(2)~~ **(B)** is buying the real property, mobile home, or manufactured home under contract;

on the date the statement required by section 17 of this chapter is filed.

(b) A surviving spouse who receives the deduction provided by this section may not receive the deduction provided by section 13 of this chapter. However, he or she may receive any other deduction which he or she is entitled to by law.

(c) An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section against that real property, mobile home, or manufactured home.

SECTION 32. IC 6-1.1-12-17.4, AS AMENDED BY P.L.144-2008, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.4. (a) Except as provided in section 40.5 of this chapter, a World War I veteran who is a resident of Indiana is entitled to have the sum of eighteen thousand seven hundred twenty dollars ($18,720) deducted from the assessed valuation of the real property (including a mobile home that is assessed as real property), mobile home that is not assessed as real property, or manufactured home that is not assessed as real property the veteran owns or is buying under a contract that requires the veteran to pay property taxes on the real property, if the contract or a memorandum of the contract is recorded in the county recorder's office, if:

(1) the real property, mobile home, or manufactured home is the veteran's principal residence;

(2) the assessed valuation of the real property, mobile home, or manufactured home does not exceed two hundred six thousand five hundred dollars ($206,500);

(3) the veteran owns the real property, mobile home, or manufactured home for at least one (1) year before claiming the deduction; and

(4) the veteran:

~~(1)~~ **(A)** owns the real property, mobile home, or manufactured home; or

~~(2)~~ **(B)** is buying the real property, mobile home, or manufactured home under contract;

on the date the statement required by section 17.5 of this chapter is filed.

(b) An individual may not be denied the deduction provided by this section because the individual is absent from the individual's principal residence while in a nursing home or hospital.

(c) For purposes of this section, if real property, a mobile home, or a manufactured home is owned by a husband and wife as tenants by the entirety, only one (1) deduction may be allowed under this section. However, the deduction provided in this section applies if either spouse satisfies the requirements prescribed in subsection (a).

(d) An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section with respect to that real property, mobile home, or manufactured home.

SECTION 33. IC 6-1.1-12-20, AS AMENDED BY P.L.144-2008, SECTION 26, AND AS AMENDED BY P.L.146-2008, SECTION 109, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) A property owner who desires to obtain the deduction provided by section 18 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the rehabilitated property is located. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. Except as provided in subsection (b) *and subject to section 45 of this chapter,* the application must be filed ~~*before June 11 of*~~ *in* the year in which the addition to assessed value is made.

(b) If notice of the addition to assessed value for any year is not given to the property owner before ~~*May 11*~~ *December 1* of that year, the application required by this section may be filed not later than thirty (30) days after the date such a notice is mailed to the property owner

at the address shown on the records of the township *or county* assessor.

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

(1) A description of the property for which a deduction is claimed in sufficient detail to afford identification.

(2) Statements of the ownership of the property.

(3) The assessed value of the improvements on the property before rehabilitation.

(4) The number of dwelling units on the property.

(5) The number of dwelling units rehabilitated.

(6) The increase in assessed value resulting from the rehabilitation. ~~*and*~~

(7) The amount of deduction claimed.

(d) A deduction application filed under this section is applicable for the year in which the increase in assessed value occurs and for the immediately following four (4) years without any additional application being filed.

(e) On verification of an application by the assessor of the township in which the property is located, *or the county assessor if there is no township assessor for the township,* the county auditor shall make the deduction.

SECTION 34. IC 6-1.1-12-24, AS AMENDED BY P.L.144-2008, SECTION 28, AND AS AMENDED BY P.L.146-2008, SECTION 110, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) A property owner who desires to obtain the deduction provided by section 22 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is located. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. Except as provided in subsection (b) *and subject to section 45 of this chapter,* the application must be filed ~~*before June 11 of*~~ *in* the year in which the addition to assessed valuation is made.

(b) If notice of the addition to assessed valuation for any year is not given to the property owner before ~~*May 11*~~ *December 31* of that year, the application required by this section may be filed not later than thirty (30) days after the date such a notice is mailed to the property owner at the address shown on the records of the township *or county* assessor.

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

(1) The name of the property owner.

(2) A description of the property for which a deduction is claimed in sufficient detail to afford identification.

(3) The assessed value of the improvements on the property before rehabilitation.

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

(5) The amount of deduction claimed.

(d) A deduction application filed under this section is applicable for the year in which the addition to assessed value is made and in the immediate following four (4) years without any additional application being filed.

(e) On verification of the correctness of an application by the assessor of the township in which the property is located, *or the county assessor if there is no township assessor for the township,* the county auditor shall make the deduction.

SECTION 35. IC 6-1.1-12-27.1, AS AMENDED BY P.L.144-2008, SECTION 29, AND AS AMENDED BY P.L.146-2008, SECTION 111, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27.1. Except as provided in ~~*section 36*~~ *sections 36 and 44* of this chapter *and subject to section 45 of this chapter,* a person who desires to claim the deduction provided by section 26 of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property or mobile home is subject to assessment. With respect to real property, the person must file the statement during the ~~*twelve (12) months before June 11 of each*~~ year for which the person desires to obtain the deduction. With respect to a mobile home which is not assessed as real property, the person must file the statement during the twelve (12) months before March 31 of each year for which the person desires to obtain the deduction. *The person must:*

(1) own the real property, mobile home, or manufactured home; or

(2) be buying the real property, mobile home, or manufactured home under contract;

on the date the statement is filed under this section. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. On verification of the statement by the assessor of the township in which the real property or mobile home is subject to assessment, *or the county assessor if there is no township assessor for the township,* the county auditor shall allow the deduction.

SECTION 36. IC 6-1.1-12-30, AS AMENDED BY P.L.144-2008, SECTION 30, AND AS AMENDED BY P.L.146-2008, SECTION 113, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. Except as provided in ~~section~~ **sections** 36 **and 44** of this chapter *and subject to section 45 of this chapter,* a person who desires to claim the deduction provided by section 29 of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property or mobile home is subject to assessment. With respect to real property, the person must file the statement during the ~~*twelve (12) months before June 11 of each*~~ year for which the person desires to obtain the deduction. With respect to a mobile home which is not assessed as real property, the person must file the statement during the twelve (12) months before March 31 of each year for which the person desires to obtain the deduction. *The person must:*

(1) own the real property, mobile home, or manufactured home; or

(2) be buying the real property, mobile home, or manufactured home under contract;

on the date the statement is filed under this section. On verification of the statement by the assessor of the township in which the real property or mobile home is subject to assessment, *or the county assessor if there is no township assessor for the township,* the county auditor shall allow the deduction.

SECTION 37. IC 6-1.1-12-35.5, AS AMENDED BY P.L.144-2008, SECTION 35, AND AS AMENDED BY P.L.146-2008, SECTION 114, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 35.5. (a) Except as provided in section 36 *or 44* of this chapter *and subject to section 45 of this chapter,* a person who desires to claim the deduction provided by section 31, 33, 34, or 34.5 of this chapter must file a certified statement

in duplicate, on forms prescribed by the department of local government finance, and proof of certification under subsection (b) or (f) with the auditor of the county in which the property for which the deduction is claimed is subject to assessment. Except as provided in subsection (e), with respect to property that is not assessed under IC 6-1.1-7, the person must file the statement during the ~~*twelve (12) months before June 11 of the assessment*~~ year *for which the person wishes to obtain the deduction.* The person must file the statement in each year for which the person desires to obtain the deduction. With respect to a property which is assessed under IC 6-1.1-7, the person must file the statement during the twelve (12) months before March 31 of each year for which the person desires to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. On verification of the statement by the assessor of the township in which the property for which the deduction is claimed is subject to assessment, *or the county assessor if there is no township assessor for the township,* the county auditor shall allow the deduction.

(b) This subsection does not apply to an application for a deduction under section 34.5 of this chapter. The department of environmental management, upon application by a property owner, shall determine whether a system or device qualifies for a deduction provided by section 31, 33, or 34 of this chapter. If the department determines that a system or device qualifies for a deduction, it shall certify the system or device and provide proof of the certification to the property owner. The department shall prescribe the form and manner of the certification process required by this subsection.

(c) This subsection does not apply to an application for a deduction under section 34.5 of this chapter. If the department of environmental management receives an application for certification, ~~*before May 11 of the assessment year,*~~ the department shall determine whether the system or device qualifies for a deduction. ~~*before June 11 of the assessment year.*~~ If the department fails to make a determination under this subsection before ~~*June 11 of the assessment*~~ *December 31 of the* year *in which the application is received,* the system or device is considered certified.

(d) A denial of a deduction claimed under section 31, 33, 34, or 34.5 of this chapter may be appealed as provided in IC 6-1.1-15. The appeal

is limited to a review of a determination made by the township assessor county property tax assessment board of appeals, or department of local government finance.

(e) A person who timely files a personal property return under IC 6-1.1-3-7(a) for an assessment year and who desires to claim the deduction provided in section 31 of this chapter for property that is not assessed under IC 6-1.1-7 must file the statement described in subsection (a) during the ~~*twelve (12) months before June 11 of that*~~ year ~~*A person who obtains a filing extension under IC 6-1.1-3-7(b) for an assessment year must file the application between March 1 and the extended due date for that year.*~~ *in which the personal property return is filed.*

(f) This subsection applies only to an application for a deduction under section 34.5 of this chapter. The center for coal technology research established by IC 21-47-4-1, upon receiving an application from the owner of a building, shall determine whether the building qualifies for a deduction under section 34.5 of this chapter. If the center determines that a building qualifies for a deduction, the center shall certify the building and provide proof of the certification to the owner of the building. The center shall prescribe the form and procedure for certification of buildings under this subsection. If the center receives an application for certification of a building under section 34.5 of this chapter: ~~*before May 11 of an assessment year:*~~

(1) the center shall determine whether the building qualifies for a deduction; ~~*before June 11 of the assessment year;*~~ and

(2) if the center fails to make a determination before ~~*June 11*~~ *December 31* of the ~~*assessment*~~ year *in which the application is received,* the building is considered certified.

SECTION 38. IC 6-1.1-12-37, AS AMENDED BY P.L.146-2008, SECTION 115, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. (a) The following definitions apply throughout this section:

(1) "Dwelling" means any of the following:

(A) Residential real property improvements that an individual uses as the individual's residence, including a house or garage.

(B) A mobile home that is not assessed as real property that an individual uses as the individual's residence.

(C) A manufactured home that is not assessed as real property

that an individual uses as the individual's residence.

(2) "Homestead" means an individual's principal place of residence that:

(A) is located in Indiana;

(B) the individual:

(i) owns;

(ii) is buying under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence; or

(iii) is entitled to occupy as a tenant-stockholder (as defined in 26 U.S.C. 216) of a cooperative housing corporation (as defined in 26 U.S.C. 216); and

(C) consists of a dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

(b) Each year an individual who on March 1 of a particular year or, in the case of a mobile home that is assessed as personal property, the immediately following January 15, either owns or is buying a homestead under a contract, recorded in the county recorder's office, that provides the individual is to pay property taxes on the homestead is entitled to a standard deduction from the assessed value of the homestead. The auditor of the county shall record and make the deduction for the person qualifying for the deduction.

(c) Except as provided in section 40.5 of this chapter, the total amount of the deduction that a person may receive under this section for a particular year is the lesser of:

(1) sixty percent (60%) of the assessed value of the real property, mobile home not assessed as real property, or manufactured home not assessed as real property; or

(2) forty-five thousand dollars ($45,000).

~~2010,~~

(d) A person who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section with respect to that real property, mobile home, or manufactured home.

(e) The department of local government finance shall adopt rules or

guidelines concerning the application for a deduction under this section.

(f) The county auditor may not grant an individual or a married couple a deduction under this section if:

(1) the individual or married couple, for the same year, claims the deduction on two (2) or more different applications for the deduction; and

(2) the applications claim the deduction for different property.

SECTION 39. IC 6-1.1-12-38, AS AMENDED BY P.L.144-2008, SECTION 36, AND AS AMENDED BY P.L.2-2008, SECTION 22, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 38. (a) A person is entitled to a deduction from the assessed value of the person's property in an amount equal to the difference between:

(1) the assessed value of the person's property, including the assessed value of the improvements made to comply with the fertilizer storage rules adopted by the state chemist under ~~*IC 15-3-3-12*~~ *IC 15-16-2-44* and the pesticide storage rules adopted by the state chemist under ~~*IC 15-3-3.5-11,*~~ *IC 15-16-4-52;* minus

(2) the assessed value of the person's property, excluding the assessed value of the improvements made to comply with the fertilizer storage rules adopted by the state chemist under ~~*IC 15-3-3-12*~~ *IC 15-16-2-44* and the pesticide storage rules adopted by the state chemist under ~~*IC 15-3-3.5-11.*~~ *IC 15-16-4-52.*

(b) To obtain the deduction under this section, a person must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is subject to assessment. In addition to the certified statement, the person must file a certification by the state chemist listing the improvements that were made to comply with the fertilizer storage rules adopted under ~~*IC 15-3-3-12*~~ *IC 15-16-2-44* and the pesticide storage rules adopted by the state chemist under ~~*IC 15-3-3.5-11.*~~ *IC 15-16-4-52. Subject to section 45 of this chapter,* the statement and certification must be filed ~~*before June 11 of*~~ *during* the year preceding the year the deduction will first be applied. Upon the verification of the statement and certification by the assessor of the township in which the

property is subject to assessment, *or the county assessor if there is no township assessor for the township,* the county auditor shall allow the deduction.

(c) The deduction provided by this section applies only if the person:

(1) owns the property; or

(2) is buying the property under contract;

on the assessment date for which the deduction applies.

SECTION 40. IC 6-1.1-12-44, AS ADDED BY P.L.144-2008, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 44. (a) A sales disclosure form under IC 6-1.1-5.5:

(1) that is submitted:

(A) as a paper form; or

(B) electronically;

on or before December 31 of a calendar year to the county assessor by or on behalf of the purchaser of a homestead (as defined in ~~IC 6-1.1-20.9-1)~~ **section 37 of this chapter)** assessed as real property;

(2) that is accurate and complete;

(3) that is approved by the county assessor as eligible for filing with the county auditor; and

(4) that is filed:

(A) as a paper form; or

(B) electronically;

with the county auditor by or on behalf of the purchaser;

constitutes an application for the deductions provided by sections 26, 29, 33, and 34 of this chapter with respect to property taxes first due and payable in the calendar year that immediately succeeds the calendar year referred to in subdivision (1).

(b) Except as provided in subsection (c), if:

(1) the county auditor receives in a calendar year a sales disclosure form that meets the requirements of subsection (a); and

(2) the homestead for which the sales disclosure form is submitted is otherwise eligible for a deduction referred to in subsection (a);

the county auditor shall apply the deduction to the homestead for property taxes first due and payable in the calendar year for which the homestead qualifies under subsection (a) and in any later year in which

the homestead remains eligible for the deduction.

(c) Subsection (b) does not apply if the county auditor, after receiving a sales disclosure form from or on behalf of a purchaser under subsection (a)(4), determines that the homestead is ineligible for the deduction.

SECTION 41. IC 6-1.1-12.6-0.5, AS ADDED BY P.L.70-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.5. As used in this chapter, "affiliated group" means any combination of the following:

(1) An affiliated group within the meaning provided in Section 1504 of the Internal Revenue Code (except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%)) or a relationship described in Section 267(b)(11) of the Internal Revenue Code.

(2) Two (2) or more partnerships (as defined in IC 6-3-1-19), including limited liability companies and limited liability partnerships, that have the same degree of mutual ownership as an affiliated group described in subdivision (1), as determined under the rules adopted by the department **of local government finance.**

SECTION 42. IC 6-1.1-15-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) If a review or appeal authorized under this chapter results in a reduction of the amount of an assessment or if the department of local government finance on its own motion reduces an assessment, the taxpayer is entitled to a credit in the amount of any overpayment of tax on the next successive tax installment, if any, due in that year. After the credit is given, the county auditor shall:

(1) determine if a further amount is due the taxpayer; and

(2) if a further amount is due the taxpayer, notwithstanding IC 5-11-10-1 and IC 36-2-6-2, without a claim or an appropriation being required, pay the amount due the taxpayer.

The county auditor shall charge the amount refunded to the taxpayer against the accounts of the various taxing units to which the overpayment has been paid. The county auditor shall notify the county executive of the payment of the amount due and publish the allowance in the manner provided in IC 36-2-6-3.

(b) The notice **provided** under ~~subsection (a)(2) is~~ **subsection (a) shall be** treated as a claim by the taxpayer for the amount due referred to in ~~that subsection.~~ **subsection (a)(2).**

SECTION 43. IC 6-1.1-20.3-7, AS AMENDED BY P.L.146-2008, SECTION 206, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) If the fiscal body of a distressed political subdivision submits a petition under section 6 of this chapter, the board shall review the petition and assist in establishing a financial plan for the distressed political subdivision.

(b) In reviewing a petition submitted under section 6 of this chapter, the board:

(1) shall consider:

(A) the proposed financial plan;

(B) comparisons to similarly situated political subdivisions;

(C) the existing revenue and expenditures of political subdivisions in the county; and

(D) any other factor considered relevant by the board; **and**

(2) may establish subcommittees or temporarily appoint nonvoting members to the board to assist in the review.

SECTION 44. IC 6-1.1-20.4-1, AS ADDED BY P.L.246-2005, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 1. As used in this chapter, "homestead" has the meaning set forth in ~~IC 6-1.1-20.9-1.~~ **IC 6-1.1-12-37.**

SECTION 45. IC 6-1.1-21.9-3, AS AMENDED BY P.L.131-2008, SECTION 6, AND AS AMENDED BY P.L.146-2008, SECTION 247, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The board, not later than December 31, 2009, and after review by the budget committee, shall determine the terms of a loan made under this chapter, subject to the following:

(1) The board may not charge interest on the loan.

(2) The loan must be repaid not later than ten (10) years after the date on which the loan was made.

(3) The terms of the loan must allow for prepayment of the loan without penalty.

(4) The maximum amount of the loan that a qualifying taxing unit may receive with respect to a default described in section 1(c)(3)

of this chapter on one (1) or more payments of property taxes first due and payable in a calendar year is the amount, as determined by the board, of revenue shortfall for the qualifying taxing unit that results from the default for that calendar year.

(5) The total amount of all loans under this chapter for all calendar years may not exceed thirteen million dollars ($13,000,000).

(b) The board may disburse in installments the proceeds of a loan made under this chapter.

(c) A qualified taxing unit may repay a loan made under this chapter from any of the following:

(1) Property tax revenues of the qualified taxing unit that are subject to the levy limitations imposed by IC 6-1.1-18.5 or *(before January 1, 2009)* IC 6-1.1-19.

(2) Property tax revenues of the qualified taxing unit that are not subject to levy limitations as provided in IC 6-1.1-18.5-21 or *(before January 1, 2009)* IC 6-1.1-19-13.

(3) The qualified taxing unit's debt service fund.

(4) Any other source of revenues (other than property taxes) that is legally available to the qualified taxing unit.

The payment of any installment on a loan made under this chapter constitutes a first charge against the property tax revenues described in subdivision (1) or (2) that are collected by the qualified taxing unit during the calendar year the installment is due and payable.

(d) The obligation to repay a loan made under this chapter is not a basis for the qualified taxing unit to obtain an excessive tax levy under IC 6-1.1-18.5 or *(before January 1, 2009)* IC 6-1.1-19.

(e) Whenever the board receives a payment on a loan made under this chapter, the board shall deposit the amount paid in the counter-cyclical revenue and economic stabilization fund.

SECTION 46. IC 6-1.1-22-8.1, AS AMENDED BY P.L.3-2008, SECTION 53, AND AS AMENDED BY P.L.146-2008, SECTION 251, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.1. (a) This section applies only to property taxes and special assessments first due and payable after December 31, 2007.

(b) The county treasurer shall:

(1) mail to the last known address of each person liable for any

property taxes or special assessment, as shown on the tax duplicate or special assessment records, or to the last known address of the most recent owner shown in the transfer book; and

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

a statement in the form required under subsection (c). *However, for property taxes first due and payable in 2008, the county treasurer may choose to use a tax statement that is different from the tax statement prescribed by the department under subsection (c). If a county chooses to use a different tax statement, the county must still transmit (with the tax bill) the statement in either color type or black-and-white type.*

(c) The department of local government finance shall prescribe a form, subject to the approval of the state board of accounts, for the statement under subsection (b) that includes at least the following:

(1) A statement of the taxpayer's current and delinquent taxes and special assessments.

(2) A breakdown showing the total property tax and special assessment liability and the amount of the taxpayer's liability that will be distributed to each taxing unit in the county.

(3) An itemized listing for each property tax levy, including:

(A) the amount of the tax rate;

(B) the entity levying the tax owed; and

(C) the dollar amount of the tax owed.

(4) Information designed to show the manner in which the taxes and special assessments billed in the tax statement are to be used.

(5) A comparison showing any change in the assessed valuation for the property as compared to the previous year.

(6) A comparison showing any change in the property tax and special assessment liability for the property as compared to the previous year. The information required under this subdivision must identify:

(A) the amount of the taxpayer's liability distributable to each taxing unit in which the property is located in the current year and in the previous year; and

(B) the percentage change, if any, in the amount of the taxpayer's liability distributable to each taxing unit in which

the property is located from the previous year to the current year.

(7) An explanation of the following:

(A) The homestead credit and all property tax deductions.

(B) The procedure and deadline for filing for the homestead credit and each deduction.

(C) The procedure that a taxpayer must follow to:

(i) appeal a current assessment; or

(ii) petition for the correction of an error related to the taxpayer's property tax and special assessment liability.

(D) The forms that must be filed for an appeal or a petition described in clause (C).

The department of local government finance shall provide the explanation required by this subdivision to each county treasurer.

(8) A checklist that shows:

(A) the homestead credit and all property tax deductions; and

(B) whether the homestead credit and each property tax deduction applies in the current statement for the property transmitted under subsection (b).

(d) The county treasurer may mail or transmit the statement one (1) time each year at least fifteen (15) days before the date on which the first or only installment is due. Whenever a person's tax liability for a year is due in one (1) installment under IC 6-1.1-7-7 or section 9 of this chapter, a statement that is mailed must include the date on which the installment is due and denote the amount of money to be paid for the installment. Whenever a person's tax liability is due in two (2) installments, a statement that is mailed must contain the dates on which the first and second installments are due and denote the amount of money to be paid for each installment.

(e) All payments of property taxes and special assessments shall be made to the county treasurer. The county treasurer, when authorized by the board of county commissioners, may open temporary offices for the collection of taxes in cities and towns in the county other than the county seat.

(f) The county treasurer, county auditor, and county assessor shall cooperate to generate the information to be included in the statement under subsection (c).

(g) The information to be included in the statement under subsection

(c) must be simply and clearly presented and understandable to the average individual.

(h) After December 31, 2007, a reference in a law or rule to IC 6-1.1-22-8 *(expired January 1, 2008, and repealed)* shall be treated as a reference to this section.

SECTION 47. IC 6-2.5-4-16.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16.2. (a) This section applies to transactions occurring after June 30, 2008.**

(b) A person is a retail merchant making a retail transaction when the person:

(1) leases or rents an aircraft to another person; and

(2) provides flight instruction services to the lessee or renter during the term of the lease or rental.

(c) The amount of the gross retail income attributable to a retail transaction described in subsection (b) is the amount charged by the retail merchant for the lease or rental of the aircraft used in conjunction with the flight instruction services provided to the lessee or renter.

SECTION 48. IC 6-2.5-4-16.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16.4. (a) As used in this section, "end user" does not include a person who receives by contract a product transferred electronically for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution, or exhibition of the product, in whole or in part, to another person or persons.**

(b) A person is a retail merchant making a retail transaction when the person:

(1) electronically transfers specified digital products to an end user; and

(2) grants to the end user the right of permanent use of the specified digital products that is not conditioned upon continued payment by the purchaser.

SECTION 49. IC 6-3-1-3.5, AS AMENDED BY P.L.131-2008, SECTION 11, AND AS AMENDED BY P.L.3-2008, SECTION 60, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.5. When used in this article,

the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars ($1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars ($1,000).

(4) Subtract one thousand dollars ($1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) for taxable years beginning after December 31, 2004, one thousand five hundred dollars ($1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code (as effective January 1, 2004); and

(B) five hundred dollars ($500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars ($40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a

political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars ($2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not

allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars ($2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not

been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(23) Subtract an amount equal to the amount of the taxpayer's qualified military income that was not excluded from the taxpayer's gross income for federal income tax purposes under Section 112 of the Internal Revenue Code.

(24) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the individual's federal adjusted gross income under the Internal Revenue Code.

(25) Subtract any amount of a credit (including an advance refund of the credit) that is provided to an individual under 26 U.S.C. 6428 (federal Economic Stimulus Act of 2008) and included in the individual's federal adjusted gross income.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an

earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Add to the extent required by IC 6-3-2-20 the amount of intangible expenses (as defined in IC 6-3-2-20) and any directly related intangible interest expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) for federal income tax purposes.

(10) Add an amount equal to any deduction for dividends paid (as defined in Section 561 of the Internal Revenue Code) to shareholders of a captive real estate investment trust (as defined in section 34.5 of this chapter).

(11) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the corporation's taxable income under the Internal Revenue Code.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined

in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the insurance company's taxable income under the Internal Revenue Code.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as

a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the insurance company's taxable income under the Internal Revenue Code.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as

a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(7) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the taxpayer's taxable income under the Internal Revenue Code.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars ($2,500).

STEP FIVE: Determine the sum of the STEP FOUR amount and two thousand five hundred dollars ($2,500).

SECTION 50. IC 6-3-4-4.1, AS AMENDED BY P.L.131-2008, SECTION 15, AND AS AMENDED BY P.L.146-2008, SECTION 319, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.1. (a) Any individual required by the Internal Revenue Code to file estimated tax returns and to make payments on account of such estimated tax shall file estimated tax returns and make payments of the tax imposed by this article to the department at the time or times and in the installments as provided by Section 6654 of the Internal Revenue Code. However, *the following apply to estimated tax returns filed and payments made under this subsection:*

(1) In applying Section 6654 of the Internal Revenue Code for the purposes of this article, "estimated tax" means the amount which

the individual estimates as the amount of the adjusted gross income tax imposed by this article for the taxable year, minus the amount which the individual estimates as the sum of any credits against the tax provided by IC 6-3-3.

(2) Estimated tax for a nonresident alien (as defined in Section 7701 of the Internal Revenue Code) must be computed by applying not more than one (1) exclusion under IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4), regardless of the total number of exclusions that IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4) permit the taxpayer to apply on the taxpayer's final return for the taxable year.

(b) Every individual who has adjusted gross income subject to the tax imposed by this article and from which tax is not withheld under the requirements of section 8 of this chapter shall make a declaration of estimated tax for the taxable year. However, no such declaration shall be required if the estimated tax can reasonably be expected to be less than one thousand dollars ($1,000). In the case of an underpayment of the estimated tax as provided in Section 6654 of the Internal Revenue Code, there shall be added to the tax a penalty in an amount prescribed by IC 6-8.1-10-2.1(b).

(c) Every corporation subject to the adjusted gross income tax liability imposed by this article shall be required to report and pay an estimated tax equal to the lesser of:

(1) twenty-five percent (25%) of such corporation's estimated adjusted gross income tax liability for the taxable year; or

(2) the annualized income installment calculated in the manner provided by Section 6655(e) of the Internal Revenue Code as applied to the corporation's liability for adjusted gross income tax.

A taxpayer who uses a taxable year that ends on December 31 shall file the taxpayer's estimated adjusted gross income tax returns and pay the tax to the department on or before April 20, June 20, September 20, and December 20 of the taxable year. If a taxpayer uses a taxable year that does not end on December 31, the due dates for filing estimated adjusted gross income tax returns and paying the tax are on or before the twentieth day of the fourth, sixth, ninth, and twelfth months of the taxpayer's taxable year. The department shall prescribe the manner and forms for such reporting and payment.

(d) The penalty prescribed by IC 6-8.1-10-2.1(b) shall be assessed

by the department on corporations failing to make payments as required in subsection (c) or (f). However, no penalty shall be assessed as to any estimated payments of adjusted gross income tax which equal or exceed:

(1) the annualized income installment calculated under subsection (c); or

(2) twenty-five percent (25%) of the final tax liability for the taxpayer's previous taxable year.

In addition, the penalty as to any underpayment of tax on an estimated return shall only be assessed on the difference between the actual amount paid by the corporation on such estimated return and twenty-five percent (25%) of the corporation's final adjusted gross income tax liability for such taxable year.

(e) The provisions of subsection (c) requiring the reporting and estimated payment of adjusted gross income tax shall be applicable only to corporations having an adjusted gross income tax liability which, after application of the credit allowed by IC 6-3-3-2 (repealed), shall exceed two thousand five hundred dollars ($2,500) for its taxable year.

(f) If the department determines that a corporation's:

(1) estimated quarterly adjusted gross income tax liability for the current year; or

(2) average estimated quarterly adjusted gross income tax liability for the preceding year;

exceeds five thousand dollars ($5,000), after the credit allowed by IC 6-3-3-2 (repealed), the corporation shall pay the estimated adjusted gross income taxes due by electronic funds transfer (as defined in IC 4-8.1-2-7) or by delivering in person or overnight by courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

(g) If a corporation's adjusted gross income tax payment is made by electronic funds transfer, the corporation is not required to file an estimated adjusted gross income tax return.

(h) An individual filing an estimated tax return and making an estimated tax payment under this section must designate:

(1) the portion of the estimated tax payment that represents estimated state adjusted gross income tax liability; and

(2) the portion of the estimated tax payment that represents estimated local income tax liability under IC 6-3.5.

The department shall adopt guidelines and issue instructions as necessary to assist individuals in making the designations required by this subsection.

SECTION 51. IC 6-3.1-20-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 2. As used in this chapter, "homestead" has the meaning set forth in ~~IC 6-1.1-20.9-1.~~ **IC 6-1.1-12-37.**

SECTION 52. IC 6-3.1-21-6, AS AMENDED BY P.L.131-2008, SECTION 17, AND AS AMENDED BY P.L.146-2008, SECTION 325, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) *Except as provided by subsection (b),* an individual who is eligible for an earned income tax credit under Section 32 of the Internal Revenue Code is eligible for a credit under this chapter equal to ~~*six percent (6%)*~~ *nine percent (9%)* of the amount of the federal earned income tax credit that the individual:

(1) is eligible to receive in the taxable year; and

(2) claimed for the taxable year;

under Section 32 of the Internal Revenue Code.

(b) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the amount of the credit is equal to the product of:

(1) the amount determined under subsection (a); multiplied by

(2) the quotient of the taxpayer's income taxable in Indiana divided by the taxpayer's total income.

~~*(b)*~~ *(c)* If the credit amount exceeds the taxpayer's adjusted gross income tax liability for the taxable year, the excess, less any advance payments of the credit made by the taxpayer's employer under IC 6-3-4-8 that reduce the excess, shall be refunded to the taxpayer.

SECTION 53. IC 6-3.1-21-9, AS AMENDED BY P.L.145-2006, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The division of family resources shall apply the refundable portion of the credits provided under this chapter as expenditures toward Indiana's maintenance of effort under the federal Temporary Assistance ~~to~~ **for** Needy Families (TANF) program (45 CFR 265).

(b) The department of state revenue shall collect and provide the data requested by the division of family resources that is necessary to comply with this section.

SECTION 54. IC 6-3.5-7-11, AS AMENDED BY P.L.146-2008, SECTION 345, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Revenue derived from the imposition of the county economic development income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it.

(b) Before August 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall certify to the county auditor of each adopting county the sum of the amount of county economic development income tax revenue that the department determines has been:

(1) received from that county for a taxable year ending before the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county economic development income tax made in the state fiscal year plus the amount of interest in the county's account that has been accrued and has not been included in a certification made in a preceding year. The amount certified is the county's certified distribution, which shall be distributed on the dates specified in section 16 of this chapter for the following calendar year.

(c) The amount certified **under subsection (b)** shall be adjusted under subsections ~~(c),~~ (d), (e), (f), ~~and~~ (g), **and (h).** The budget agency shall provide the county council with an informative summary of the calculations used to determine the certified distribution. The summary of calculations must include:

(1) the amount reported on individual income tax returns processed by the department during the previous fiscal year;

(2) adjustments for over distributions in prior years;

(3) adjustments for clerical or mathematical errors in prior years;

(4) adjustments for tax rate changes; and

(5) the amount of excess account balances to be distributed under IC 6-3.5-7-17.3.

~~(c)~~ **(d)** The department shall certify an amount less than the amount determined under subsection (b) if the department, after reviewing the recommendation of the budget agency, determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

~~(d)~~ **(e)** After reviewing the recommendation of the budget agency, the department shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

~~(e)~~ **(f)** The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the distribution required under section 16(b) of this chapter.

~~(f)~~ **(g)** The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the amount of any tax increase imposed under section 25 or 26 of this chapter to provide additional homestead credits as provided in those provisions.

~~(g)~~ **(h)** This subsection applies to a county that:

(1) initially imposed the county economic development income tax; or

(2) increases the county economic development income rate;

under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (b)(1) through (b)(2) in the manner provided in subsection ~~(c).~~ **(d).**

SECTION 55. IC 6-6-6.5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) As the basis for measuring the tax imposed by this chapter, the department shall classify every taxable aircraft in its proper class according to the following classification plan:

CLASS	DESCRIPTION
A	Piston-driven
B	Piston-driven, and Pressurized
C	Turbine driven or other Powered
D	Homebuilt, Gliders, or Hot Air Balloons

(b) The tax imposed under this chapter is based on the age, class, and maximum landing weight of the taxable aircraft. The amount of tax imposed on the taxable aircraft is based on the following table:

Age	Class A	Class B	Class C	Class D
0-4	$.04/lb	$.065/lb	$.09/lb	$.0175/lb
5-8	$.035/lb	$.055/lb	$.08/lb	$.015/lb
9-12	$.03/lb	$.05/lb	$.07/lb	$.0125/lb
13-16	$.025/lb	$.025/lb	$.025/lb	$.01/lb
17-25	$.02/lb	$.02/lb	$.02/lb	$.0075/lb
over 25	$.01/lb	$.01/lb	$.01/lb	$.005/lb

~~(d)~~ **(c)** An aircraft owner, who sells an aircraft on which ~~he~~ **the owner** has paid the tax imposed under this chapter, is entitled to a credit for the tax paid. The credit equals excise tax paid on the aircraft that was sold, times the lesser of: (1) ninety percent (90%); or (2) ten percent (10%) times the number of months remaining in the registration year after the sale of the aircraft. The credit may only be used to reduce the tax imposed under this chapter on another aircraft purchased by that owner during the registration year in which the credit accrues. A person may not receive a refund for a credit under this subsection.

~~(e)~~ **(d)** A person who is entitled to a property tax deduction under IC 6-1.1-12-13 or IC 6-1.1-12-14 is entitled to a credit against the tax imposed on ~~his~~ **the person's** aircraft under this chapter. The credit equals the amount of the property tax deduction to which the person is entitled under IC 6-1.1-12-13 and IC 6-1.1-12-14, minus the amount of

that deduction used to offset the person's property taxes or vehicle excise taxes, times seven hundredths (.07). The credit may not exceed the amount of the tax due under this chapter. The county auditor shall, upon the person's request, furnish a certified statement showing the credit allowable under this subsection. The department may not allow a credit under this subsection until the auditor's statement has been filed in the department's office.

SECTION 56. IC 6-6-6.5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) If a taxable aircraft becomes subject to registration or taxation after the regular annual registration date in a year, the tax imposed by this chapter shall become due and payable at the time the aircraft becomes subject to registration and the amount of tax to be paid by the owner for the remainder of the year shall be reduced by the lesser of (1) ninety percent (90%) of the tax or (2) ten percent (10%) of the tax for each full calendar month which has elapsed since the regular annual registration date in that year.

(b) The tax reduction under this section shall not apply to persons who claim a tax credit under ~~section 13(d)~~ **section 13(c)** of this chapter.

SECTION 57. IC 6-8.1-1-1, AS AMENDED BY P.L.131-2008, SECTION 27, AS AMENDED BY P.L.146-2008, SECTION 358, AND AS AMENDED BY P.L.95-2008, SECTION 15, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the slot machine wagering tax (IC 4-35-8); *the type II gambling game excise tax (IC 4-36-9);* the gross income tax (IC 6-2.1) (repealed); the utility receipts and utility services use taxes (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); ~~*the municipal option income tax (IC 6-3.5-8);*~~ the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under

IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); *the excise tax imposed on recreational vehicles and truck campers (IC 6-6-5.1);* the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer.

SECTION 58. IC 6-8.1-7-1, AS AMENDED BY P.L.131-2008, SECTION 29, AND AS AMENDED BY P.L.146-2008, SECTION 359, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating to any of the listed taxes, including required information derived from a federal return, except to:

(1) members and employees of the department;

(2) the governor;

(3) the attorney general or any other legal representative of the state in any action in respect to the amount of tax due under the provisions of the law relating to any of the listed taxes; or

(4) any authorized officers of the United States;

when it is agreed that the information is to be confidential and to be used solely for official purposes.

(b) The information described in subsection (a) may be revealed upon the receipt of a certified request of any designated officer of the state tax department of any other state, district, territory, or possession of the United States when:

(1) the state, district, territory, or possession permits the exchange of like information with the taxing officials of the state; and

(2) it is agreed that the information is to be confidential and to be used solely for tax collection purposes.

(c) The information described in subsection (a) relating to a person on public welfare or a person who has made application for public welfare may be revealed to the director of the division of family resources, and to any director of a ~~*county*~~ *local* office of ~~*family and children*~~ *the division of family resources* located in Indiana, upon receipt of a written request from either director for the information. The information shall be treated as confidential by the directors. In addition, the information described in subsection (a) relating to a person who has been designated as an absent parent by the state Title IV-D agency shall be made available to the state Title IV-D agency upon request. The information shall be subject to the information safeguarding provisions of the state and federal Title IV-D programs.

(d) The name, address, Social Security number, and place of employment relating to any individual who is delinquent in paying educational loans owed to a postsecondary educational institution may be revealed to that institution if it provides proof to the department that the individual is delinquent in paying for educational loans. This information shall be provided free of charge to approved postsecondary educational institutions (as defined by IC 21-7-13-6(a)). The department shall establish fees that all other institutions must pay to the department to obtain information under this subsection. However, these fees may not exceed the department's administrative costs in providing the information to the institution.

(e) The information described in subsection (a) relating to reports submitted under IC 6-6-1.1-502 concerning the number of gallons of gasoline sold by a distributor and IC 6-6-2.5 concerning the number of gallons of special fuel sold by a supplier and the number of gallons of special fuel exported by a licensed exporter or imported by a licensed transporter may be released by the commissioner upon receipt of a written request for the information.

(f) The information described in subsection (a) may be revealed upon the receipt of a written request from the administrative head of a state agency of Indiana when:

(1) the state agency shows an official need for the information; and

(2) the administrative head of the state agency agrees that any information released will be kept confidential and will be used solely for official purposes.

(g) The information described in subsection (a) may be revealed upon the receipt of a written request from the chief law enforcement officer of a state or local law enforcement agency in Indiana, when it is agreed that the information is to be confidential and to be used solely for official purposes.

~~(g)~~ *(h)* The name and address of retail merchants, including township, as specified in IC 6-2.5-8-1(j) may be released solely for tax collection purposes to township assessors and county assessors.

~~(h)~~ *(i)* The department shall notify the appropriate innkeepers' tax board, bureau, or commission that a taxpayer is delinquent in remitting innkeepers' taxes under IC 6-9.

~~(i)~~ *(j)* All information relating to the delinquency or evasion of the motor vehicle excise tax may be disclosed to the bureau of motor vehicles in Indiana and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.

~~(j)~~ *(k)* All information relating to the delinquency or evasion of commercial vehicle excise taxes payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

~~(k)~~ *(l)* All information relating to the delinquency or evasion of commercial vehicle excise taxes payable under the International Registration Plan may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(m) All information relating to the delinquency or evasion of the excise taxes imposed on recreational vehicles and truck campers that are payable to the bureau of motor vehicles in Indiana may be

disclosed to the bureau and may be disclosed to another state if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.1.

~~(l)~~ *(n)* This section does not apply to:

(1) the beer excise tax (IC 7.1-4-2);

(2) the liquor excise tax (IC 7.1-4-3);

(3) the wine excise tax (IC 7.1-4-4);

(4) the hard cider excise tax (IC 7.1-4-4.5);

(5) the malt excise tax (IC 7.1-4-5);

(6) the motor vehicle excise tax (IC 6-6-5);

(7) the commercial vehicle excise tax (IC 6-6-5.5); and

(8) the fees under IC 13-23.

~~(m)~~ *(o)* The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and addiction and the alcohol and tobacco commission solely for the purpose of the list prepared under IC 6-2.5-6-14.2.

SECTION 59. IC 6-8.1-10-12, AS ADDED BY P.L.236-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) This section applies to a penalty related to a tax liability to the extent that the:

(1) tax liability is for a listed tax;

(2) tax liability was due and payable, as determined under IC 6-8.1-3-17(d), for a tax period ending before July 1, 2004;

(3) department establishes an amnesty program for the tax liability under IC 6-8.1-3-17(c);

(4) individual or entity from which the tax liability is due was eligible to participate in the amnesty program described in subdivision (3); and

(5) tax liability is not paid:

(A) in conformity with a payment program acceptable to the department that provides for payment of the unpaid listed taxes in full in the manner and time established in a written payment program agreement entered into between the department and the taxpayer under IC 6-8.1-3-17(c); or

(B) if clause (A) does not apply, before the end of the amnesty period established by the department.

(b) Subject to subsection (c), if a penalty is imposed or otherwise calculated under any combination of:

(1) IC 6-8.1-1-8;
(2) section 2.1 of this chapter;
(3) section 3 of this chapter;
(4) section 4 of this chapter;
(5) section 5 of this chapter;
(6) section 6 of this chapter;
(7) section 7 of this chapter;
(8) section 9 of this chapter; or
(9) IC 6-6;

an additional penalty is imposed under this section. The amount of the additional penalty imposed under this section is equal to the sum of the penalties imposed or otherwise calculated under the provisions listed in subdivisions (1) through (9).

(c) The additional penalty provided by subsection (b) does not apply if all of the following apply:

(1) The department imposes a penalty on a taxpayer or otherwise calculates the penalty under the provisions described in subsection (b)(1) through (b)(9).
(2) The taxpayer against whom the penalty is imposed:
(A) timely files an original tax appeal in the tax court under IC 6-8.1-5-1; and
(B) contests the department's imposition of the penalty or the tax on which the penalty is based.
(3) The taxpayer meets all other jurisdictional requirements to initiate the original tax appeal.
(4) Either the:
(A) tax court enjoins collection of the penalty or the tax on which the penalty is based under IC 33-26-6-2; or
(B) department consents to an injunction against collection of the penalty or tax without entry of an order by the tax court.

(d) The additional penalty provided by subsection (b) does not apply if the taxpayer:

(1) has a legitimate hold on making the payment as a result of an audit, bankruptcy, protest, taxpayer advocate action, or another reason permitted by the department;
(2) had established a payment plan with the department before ~~the effective date of this section,~~ **May 12, 2005;** or
(3) verifies with reasonable particularity that is satisfactory to the

commissioner that the taxpayer did not ever receive notice of the outstanding tax liability.

SECTION 60. IC 6-9-7-7, AS AMENDED BY P.L.96-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The county treasurer shall establish an innkeeper's tax fund. The treasurer shall deposit in that fund all money received under section 6 of this chapter that is attributable to an innkeeper's tax rate that is not more than five percent (5%).

(b) Money in the innkeeper's tax fund shall be distributed as follows:

(1) Thirty percent (30%) shall be distributed to the department of natural resources for the development of projects in the state park on the county's largest river, including its tributaries.

(2) Forty percent (40%) shall be distributed to the commission to carry out its purposes, including making any distributions or payments to the Lafayette - West Lafayette Convention and Visitors Bureau, Inc.

(3) Ten percent (10%) shall be distributed to a community development corporation that serves a metropolitan area in the county that includes:

(A) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000); and

(B) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

for the community development corporation's use in tourism, recreation, and economic development activities.

(4) Ten percent (10%) shall be distributed to Historic Prophetstown to be used by Historic Prophetstown for carrying out its purposes.

(5) Ten percent (10%) shall be distributed to the Wabash River Enhancement Corporation to assist the Wabash River Enhancement Corporation in carrying out its purposes. Money distributed under this subdivision may not be used to pay any:

(A) employee salaries; or

(B) other ongoing administrative or operating costs;

of the Wabash River Enhancement Corporation.

(c) An advisory commission consisting of the following members is

established:

(1) The director of the department of natural resources or the director's designee.

(2) The public finance director or the public finance director's designee.

(3) A member appointed by the Native American Indian affairs commission.

(4) A member appointed by Historic Prophetstown.

(5) A member appointed by the community development corporation described in ~~subsection (b)(2)(B).~~ **subsection (b)(3).**

(6) A member appointed by the Wabash River Enhancement Corporation.

(7) A member appointed by the commission.

(8) A member appointed by the county fiscal body.

(9) A member appointed by the town board of the town of Battleground.

(10) A member appointed by the mayor of the city of Lafayette.

(11) A member appointed by the mayor of the city of West Lafayette.

(d) The following apply to the advisory commission:

(1) The governor shall appoint a member of the advisory commission as chairman of the advisory commission.

(2) Six (6) members of the advisory commission constitute a quorum. The affirmative votes of at least six (6) advisory commission members are necessary for the advisory commission to take official action other than to adjourn or to meet to hear reports or testimony.

(3) The advisory commission shall make recommendations concerning the use of any proceeds of bonds issued to finance the development of Prophetstown State Park.

(4) Members of the advisory commission who are state employees:

(A) are not entitled to any salary per diem; and

(B) are entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and to reimbursement for other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and

approved by the budget agency.

(e) The Indiana finance authority, in its capacity as the recreational development commission, may issue bonds for the development of Prophetstown State Park under IC 14-14-1.

SECTION 61. IC 6-9-40-9, AS ADDED BY P.L.96-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Except as provided in subsection (b), money in the fund established under section 8 of this chapter shall be used by a political subdivision receiving a distribution under this chapter only for the following purposes:

(1) Construction, extension, or completion of sewerlines, waterlines, streets, curbs, sidewalks, bridges, roads, highways, alleys, public ways, parking facilities, lighting, electric signals, information and high technology infrastructure (as defined **in** IC 5-28-9-4), and any other infrastructure improvements.

(2) Engineering, legal, and other consulting or advisory services, plans, specifications, surveys, cost estimates, and other costs or expenses necessary or incident to activities described in subdivision (1).

(3) Park and recreation purposes, including the purchase of land for park and recreation purposes.

(4) Police and law enforcement purposes, firefighting and fire prevention purposes, emergency medical services and ambulance services, and other public safety purposes.

(b) The fiscal body of a political subdivision receiving a distribution under this chapter may pledge money in the political subdivision's fund to pay bonds issued, loans obtained, and lease payments or other obligations incurred by or on behalf of the political subdivision to provide the infrastructure improvements described in subsection (a).

(c) A pledge under subsection (b) is enforceable under IC 5-1-14-4.

SECTION 62. IC 7.1-2-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. ~~Oral Evidence.~~ The court shall receive oral testimony also upon a matter referred to in ~~IC 1971, 7.1-2-5-10 and 7.1-2-5-11,~~ **section 11 of this chapter** for the purpose of showing a violation of this title whether the bottle is offered in evidence or not.

SECTION 63. IC 7.1-5-10-1, AS AMENDED BY P.L.94-2008, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 1. (a) Except as provided in subsection ~~(d),~~ **(c),** it is unlawful to sell alcoholic beverages at the following times:

(1) At a time other than that made lawful by the provisions of IC 7.1-3-1-14.

(2) On Christmas Day and until 7:00 o'clock in the morning, prevailing local time, the following day.

(3) On primary election day, and general election day, from 3:00 o'clock in the morning, prevailing local time, until the voting polls are closed in the evening on these days.

(4) During a special election under IC 3-10-8-9 (within the precincts where the special election is being conducted), from 3:00 o'clock in the morning until the voting polls are closed in the evening on these days.

(b) During the time when the sale of alcoholic beverages is unlawful, no alcoholic beverages shall be sold, dispensed, given away, or otherwise disposed of on the licensed premises and the licensed premises shall remain closed to the extent that the nature of the business carried on **at** the premises, as at a hotel or restaurant, permits.

(c) It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time.

SECTION 64. IC 8-1-2-1.2, AS ADDED BY P.L.103-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.2. (a) As used in this section, "landlord" refers to a landlord or a person acting on a landlord's behalf.

(b) A landlord that distributes water or sewage disposal service from a public utility or a municipally owned utility to one (1) or more dwelling units is not a public utility solely by reason of engaging in this activity if the landlord complies with all of the following:

(1) The landlord bills tenants, separately from rent, for:

(A) the water or sewage disposal service distributed; and

(B) any costs permitted by subsection (c).

(2) The total charge for the services described in subdivision ~~(b)(1)(A)~~ **(1)(A)** is not more than what the landlord paid the utility for the same services, less the landlord's own use.

(3) The landlord makes a disclosure to the tenant that satisfies subsection (d). A disclosure required by this subdivision must be in:

(A) the lease;

(B) the tenant's first bill; or

(C) a writing separate from the lease signed by the tenant before entering into the lease.

(c) A landlord may charge only the following costs under subsection (b)(1)(B):

(1) A reasonable initial set-up fee.

(2) A reasonable administrative fee that may not exceed four dollars ($4) per month.

(3) A reasonable fee for the return for insufficient funds of an instrument in payment of charges.

(d) A disclosure required by subsection (b)(3) must:

(1) be printed using a font that is not smaller than the largest font used in the lease; and

(2) include the following:

(A) A description of the water or sewage disposal services to be provided.

(B) An itemized statement of the fees that will be charged as permitted under subsection (c).

(C) The following statement: "If you believe you are being charged in violation of this disclosure or if you believe you are being billed in excess of the utility services provided to you as described in this disclosure, you have a right under Indiana law to file a complaint with the Indiana Utility Regulatory Commission. You may contact the Commission at (insert phone number for the tenant to contact the Commission).".

(e) If a complaint is filed under section 34.5 or 54 of this chapter alleging that a landlord may be acting as a public utility in violation of this section, the commission shall:

(1) consider the issue; and

(2) if the commission considers necessary, enter an order requiring that billing be adjusted to comply with this section.

SECTION 65. IC 8-1-36-9, AS AMENDED BY P.L.1-2007, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. A customer is eligible to receive reduced rates for basic telecommunications service under the program if:

(1) the customer's income (as defined in 47 CFR 54.400(f)) does not exceed one hundred fifty percent (150%) of the federal

poverty guidelines; or

(2) any person in the customer's household receives or has a child who receives any of the following:

(A) Medicaid.

(B) Food stamps.

(C) Supplemental Security Income.

(D) Federal public housing assistance.

(E) Home energy assistance under a program administered by the lieutenant governor under IC 4-4-33-1(3).

(F) Assistance under the federal Temporary Assistance ~~to~~ **for** Needy Families (TANF) program (45 CFR 260 et seq.).

(G) Free lunches under the national school lunch program.

SECTION 66. IC 8-3-1.5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. The department may utilize federal funds, grants, gifts, or donations which are available, and any sums that are appropriated, in carrying out the purposes of this chapter. The department may also apply for discretionary or other funds available under the provisions of the Regional Rail Reorganization Act of 1973, or other federal programs ~~subject to IC 8-9.5-6-1.~~ **described in IC 8-23-3-1.**

SECTION 67. IC 8-3-1.5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. The department may apply for an acquisition and modernization loan, or a guarantee of a loan, pursuant to section 403 of the Regional Rail Reorganization Act of 1973, or any other federal programs, within the limit of funds appropriated for those purposes subject to ~~IC 8-9.5-6-1.~~ **IC 8-23-3-1 through IC 8-23-3-6.**

SECTION 68. IC 8-3-1.5-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. The department shall, subject to IC 8-9.5-2-6(7) **(repealed),** promulgate rules and regulations consistent with and for the purpose of adequately implementing the foregoing sections of this chapter.

SECTION 69. IC 8-6-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. Every engineer or other person in charge of or operating any such engine, who shall fail or neglect to comply with the provisions of section 1 of this chapter, shall be held personally liable therefor to the State of Indiana, in a penalty of not less than ten dollars ($10.00) nor more than fifty dollars

($50.00), to be recovered in a civil action, at the suit of said state, in the circuit or superior court of any county wherein such crossing may be located; and a railroad company that violates the provisions of IC ~~1971,~~ 8-6-4-1(b) shall be held liable therefor to the State of Indiana, in a penalty of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000), to be recovered in a civil action, at the suit of said state, in the circuit or superior court of any county wherein such crossing may be located; and the company in whose employ such ~~enginner~~ **engineer** or person may be, as well as the person himself, shall be liable in damages to any person, or ~~his~~ **the person's** representatives, who may be injured in property or person, or to any corporation that may be injured in property, by the neglect or failure of said engineer or other person as aforesaid.

SECTION 70. IC 8-10-1-23, AS AMENDED BY P.L.98-2008, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. A member **of the commission or an** agent or employee of the ports of Indiana who knowingly is interested in any contract with the ports of Indiana, or in the sale of any property, either real or personal, to the ports of Indiana, commits a Class A misdemeanor. All such contracts are void. This section does not apply to contracts for purchases of property, real or personal, between the ports of Indiana and other departments, municipalities, or subdivisions of state government.

SECTION 71. IC 8-16-2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. The department shall have the right to make all reasonable rules and regulations ~~subject to IC 8-9.5-2-6(7)~~ governing the use of such bridge which are consistent with the provisions of this chapter and with the laws of the state of Indiana, and with the laws of such adjoining state, and with any laws or regulations of the United States, applicable to the use of such bridges. It shall be the duty of the department to cause to be placed in full view, in legible and large letters, upon or in each of the tollhouses established by it upon said bridge or its approaches, all such rules and regulations adopted by it in accordance with the provisions of this chapter, and also the toll rates adopted for the use of such bridge.

SECTION 72. IC 8-21-9-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. The department may ~~subject to IC 8-9.5-2-6(7)~~ adopt such ~~regulations~~ **rules** as it may

deem advisable for the control and regulation of any airport or airport facility or traffic on any airport or airport facility, for the protection of and preservation of property under its jurisdiction and control, and for the maintenance and preservation of good order within the property under its control. However, such ~~regulations shall~~ **rules must** provide that public officers shall be afforded ready access, while in performance of their official duty, to all property under the jurisdiction or control of the department without the payment of tolls.

SECTION 73. IC 8-21-9-23, AS AMENDED BY P.L.2-2007, SECTION 137, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) The department may, subject to IC 8-9.5-5-8(6) **(repealed),** provide for the issuance of airport revenue bonds of the state for the purpose of paying all or any part of the cost of an airport facility or airport facilities. The principal of and the interest on the bonds shall be payable solely from the revenues specifically pledged to the payment as authorized by section 27 of this chapter.

(b) The bonds of each issue shall be dated, shall bear interest at such rate or rates, and shall mature at such time or times not exceeding fifty (50) years from the date thereof, all as may be determined by the department, and may be made redeemable before maturity, at the option of the department, at a price or prices and under terms and conditions as may be fixed by the commissioner in an executive order providing for the issue.

(c) The department shall determine the form of the bonds, including attached interest coupons, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state. The bonds shall be signed in the name of the department by the commissioner and the official seal of the department shall be affixed thereto. Any coupons attached thereto shall bear the facsimile signature of the commissioner of the department. If the commissioner whose signature or facsimile of whose signature shall appear on any bonds or coupons shall cease to be the commissioner before the delivery of such bonds, such signature or such facsimile shall, nevertheless, be valid and sufficient for all purposes as if the commissioner had remained in office until delivery.

(d) All bonds issued under this chapter have all the qualities and

incidents of negotiable instruments under the law of Indiana.

(e) The bonds may be issued in coupon or in registered form, or both, as the department may determine. Provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(f) The bonds shall be sold at public sale in accordance with the provisions of IC 21-32-3.

(g) The department may issue bonds in connection with a self-liquidating airport facility or airport facilities without regard to maximum interest rate limitation in this chapter or any other law and sell the bonds either at public or private sale as the department may determine. The provisions of IC 21-32-3 shall not be applicable to such sale.

(h) "Self-liquidating airport facility or airport facilities" means an airport facility or airport facilities for which a lease or leases have been executed providing for payment of rental in an amount at least sufficient to pay the interest and principal of the bonds to be issued to finance the cost of the airport facility or airport facilities and providing for the payment of the lessee or lessees of all costs of maintenance, repair, and insurance of the airport facility or airport facilities.

SECTION 74. IC 8-21-9-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the airport facility or airport facilities for which the bonds have been issued, and shall be disbursed in the manner and under the restrictions, if any, as may be provided in the resolution authorizing the issuance of the bonds or in a trust agreement securing the issue. If the proceeds of the bonds of any issue, by error of estimates or otherwise, are less than the cost, additional bonds may in like manner be issued, subject to IC 8-9.5-5-8(6) **(repealed),** to provide the amount of the deficit, and, unless otherwise provided in the commissioner's executive order authorizing the issuance of the bonds or in the trust agreement securing the issue, are deemed to be of the same issue and entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed the cost of the airport facility or airport facilities for which the bonds have been issued, the surplus shall be deposited to the credit of the sinking

fund for the bonds. Prior to the preparation of definitive bonds, the department may, subject to IC 8-9.5-5-8(6) **(repealed),** issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The department may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

SECTION 75. IC 8-21-9-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. The commissioner may, subject to IC 8-9.5-5-8(6) **(repealed),** provide for the issuance of airport revenue refunding bonds of the state payable solely from revenues for the purpose of refunding any bonds then outstanding which have been issued under this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the department, for the additional purpose of constructing improvements, extensions, or enlargements of the airport facility or airport facilities in connection with which the bonds to be refunded have been issued. The issuance of the bonds, the maturities and other details thereof, the rights of the holders thereof and the rights, duties, and obligations of the authority in respect of the same shall be governed by this chapter insofar as this chapter is applicable.

SECTION 76. IC 8-23-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. After June 30, 1989, any reference to:

(1) the transportation coordinating board (IC 8-9.5-2-1, **repealed);**

(2) the transportation planning office (IC 8-9.5-3-1, **repealed);**

(3) the department of highways (IC 8-9.5-4-2, **repealed);** and

(4) the department of transportation (IC 8-9.5-5-2, **repealed);**

in any statute or rule shall be treated as a reference to the Indiana department of transportation, as established by this article.

SECTION 77. IC 8-23-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. Any rules of:

(1) the transportation coordinating board (IC 8-9.5-2-1, **repealed);**

(2) the transportation planning office (IC 8-9.5-3-1, **repealed);**

(3) the department of highways (IC 8-9.5-4-2, **repealed);** and

(4) the department of transportation (IC 8-9.5-5-2, **repealed);**

filed with the secretary of state before July 1, 1989, shall be treated after June 30, 1989, as though they had been adopted by the Indiana department of transportation established by this article.

SECTION 78. IC 9-17-2-12 AS AMENDED BY P.L.107-2008, SECTION 10, AND AS AMENDED BY P.L.131-2008, SECTION 40, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) As used in this section, "dealer" refers to a dealer that has:

(1) been in business for not less than five (5) years; and

(2) sold not less than one hundred fifty (150) motor vehicles during the preceding *calendar* year.

(b) This section does not apply to the following:

(1) A new motor vehicle or recreational vehicle sold by a dealer licensed by the state.

(2) A motor vehicle or recreational vehicle transferred or assigned on a certificate of title issued by the bureau.

(3) A motor vehicle that is registered under the International Registration Plan.

(4) A motor vehicle that is titled in the name of a financial institution, lending institution, or insurance company in Canada and imported by a registered importer, if:

(A) the registered importer complies with section 12.5(a) of this chapter; and

(B) section 12.5(d) of this chapter does not apply to the motor vehicle.

(5) A motor vehicle that is titled in another state and is in the lawful possession of a financial institution, a lending institution, or an insurance company, if:

(A) the financial institution, lending institution, or insurance company complies with section 12.5(b) of this chapter; and

(B) section 12.5(d) of this chapter does not apply to the motor vehicle.

(c) An application for a certificate of title for a motor vehicle or recreational vehicle may not be accepted by the bureau unless the motor vehicle or recreational vehicle has been inspected by one (1) of the following:

(1) An employee of a dealer designated by the ~~*bureau*~~ *secretary of state* to perform an inspection.

(2) A military policeman assigned to a military post in Indiana.

(3) A police officer.

(4) A designated employee of the bureau.

(d) A person described in subsection (c) inspecting a motor vehicle, semitrailer, or recreational vehicle shall do the following:

(1) Make a record of inspection upon the application form prepared by the bureau.

(2) Verify the facts set out in the application.

SECTION 79. IC 9-17-3-3, AS AMENDED BY P.L.106-2008, SECTION 4, AND AS AMENDED BY P.L.131-2008, SECTION 42, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) If a vehicle for which a certificate of title has been issued is sold or if the ownership of the vehicle is ~~*otherwise*~~ transferred *in any manner other than by a transfer on death conveyance under section 9 of this chapter,* the person who holds the certificate of title must do the following:

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

(2) Except as provided in subdivisions ~~*(3) and*~~ (4) *and (5),* deliver the certificate of title to the purchaser or transferee at the time of the sale or delivery to the purchaser or transferee of the vehicle, if the purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(3) Unless the vehicle is being sold or transferred to a dealer licensed under IC 9-23-2, complete all information concerning the purchase on the certificate of title, including, but not limited to:

(A) the name and address of the purchaser; and

(B) the sale price of the vehicle.

~~*(3)*~~ *(4)* In the case of a sale or transfer between vehicle dealers licensed by this state or another state, deliver the certificate of title within twenty-one (21) days after the date of the sale or transfer.

~~*(4)*~~ *(5)* Deliver the certificate of title to the purchaser or transferee within twenty-one (21) days after the date of sale or transfer to the

purchaser or transferee of the vehicle, if all of the following conditions exist:

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

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

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

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

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

(b) A licensed dealer may offer for sale a vehicle for which the dealer does not possess a certificate of title, if the dealer can comply with subsection ~~(a)(3)~~ *(a)(4)* or ~~(a)(4)~~ *(a)(5)* at the time of the sale.

(c) A vehicle dealer who fails to deliver a certificate of title within the time specified under this section is subject to the following civil penalties:

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

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

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

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

(d) For purposes of this subsection, "timely deliver", with respect to a third party, means to deliver to the purchaser or transferee with a

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

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

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

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

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

(f) The original certificate of title and all assignments and subsequent reissues of the certificate of title shall be retained by the bureau and appropriately classified and indexed in the most convenient manner to trace title to the vehicle described in the certificate of title.

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

SECTION 80. IC 9-18-2-1, AS AMENDED BY P.L.3-2008, SECTION 76, AND AS AMENDED BY P.L.131-2008, SECTION 46, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Within sixty (60) days ~~of~~ *after* becoming an Indiana resident, a person must register all motor vehicles owned by the person that:

(1) are subject to the motor vehicle excise tax under IC 6-6-5; and

(2) will be operated in Indiana.

(b) Within sixty (60) days after becoming an Indiana resident, a person must register all commercial vehicles owned by the person that:

(1) are subject to the commercial vehicle excise tax under IC 6-6-5.5;

(2) are not subject to proportional registration under the International Registration Plan; and

(3) will be operated in Indiana.

(c) Within sixty (60) days after becoming an Indiana resident, a person must register all recreational vehicles owned by the person that:

(1) are subject to the excise tax imposed under IC 6-6-5.1; and

(2) will be operated in Indiana.

~~(c)~~ *(d)* A person must produce evidence concerning the date on which the person became an Indiana resident.

~~(d)~~ *(e)* Except as provided in subsection ~~(e),~~ *(f),* an Indiana resident must register all motor vehicles operated in Indiana.

~~(e)~~ *(f)* An Indiana resident who has a legal residence in a state that is not contiguous to Indiana may operate a motor vehicle in Indiana for not more than sixty (60) days without registering the motor vehicle in Indiana.

~~(f)~~ *(g)* An Indiana resident who has registered a motor vehicle in Indiana in any previous registration year is not required to register the motor vehicle, is not required to pay motor vehicle excise tax under IC 6-6-5 or the commercial vehicle excise tax under IC 6-6-5.5 on the motor vehicle, and is exempt from property tax on the motor vehicle for any registration year in which:

(1) the Indiana resident is:

(A) an active member of the armed forces of the United States; and

(B) assigned to a duty station outside Indiana; and

(2) the motor vehicle is not operated inside or outside Indiana.

This subsection may not be construed as granting the bureau authority to require the registration of any vehicle that is not operated in Indiana.

~~(g)~~ *(h)* When an Indiana resident registers a motor vehicle in Indiana after the period of exemption described in subsection ~~(f),~~ *(g),* the Indiana resident may submit an affidavit that:

(1) states facts demonstrating that the motor vehicle is a motor vehicle described in subsection ~~(f),~~ *(g);* and

(2) is signed by the owner of the motor vehicle under penalties of perjury;

as sufficient proof that the owner of the motor vehicle is not required to register the motor vehicle during a registration year described in subsection ~~(f).~~ *(g)*. The commission or bureau may not require the Indiana resident to pay any civil penalty or any reinstatement or other fee that is not also charged to other motor vehicles being registered in the same registration year.

SECTION 81. IC 9-23-0.7-1, AS ADDED BY P.L.184-2007, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]: Sec. 1. The secretary of state may delegate any or all of the rights, duties, or obligations of the secretary of state under this article to:

(1) the securities commissioner appointed under ~~IC 23-2-1-15;~~ **IC 23-19-6-1(a);** or

(2) another designee under the supervision and control of the secretary of state.

The individual delegated shall have the authority to adopt rules pursuant to IC 4-22-2 as the secretary of state under IC 4-5-1-11.

SECTION 82. IC 9-23-6-4, AS AMENDED BY P.L.184-2007, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]: Sec. 4. A person who violates this article or a rule or order of the secretary of state issued under this article is subject to a civil penalty of not less than fifty dollars ($50) and not more than one thousand dollars ($1,000) for each day of violation and for each act of violation, as determined by the court. All civil penalties recovered under this article shall be paid to the state and deposited into the securities division enforcement account established under ~~IC 23-2-1-15(e).~~ **IC 23-19-6-1(f).**

SECTION 83. IC 9-25-10-1, AS ADDED BY P.L.77-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "conviction" refers to a conviction for operating a motor vehicle without financial responsibility in violation of ~~IC 9-25.~~ **this article.**

SECTION 84. IC 9-25-10-2, AS ADDED BY P.L.77-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "previously uninsured motorist" refers to a person:

(1) against whom a judgment is entered for; or

(2) who is convicted of;

operating a motor vehicle without financial responsibility in violation of ~~IC 9-25~~ **this article** after December 31, 2009.

SECTION 85. IC 9-25-10-4, AS ADDED BY P.L.77-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The bureau shall, not later than January 1, 2010, establish an electronic registry of previously uninsured motorists to facilitate the random and periodic verification by the bureau of compliance with ~~IC 9-25.~~ **this article.**

SECTION 86. IC 9-25-10-6, AS ADDED BY P.L.77-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The failure by a previously uninsured motorist to respond to the bureau's request for verification of financial responsibility under this chapter constitutes prima facie evidence of operating a motor vehicle without financial responsibility in violation of ~~IC 9-25.~~ **this article.**

SECTION 87. IC 9-25-10-7, AS ADDED BY P.L.77-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The bureau shall remove the name of a previously uninsured motorist from the registry not more than five (5) years after the date on which the judgment or conviction for which the motorist's name is maintained on the registry was entered against the motorist.

(b) If a previously uninsured motorist is convicted of a second or subsequent offense under ~~IC 9-25,~~ **this article,** the bureau shall remove the motorist's name from the registry not more than five (5) years after the date on which the second or subsequent conviction is entered.

SECTION 88. IC 9-26-1-1, AS AMENDED BY P.L.126-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The driver of a vehicle involved in an accident that results in the injury or death of a person or the entrapment of a person in a vehicle shall do the following:

(1) Immediately stop the driver's vehicle at the scene of the accident or as close to the accident as possible in a manner that does not obstruct traffic more than is necessary.

(2) Immediately return to and remain at the scene of the accident until the driver does the following:

(A) Gives the driver's name and address and the registration number of the vehicle the driver was driving.

(B) Upon request, exhibits the driver's license of the driver to the following:

(i) The person struck.

(ii) The driver or occupant of or person attending each vehicle involved in the accident.

(C) Subject to section 1.5(a) of this chapter, determines the need for and renders reasonable assistance to each person injured or entrapped in the accident, including the removal **of,** or the making of arrangements for **the removal of:**

(i) ~~the removal of~~ each injured person from the scene of the accident to a physician or hospital for medical treatment; and

(ii) ~~the removal of~~ each entrapped person from the vehicle in which the person is entrapped.

(3) Subject to section 1.5(b) of this chapter, immediately give notice of the accident by the quickest means of communication to one (1) of the following:

(A) The local police department, if the accident occurs within a municipality.

(B) The office of the county sheriff or the nearest state police post, if the accident occurs outside a municipality.

(4) Within ten (10) days after the accident, forward a written report of the accident to the:

(A) state police department, if the accident occurs before January 1, 2006; or

(B) bureau, if the accident occurs after December 31, 2005.

SECTION 89. IC 10-12-5-4, AS AMENDED BY P.L.3-2008, SECTION 84, AND AS AMENDED BY P.L.5-2008, SECTION 2, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. As an incentive to all employees of the department, the supplemental pension benefits of this chapter shall be increased by more than the ~~*fifty percent (50%)*~~ increase provided in ~~*section 3*~~ *section 3(c) or 3(d)* of this chapter, at the rate of a five percent (5%) per year increase for each year of active service over twenty (20) years up to thirty (30) years of service, as calculated in ~~*section (3)(c)*~~ *section 3(c) or 3(d)* of this chapter.

SECTION 90. IC 10-14-3-12, AS AMENDED BY P.L.134-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 12. (a) The governor shall declare a disaster emergency by executive order or proclamation if the governor determines that a disaster has occurred or that the occurrence or the threat of a disaster is imminent. The state of disaster emergency continues until the governor:

(1) determines that the threat or danger has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist; and

(2) terminates the state of disaster emergency by executive order or proclamation.

A state of disaster emergency may not continue for longer than thirty (30) days unless the state of disaster emergency is renewed by the governor. The general assembly, by concurrent resolution, may terminate a state of disaster emergency at any time. If the general assembly terminates a state of disaster emergency under this subsection, the governor shall issue an executive order or proclamation ending the state of disaster emergency. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster, the area or areas threatened, and the conditions which have brought the disaster about or that make possible termination of the state of disaster emergency. An executive order or proclamation under this subsection shall be disseminated promptly by means calculated to bring the order's or proclamation's contents to the attention of the general public. Unless the circumstances attendant upon the disaster prevent or impede, an executive order or proclamation shall be promptly filed with the secretary of state and with the clerk of the city or town affected or with the clerk of the circuit court.

(b) An executive order or proclamation of a state of disaster emergency:

(1) activates the disaster response and recovery aspects of the state, local, and interjurisdictional disaster emergency plans applicable to the affected political subdivision or area; and

(2) is authority for:

(A) deployment and use of any forces to which the plan or plans apply; and

(B) use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available under this chapter or under any other law relating to

disaster emergencies.

(c) During the continuance of any state of disaster emergency, the governor is commander-in-chief of the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or regulations. This section does not restrict the governor's authority to delegate or assign command authority by orders issued at the time of the disaster emergency.

(d) In addition to the governor's other powers, the governor may do the following while the state of emergency exists:

(1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency if strict compliance with any of these provisions would in any way prevent, hinder, or delay necessary action in coping with the emergency.

(2) Use all available resources of the state government and of each political subdivision of the state reasonably necessary to cope with the disaster emergency.

(3) Transfer the direction, personnel, or functions of state departments and agencies or units for performing or facilitating emergency services.

(4) Subject to any applicable requirements for compensation under section 31 of this chapter, commandeer or use any private property if the governor finds this action necessary to cope with the disaster emergency.

(5) Assist in the evacuation of all or part of the population from any stricken or threatened area in Indiana if the governor considers this action necessary for the preservation of life or other disaster mitigation, response, or recovery.

(6) Prescribe routes, modes of transportation, and destinations in connection with evacuation.

(7) Control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises in the area.

(8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles.

(9) Make provision for the availability and use of temporary

emergency housing.

(10) Allow persons who:

(A) are registered as volunteer health practitioners by an approved registration system under IC 10-14-3.5; or

(B) hold a license to practice:

(i) medicine;

(ii) dentistry;

(iii) pharmacy;

(iv) nursing;

(v) engineering;

(vi) veterinary medicine;

(vii) mortuary service; and

(viii) similar other professions as may be specified by the governor;

to practice their respective profession in Indiana during the period of the state of emergency if the state in which a person's license was issued has a mutual aid compact for emergency management with Indiana.

(11) Give specific authority to allocate drugs, foodstuffs, and other essential materials and services.

SECTION 91. IC 10-14-3-17, AS AMENDED BY P.L.1-2006, SECTION 176, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) A political subdivision is:

(1) within the jurisdiction of; and

(2) served by;

a department of emergency management or by an interjurisdictional agency responsible for disaster preparedness and coordination of response.

(b) A county shall:

(1) maintain a county emergency management advisory council and a county emergency management organization; or

(2) participate in an interjurisdictional disaster agency that, except as otherwise provided under this chapter, may have jurisdiction over and serve the entire county.

(c) The county emergency management advisory council consists of the following individuals or their designees:

(1) The president of the county executive or, if the county

executive does not have a president, a member of the county executive appointed from the membership of the county executive.

(2) The president of the county fiscal body.

(3) The mayor of each city located in the county.

(4) An individual representing the legislative bodies of all towns located in the county.

(5) Representatives of private and public agencies or organizations that can assist emergency management considered appropriate by the county emergency management advisory council.

(6) One (1) commander of a local civil air patrol unit in the county or the commander's designee.

(d) The county emergency management advisory council shall do the following:

(1) Exercise general supervision and control over the emergency management and disaster program of the county.

(2) Select or cause to be selected, with the approval of the county executive, a county emergency management and disaster director who:

(A) has direct responsibility for the organization, administration, and operation of the emergency management program in the county; and

(B) is responsible to the chairman of the county emergency management advisory council.

(e) Notwithstanding any provision of this chapter or other law to the contrary, the governor may require a political subdivision to establish and maintain a disaster agency jointly with one (1) or more contiguous political subdivisions with the concurrence of the affected political subdivisions if the governor finds that the establishment and maintenance of an agency or participation in one (1) is necessary by circumstances or conditions that make it unusually difficult to provide:

(1) disaster prevention;

(2) preparedness;

(3) response; or

(4) recovery services;

under this chapter.

(f) A political subdivision that does not have a disaster agency and

has not made arrangements to secure or participate in the services of an agency shall have an emergency management director designated to facilitate the cooperation and protection of that political subdivision in the work of:

(1) disaster prevention;

(2) preparedness;

(3) response; and

(4) recovery.

(g) The county emergency management and disaster director and personnel of the department may be provided with appropriate:

(1) office space;

(2) furniture;

(3) vehicles;

(4) communications;

(5) equipment;

(6) supplies;

(7) stationery; and

(8) printing;

in the same manner as provided for personnel of other county agencies.

(h) Each local or interjurisdictional agency shall:

(1) prepare; and

(2) keep current;

a local or interjurisdictional disaster emergency plan for its area.

(i) The local or interjurisdictional disaster agency shall prepare and distribute to all appropriate officials a clear and complete written statement of:

(1) the emergency responsibilities of all local agencies and officials; and

(2) the disaster chain of command.

(j) Each political subdivision may:

(1) appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management and disaster purposes, provide for the health and safety of persons and property, including emergency assistance to the victims of a disaster resulting from enemy attack, provide for a comprehensive insurance program for its emergency management volunteers, and direct and coordinate the development of an emergency management program and

emergency operations plan in accordance with the policies and plans set by the federal emergency management agency and the ~~state emergency management agency,~~ **department of homeland security established by IC 10-19-2-1;**

(2) appoint, employ, remove, or provide, with or without compensation:

(A) rescue teams;

(B) auxiliary fire and police personnel; and

(C) other emergency management and disaster workers;

(3) establish:

(A) a primary; and

(B) one (1) or more secondary;

control centers to serve as command posts during an emergency;

(4) subject to the order of the governor or the chief executive of the political subdivision, assign and make available for duty the employees, property, or equipment of the political subdivision relating to:

(A) firefighting;

(B) engineering;

(C) rescue;

(D) health, medical, and related services;

(E) police;

(F) transportation;

(G) construction; and

(H) similar items or services;

for emergency management and disaster purposes within or outside the physical limits of the political subdivision; and

(5) in the event of a national security emergency or disaster emergency as provided in section 12 of this chapter, waive procedures and formalities otherwise required by law pertaining to:

(A) the performance of public work;

(B) the entering into of contracts;

(C) the incurring of obligations;

(D) the employment of permanent and temporary workers;

(E) the use of volunteer workers;

(F) the rental of equipment;

(G) the purchase and distribution of supplies, materials, and

facilities; and

(H) the appropriation and expenditure of public funds.

SECTION 92. IC 10-14-3.5-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. As used in this chapter, "department of homeland security" refers to the department of homeland security established by IC 10-19-2-1.**

SECTION 93. IC 10-14-3.5-1, AS ADDED BY P.L.134-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "disaster relief organization" means an entity that provides emergency or disaster relief services that include health or veterinary services provided by volunteer health practitioners and:

(1) is designated or recognized as a provider of the services under a disaster response and recovery plan adopted by an agency of the federal government or the ~~state emergency management agency;~~ **department of homeland security;** or

(2) regularly plans and conducts the entity's activities in coordination with an agency of the federal government or the ~~state emergency management agency.~~ **department of homeland security.**

SECTION 94. IC 10-14-3.5-17, AS ADDED BY P.L.134-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) While an emergency declaration is in effect, the ~~state emergency management agency~~ **department of homeland security** may limit, restrict, or otherwise regulate:

(1) the duration of practice by volunteer health practitioners;

(2) the geographical areas in which volunteer health practitioners may practice;

(3) the types of volunteer health practitioners who may practice; and

(4) any other matters necessary to coordinate effectively the provision of health or veterinary services during the emergency.

(b) An order issued under subsection (a) may take effect immediately, without prior notice or comment, and is not a rule within the meaning of IC 4-22-2.

(c) A host entity that uses volunteer health practitioners to provide health or veterinary services in Indiana shall:

(1) consult and coordinate the host entity's activities with the ~~state emergency management agency~~ **department of homeland security** to the extent practicable to provide for the efficient and effective use of volunteer health practitioners; and

(2) comply with any laws other than this chapter relating to the management of emergency health or veterinary services, including this article.

SECTION 95. IC 10-14-3.5-18, AS ADDED BY P.L.134-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) To qualify as a volunteer health practitioner registration system, a system must:

(1) accept applications for the registration of volunteer health practitioners before or during an emergency;

(2) include information about the licensure and good standing of health practitioners that is accessible by authorized persons;

(3) be capable of confirming the accuracy of information concerning whether a health practitioner is licensed and in good standing before health services or veterinary services are provided under this chapter; and

(4) meet one (1) of the following conditions:

(A) Be an emergency system for advance registration of volunteer health practitioners established by a state and funded through the Health Resources Services Administration under section 319I of the federal Public Health Services Act, 42 U.S.C. 247d-7b.

(B) Be a local unit consisting of trained and equipped emergency response, public health, and medical personnel formed under section 2801 of the federal Public Health Services Act, 42 U.S.C. 300hh.

(C) Be operated by a:

(i) disaster relief organization;

(ii) licensing board;

(iii) national or regional association of licensing boards or health practitioners;

(iv) health facility that provides comprehensive inpatient and outpatient health care services, including a tertiary care and teaching hospital; or

(v) governmental entity.

(D) Be designated by the ~~state emergency management agency~~ **department of homeland security** as a registration system for purposes of this chapter.

(b) While an emergency declaration is in effect, the ~~state emergency management agency,~~ **department of homeland security,** a person authorized to act on behalf of the ~~state emergency management agency,~~ **department of homeland security,** or a host entity may confirm whether volunteer health practitioners used in Indiana are registered with a registration system that complies with subsection (a). Confirmation is limited to obtaining identities of the practitioners from the system and determining whether the system indicates that the practitioners are licensed and in good standing.

(c) Upon request of a person in Indiana authorized under subsection (b), or a similarly authorized person in another state, a registration system located in Indiana shall notify the person of the identities of volunteer health practitioners and whether the practitioners are licensed and in good standing.

(d) A host entity is not required to use the services of a volunteer health practitioner even if the practitioner is registered with a registration system that indicates that the practitioner is licensed and in good standing.

SECTION 96. IC 10-14-3.5-21, AS ADDED BY P.L.134-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) Subject to subsections (b) and (c), a volunteer health practitioner shall adhere to the scope of practice for a similarly licensed practitioner established by the licensing provisions, practice acts, or other laws of Indiana.

(b) Except as provided in subsection (c), this chapter does not authorize a volunteer health practitioner to provide services that are outside the practitioner's scope of practice, even if a similarly licensed practitioner in Indiana would be permitted to provide the services.

(c) The ~~state emergency management agency~~ **department of homeland security** may modify or restrict the health or veterinary services that volunteer health practitioners may provide under this chapter. An order under this subsection may take effect immediately, without prior notice or comment, and is not a rule within the meaning of IC 4-22-2.

(d) A host entity may restrict the health or veterinary services that

a volunteer health practitioner may provide under this chapter.

(e) A volunteer health practitioner does not engage in unauthorized practice unless the practitioner has reason to know of a limitation, modification, or restriction under this section or that a similarly licensed practitioner in Indiana would not be permitted to provide the services. A volunteer health practitioner has reason to know of a limitation, modification, or restriction or that a similarly licensed practitioner in Indiana would not be permitted to provide a service if:

(1) the practitioner knows the limitation, modification, or restriction exists or that a similarly licensed practitioner in Indiana would not be permitted to provide the service; or

(2) from all the facts and circumstances known to the practitioner at the relevant time, a reasonable person would conclude that the limitation, modification, or restriction exists or that a similarly licensed practitioner in Indiana would not be permitted to provide the service.

(f) In addition to the authority granted by laws of Indiana other than this chapter to regulate the conduct of health practitioners, a licensing board or other disciplinary authority in Indiana:

(1) may impose administrative sanctions upon a health practitioner licensed in Indiana for conduct outside of Indiana in response to an out-of-state emergency;

(2) may impose administrative sanctions upon a practitioner not licensed in Indiana for conduct in Indiana in response to an in-state emergency; and

(3) shall report any administrative sanctions imposed upon a practitioner licensed in another state to the appropriate licensing board or other disciplinary authority in any other state in which the practitioner is known to be licensed.

(g) In determining whether to impose administrative sanctions under subsection (f), a licensing board or other disciplinary authority shall consider the circumstances in which the conduct took place, including any exigent circumstances, and the practitioner's scope of practice, education, training, experience, and specialized skill.

SECTION 97. IC 10-14-3.5-22, AS ADDED BY P.L.134-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) This chapter does not limit the rights, privileges, or immunities provided to volunteer health practitioners by

laws other than this chapter. Except as provided in subsection (b), this chapter does not affect requirements for the use of health practitioners under the Emergency Management Assistance Compact.

(b) The ~~state emergency management agency,~~ **department of homeland security,** under the Emergency Management Assistance Compact or the Interstate Emergency Management and Disaster Compact, may incorporate into the emergency forces of Indiana volunteer health practitioners who are not officers or employees of Indiana, a political subdivision of Indiana, or a municipality or other local government within Indiana.

SECTION 98. IC 10-14-3.5-23, AS ADDED BY P.L.134-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. The ~~state emergency management agency~~ **department of homeland security** may adopt rules under IC 4-22-2 to implement this chapter. In doing so, the ~~state emergency management agency~~ **department of homeland security** shall consult with and consider the recommendations of the entity established to coordinate the implementation of the Emergency Management Assistance Compact or the Interstate Emergency Management and Disaster Compact and shall also consult with and consider rules adopted by similarly empowered agencies in other states to promote uniformity of application of this chapter and make the emergency response systems in the various states reasonably compatible.

SECTION 99. IC 10-16-1-9.5, AS ADDED BY P.L.10-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.5. "Emergency service operation" includes the following operations of the civil air patrol:

(1) Search and rescue missions designated by the Air Force Rescue Coordination Center.

(2) Disaster relief, when requested by the federal ~~or state~~ emergency management agency **or the department of homeland security established by IC 10-19-2-1.**

(3) Humanitarian services, when requested by the federal ~~or state~~ emergency management agency **or the department of homeland security established by IC 10-19-2-1.**

(4) United States Air Force support designated by the First Air Force, North American Aerospace Defense Command.

SECTION 100. IC 11-13-3-4, AS AMENDED BY P.L.46-2008,

SECTION 1, AND AS AMENDED BY P.L.119-2008, SECTION 10, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole, the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

(1) retained by the parolee;

(2) forwarded to any person charged with the parolee's supervision; and

(3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

(1) consider:

(A) the residence of the parolee prior to the parolee's incarceration; and

(B) the parolee's place of employment; and

(2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

(1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and

(2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex offender (as defined in IC 11-8-8-4.5) to:

(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5) to register with a local law enforcement authority under IC 11-8-8;

(B) prohibit a parolee who is a sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the sex offender obtains written approval from the parole board;

(C) prohibit a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense unless the sex offender obtains a waiver under IC 35-38-2-2.5; ~~*and*~~

(D) prohibit a parolee who is a sex offender from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age;

(E) require a parolee who is a sex offender to consent:

(i) to the search of the sex offender's personal computer at any time; and

(ii) to the installation on the sex offender's personal computer or device with Internet capability, at the sex

offender's expense, of one (1) or more hardware or software systems to monitor Internet usage; and

(F) prohibit the sex offender from:

(i) accessing or using certain web sites, chat rooms, or instant messaging programs frequented by children; and

(ii) deleting, erasing, or tampering with information on the sex offender's personal computer with intent to conceal an activity prohibited by item (i).

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) or a sex offender who is an offender against children under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

(i) As a condition of parole, the parole board may require a parolee to participate in a reentry court program.

(j) As a condition of parole, the parole board:

(1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and

(2) may require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5);

to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

(k) As a condition of parole, the parole board may prohibit, in accordance with IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

(l) A parolee may be responsible for the reasonable expenses, as determined by the department, of the parolee's participation in a treatment or other program required as a condition of parole under this section. However, a person's parole may not be revoked solely on

the basis of the person's inability to pay for a program required as a condition of parole under this section.

SECTION 101. IC 12-13-14-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The electronic benefits transfer commission is established.

(b) The commission consists of eight (8) members appointed by the secretary of ~~the office of~~ family and social services as follows:

(1) Two (2) employees of the office of **the secretary of** family and social services.

(2) Two (2) members of the Indiana Grocers and Convenience Store Association, nominated by the chief executive officer of the Indiana Grocers and Convenience Store Association for consideration by the secretary ~~of the office~~ of family and social services.

(3) Two (2) members of the Indiana Bankers Association, nominated by the chief executive officer of the Indiana Bankers Association for consideration by the office of **the secretary of** family and social services.

(4) Two (2) persons representing recipients of food stamp benefits or Aid to Families with Dependent Children (AFDC) benefits. One (1) person shall be nominated by the Indiana Food and Nutrition Network, and one (1) person shall be nominated by the Indiana Coalition for Human Services for consideration by the secretary of ~~the office of~~ family and social services.

(c) The terms of office shall be for three (3) years. The members serve at the will of the secretary of ~~the office of~~ family and social services. A vacancy on the commission shall be filled by the secretary of ~~the office of~~ family and social services in the same manner the original appointment was made.

(d) The secretary of ~~the office of~~ family and social services shall appoint the initial chairperson from among the members of the commission. The commission shall meet on the call of the chairperson. When the chairperson's term expires, the commission shall elect a new chairperson from among the membership of the commission.

(e) The division shall provide staff needed for the commission to operate under this chapter.

(f) The commission members are not eligible for per diem reimbursement or reimbursement for expenses incurred for travel to

and from commission meetings.

SECTION 102. IC 12-14-28-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The division shall use the criteria for a qualifying family set forth in section 1 of this chapter to determine and apply all other state or local program expenditures by all state agencies and by political subdivisions that qualify as expenditures toward Indiana's maintenance of effort under the federal Temporary Assistance ~~to~~ **for** Needy Families (TANF) program (45 CFR 260 et seq.).

(b) The division shall determine whether the amount of expenditures that it projects will be reported to the federal government as Indiana's maintenance of effort under the federal Temporary Assistance ~~to~~ **for** Needy Families (TANF) program (45 CFR 265) will be less than necessary to avoid a reduction in the federal TANF distribution to Indiana.

SECTION 103. IC 12-15-34-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. The office shall include in the division's state plan for the purchase of services under IC 4-23-17-9.3 **(repealed)** a comprehensive program for the provision of home health services to an individual who is eligible for Medicaid.

SECTION 104. IC 12-15-35.5-3, AS AMENDED BY P.L.101-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in subsection (b), the office may establish prior authorization requirements for drugs covered under a program described in section 1 of this chapter.

(b) The office may not require prior authorization for the following single source or brand name multisource drugs:

(1) A drug that is classified as an antianxiety, antidepressant, or antipsychotic central nervous system drug in the most recent publication of Drug Facts and Comparisons (published by the Facts and Comparisons Division of J.B. Lippincott Company).

(2) A drug that, according to:

(A) the American Psychiatric Press Textbook of Psychopharmacy;

(B) Current Clinical Strategies for Psychiatry;

(C) Drug Facts and Comparisons; or

(D) a publication with a focus and content similar to the publications described in clauses (A) through (C);

is a cross-indicated drug for a central nervous system drug classification described in subdivision (1).

(3) A drug that is:

(A) classified in a central nervous system drug category or classification (according to Drug Facts and Comparisons) that is created after ~~the effective date of this chapter;~~ **March 12, 2002;** and

(B) prescribed for the treatment of a mental illness (as defined in the most recent publication of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders).

(c) Except as provided under section 7 of this chapter, a recipient enrolled in a program described in section 1 of this chapter shall have unrestricted access to a drug described in subsection (b).

SECTION 105. IC 12-17.2-2-1, AS AMENDED BY P.L.145-2006, SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The division shall perform the following duties:

(1) Administer the licensing and monitoring of child care centers or child care homes in accordance with this article.

(2) Ensure that a national criminal history background check of the applicant is completed through the state police department under IC 10-13-3-39 before issuing a license.

(3) Ensure that a criminal history background check of a child care ministry applicant for registration is completed before registering the child care ministry.

(4) Provide for the issuance, denial, suspension, and revocation of licenses.

(5) Cooperate with governing bodies of child care centers and child care homes and their staffs to improve standards of child care.

(6) Prepare at least biannually a directory of licensees with a description of the program capacity and type of children served that will be distributed to the legislature, licensees, and other interested parties as a public document.

(7) Deposit all license application fees collected under section 2 of this chapter in the division of family resources child care fund established by IC 12-17.2-2-3.

(8) Require each child care center or child care home to record proof of a child's date of birth before accepting the child. A child's date of birth may be proven by the child's original birth certificate or other reliable proof of the child's date of birth, including a duly attested transcript of a birth certificate.

(9) Provide an Internet site through which members of the public may obtain the following information:

(A) Information concerning violations of this article by a licensed child care provider, including:

(i) the identity of the child care provider;

(ii) the date of the violation; and

(iii) action taken by the division in response to the violation.

(B) Current status of a child care provider's license.

(C) Other relevant information.

The Internet site may not contain the address of a child care home or information identifying an individual child. However, the site may include the county and ZIP code in which a child care home is located.

(10) Provide or approve training concerning safe sleeping practices for children to:

(A) a provider who operates a child care program in the provider's home as described in ~~IC 12-17.2-3.5-5(b);~~ **IC 12-17.2-3.5-5.5(b);** and

(B) a child care home licensed under IC 12-17.2-5;

including practices to reduce the risk of sudden infant death syndrome.

SECTION 106. IC 12-20-28-3, AS AMENDED BY P.L.145-2006, SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The definitions in this section apply to a report that is required to be filed under this section.

(b) As used in this section, "case contact" means any act of service in which a township employee has reason to enter a comment or narrative into the record of an application for township assistance under this article regardless of whether the applicant receives or does not receive township assistance funds.

(c) As used in this section, "total number of households containing township assistance recipients" means the sum to be determined by counting the total number of individuals who file an application for

which assistance is granted. A household may be counted only once during a calendar year regardless of the number of times assistance is provided if the same individual makes the application for assistance.

(d) As used in this section, "total number of recipients" means the number of individuals who are members of a household that receives assistance on at least one (1) occasion during the calendar year. An individual may be counted only one (1) time during a calendar year regardless of the:

(1) number of times assistance is provided; or

(2) number of households in which the individual resides during a particular year.

(e) As used in this section, "total number of requests for assistance" means the number of times an individual or a household separately requests any type of township assistance.

(f) The township trustee shall file an annual statistical report on township housing, medical care, utility assistance, food assistance, burial assistance, food pantry assistance, services related to representative payee programs, services related to special nontraditional programs, and case management services with the state board of accounts. The township trustee shall provide a copy of the annual statistical report to the county auditor. The county auditor shall keep the copy of the report in the county auditor's office. Except as provided in subsection (k), the report must be made on a form provided by the state board of accounts. The report must contain the following information:

(1) The total number of requests for assistance.

(2) The total number of each of the following:

(A) Recipients of township assistance.

(B) Households containing recipients of township assistance.

(C) Case contacts made with or on behalf of:

(i) recipients of township assistance; or

(ii) members of a household receiving township assistance.

(3) The total value of benefits provided to recipients of township assistance.

(4) The total value of benefits provided through the efforts of township staff from sources other than township funds.

(5) The total number of each of the following:

(A) Recipients of township assistance and households

receiving utility assistance.

(B) Recipients assisted by township staff in receiving utility assistance from sources other than township funds.

(6) The total value of benefits provided for the payment of utilities, including the value of benefits of utility assistance provided through the efforts of township staff from sources other than township funds.

(7) The total number of each of the following:

(A) Recipients of township assistance and households receiving housing assistance.

(B) Recipients assisted by township staff in receiving housing assistance from sources other than township funds.

(8) The total value of benefits provided for housing assistance, including the value of benefits of housing assistance provided through the efforts of township staff from sources other than township funds.

(9) The total number of each of the following:

(A) Recipients of township assistance and households receiving food assistance.

(B) Recipients assisted by township staff in receiving food assistance from sources other than township funds.

(10) The total value of food assistance provided, including the value of food assistance provided through the efforts of township staff from sources other than township funds.

(11) The total number of each of the following:

(A) Recipients of township assistance and households provided health care.

(B) Recipients assisted by township staff in receiving health care assistance from sources other than township funds.

(12) The total value of health care provided, including the value of health care assistance provided through the efforts of township staff from sources other than township funds.

(13) The total number of funerals, burials, and cremations.

(14) The total value of funerals, burials, and cremations, including the difference between the:

(A) actual value of the funerals, burials, and cremations; and

(B) amount paid by the township for the funerals, burials, and cremations.

(15) The total of each of the following:

(A) Number of nights of emergency shelter provided to the homeless.

(B) Number of nights of emergency shelter provided to homeless individuals through the efforts of township staff from sources other than township funds.

(C) Value of the nights of emergency shelter provided to homeless individuals by the township and the value of the nights of emergency shelter provided through the efforts of the township staff from sources other than township funds.

(16) The total of each of the following:

(A) Number of referrals of township assistance applicants to other programs.

(B) Value of the services provided by the township in making referrals to other programs.

(17) The total number of training programs or job placements found for recipients of township assistance with the assistance of the township trustee.

(18) The number of hours spent by recipients of township assistance at workfare.

(19) The total value of the services provided by workfare to the township and other agencies.

(20) The total amount of reimbursement for assistance received from:

(A) recipients;

(B) members of recipients' households; or

(C) recipients' estates;

under IC 12-20-6-10, IC 12-20-27-1, or IC 12-20-27-1.5.

(21) The total amount of reimbursement for assistance received from medical programs under IC 12-20-16-2(e).

(22) The total of each of the following:

(A) Number of individuals assisted through a representative payee program.

(B) Amount of funds processed through the representative payee program that are not township funds.

(23) The total of each of the following:

(A) Number of individuals assisted through special nontraditional programs provided through the township

without the expenditure of township funds.

(B) Amount of funds used to provide the special nontraditional programs that are not township funds.

(24) The total of each of the following:

(A) Number of hours an investigator of township assistance spends providing case management services to a recipient of township assistance or a member of a household receiving township assistance.

(B) Value of the case management services provided.

(25) The total number of housing inspections performed by the township.

If the total number or value of any item required to be reported under this subsection is zero (0), the township trustee shall include the notation "0" in the report where the total number or value is required to be reported.

(g) The state board of accounts shall compare and compile all data reported under subsection (f) into a statewide statistical report. The department shall summarize the data compiled by the state board of accounts that relate to the fixing of township budgets, levies, and tax rates and shall include the department's summary within the statewide statistical report prepared under this subsection. Before July 1 of each year, the state board of accounts shall file the statewide statistical report prepared under this subsection with the executive director of the legislative services agency in an electronic format under IC 5-14-6.

(h) The state board of accounts shall forward a copy of:

(1) each annual report forwarded to the board under subsection (f); and

(2) the statewide statistical report under subsection (g);

to the department and the division of family resources.

(i) The division of family resources shall include in the division's periodic reports made to the United States Department of Health and Human Services concerning the Temporary Assistance ~~to~~ **for** Needy Families (TANF) and Supplemental Security Income (SSI) programs information forwarded to the division under subsection (h) concerning the total number of recipients of township assistance and the total dollar amount of benefits provided.

(j) The department may not approve the budget of a township trustee who fails to file an annual report under subsection (f) in the preceding

calendar year.

(k) This section does not prevent the electronic transfer of data required to be reported under IC 12-2-1-40 (before its repeal) or this section if the following conditions are met:

(1) The method of reporting is acceptable to both the township trustee reporting the information and the governmental entity to which the information is reported.

(2) A written copy of information reported by electronic transfer is on file with the township trustee reporting information by electronic means.

(l) The information required to be reported by the township trustee under this section shall be maintained by the township trustee in accordance with IC 5-15-6.

SECTION 107. IC 12-23-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The general assembly shall appropriate money from the addiction services fund solely for the purpose of funding programs:

(1) that provide prevention services and intervention and treatment services for individuals who are psychologically or physiologically dependent upon alcohol or other drugs; and

(2) **that are** for the prevention and treatment of gambling problems.

Programs funded by the addiction services fund must include the creation and maintenance of a toll free telephone line under ~~IC 4-33-12-6-(f)(3)~~ **IC 4-33-12-6(g)(3)** to provide the public with information about programs that provide help with gambling, alcohol, and drug addiction problems.

SECTION 108. IC 12-23-18-0.5, AS ADDED BY P.L.116-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.5. (a) An opioid treatment program shall not operate in Indiana unless:

(1) the opioid treatment program is specifically approved and the ~~opiate~~ **opioid** treatment facility is certified by the division; and

(2) the opioid treatment program is in compliance with state and federal law.

(b) Separate specific approval and certification under this chapter is required for each location at which an opioid treatment program is operated.

SECTION 109. IC 13-22-7.5-2, AS ADDED BY P.L.172-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Subject to subsections (b) and (c), before transporting a substance referred to in section 1 of this chapter, a person must coordinate the transport with the appropriate state agencies of each state through which the substance will be transported and file in Indiana the following with the department, **the** state police department, and ~~state emergency management agency.~~ **the department of homeland security established by IC 10-19-2-1:**

(1) A written evaluation of potential transportation risks that:
  (A) accounts for the type and quantity of hazardous waste to be transported;
  (B) identifies the most likely types of incidents that could:
    (i) occur during the transport; and
    (ii) result in harm to the public health or environment;
  (C) assesses the likelihood of the occurrence of each type of incident referred to in clause (B);
  (D) identifies the magnitude of the potential harm to the public health or environment associated with each type of incident referred to in clause (B); and
  (E) is written in a manner understandable to:
    (i) the scientific community; and
    (ii) the public.

(2) A written transport safety plan that:
  (A) is tailored to the risks described in subdivision (1);
  (B) demonstrates that the driver of each vehicle to be used in the transport:
    (i) has received United States Department of Transportation training and licensure; and
    (ii) is familiar with the content of the plan;
  (C) demonstrates for the transport route that appropriate procedures and response personnel will be available for:
    (i) medical response;
    (ii) environmental response;
    (iii) local law enforcement response; and
    (iv) evacuation of the area; and
  (D) provides for submitting notice to the department before the first shipment of each particular chemical munition or

hazardous waste described in section 1 of the chapter is transported.

(b) A notice submitted under the transport safety plan provision described in subsection (a)(2)(D) must include the estimated shipment schedule for each chemical munition or hazardous waste for the duration of the transport activity. A person who transports a chemical munition or hazardous waste described in subsection (a) shall immediately notify the department of any major variations from the estimated shipment schedule provided under this subsection.

(c) A person must file an amended:

(1) evaluation of potential transportation risks; and

(2) transport safety plan;

under subsection (a) only if the proposed transport route changes.

SECTION 110. IC 13-26-5-2, AS AMENDED BY P.L.221-2007, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A district may do the following:

(1) Sue or be sued.

(2) Make contracts in the exercise of the rights, powers, and duties conferred upon the district.

(3) Adopt and alter a seal and use the seal by causing the seal to be impressed, affixed, reproduced, or otherwise used. However, the failure to affix a seal does not affect the validity of an instrument.

(4) Adopt, amend, and repeal the following:

(A) Bylaws for the administration of the district's affairs.

(B) Rules and regulations for the following:

(i) The control of the administration and operation of the district's service and facilities.

(ii) The exercise of all of the district's rights of ownership.

(5) Construct, acquire, lease, operate, or manage works and obtain rights, easements, licenses, money, contracts, accounts, liens, books, records, maps, or other property, whether real, personal, or mixed, of a person or an eligible entity.

(6) Assume in whole or in part any liability or obligation of:

(A) a person;

(B) a nonprofit water, sewage, or solid waste project system; or

(C) an eligible entity;

including a pledge of part or all of the net revenues of a works to the debt service on outstanding bonds of an entity in whole or in part in the district and including a right on the part of the district to indemnify and protect a contracting party from loss or liability by reason of the failure of the district to perform an agreement assumed by the district or to act or discharge an obligation.

(7) Fix, alter, charge, and collect reasonable rates and other charges in the area served by the district's facilities to every person whose premises are, whether directly or indirectly, supplied with water or provided with sewage or solid waste services by the facilities for the purpose of providing for the following:

(A) The payment of the expenses of the district.

(B) The construction, acquisition, improvement, extension, repair, maintenance, and operation of the district's facilities and properties.

(C) The payment of principal or interest on the district's obligations.

(D) To fulfill the terms of agreements made with:

(i) the purchasers or holders of any obligations; or

(ii) a person or an eligible entity.

(8) Except as provided in section 2.5 of this chapter, require connection to the district's sewer system of property producing sewage or similar waste, and require the discontinuance of use of privies, cesspools, septic tanks, and similar structures if:

(A) there is an available sanitary sewer within three hundred (300) feet of the property line;

(B) the district has given written notice by certified mail to the property owner at the address of the property at least ninety (90) days before a date for connection to be stated in the notice; and

(C) if the property is located outside the district's territory:

(i) the district has obtained and provided to the property owner (along with the notice required by clause (B)) a letter of recommendation from the local health department that there is a possible threat to the public's health; and

(ii) if the property is also located within the extraterritorial jurisdiction of a municipal sewage works under ~~IC 13-9-23~~

IC 36-9-23 or a public sanitation department under IC 36-9-25, the municipal works board or department of public sanitation has acknowledged in writing that the property is within the municipal sewage works or department of public sanitation's extraterritorial jurisdiction, but the municipal works board or department of public sanitation is unable to provide sewer service.

However, a district may not require the owner of a property described in this subdivision to connect to the district's sewer system if the property is already connected to a sewer system that has received an NPDES permit and has been determined to be functioning satisfactorily.

(9) Provide by ordinance for reasonable penalties for failure to connect and also apply to the circuit or superior court of the county in which the property is located for an order to force connection, with the cost of the action, including reasonable attorney's fees of the district, to be assessed by the court against the property owner in the action.

(10) Refuse the services of the district's facilities if the rates or other charges are not paid by the user.

(11) Control and supervise all property, works, easements, licenses, money, contracts, accounts, liens, books, records, maps, or other property rights and interests conveyed, delivered, transferred, or assigned to the district.

(12) Construct, acquire by purchase or otherwise, operate, lease, preserve, and maintain works considered necessary to accomplish the purposes of the district's establishment within or outside the district and enter into contracts for the operation of works owned, leased, or held by another entity, whether public or private.

(13) Hold, encumber, control, acquire by donation, purchase, or condemnation, construct, own, lease as lessee or lessor, use, and sell interests in real and personal property or franchises within or outside the district for:

(A) the location or protection of works;

(B) the relocation of buildings, structures, and improvements situated on land required by the district or for any other necessary purpose; or

(C) obtaining or storing material to be used in constructing and

maintaining the works.

(14) Upon consent of two-thirds (2/3) of the members of the board, merge or combine with another district into a single district on terms so that the surviving district:

(A) is possessed of all rights, franchises, and authority of the constituent districts; and

(B) is subject to all the liabilities, obligations, and duties of each of the constituent districts, with all rights of creditors of the constituent districts being preserved unimpaired.

(15) Provide by agreement with another eligible entity for the joint construction of works the district is authorized to construct if the construction is for the district's own benefit and that of the other entity. For this purpose the cooperating entities may jointly appropriate land either within or outside their respective borders if all subsequent proceedings, actions, powers, liabilities, rights, and duties are those set forth by statute.

(16) Enter into contracts with a person, an eligible entity, the state, or the United States to provide services to the contracting party for any of the following:

(A) The distribution or purification of water.

(B) The collection or treatment of sanitary sewage.

(C) The collection, disposal, or recovery of solid waste.

(17) Make provision for, contract for, or sell the district's byproducts or waste.

(18) Exercise the power of eminent domain.

(19) Remove or change the location of a fence, building, railroad, canal, or other structure or improvement located within or outside the district. If:

(A) it is not feasible or economical to move the building, structure, or improvement situated in or upon land acquired; and

(B) the cost is determined by the board to be less than that of purchase or condemnation;

the district may acquire land and construct, acquire, or install buildings, structures, or improvements similar in purpose to be exchanged for the buildings, structures, or improvements under contracts entered into between the owner and the district.

(20) Employ consulting engineers, superintendents, managers,

and other engineering, construction, and accounting experts, attorneys, bond counsel, employees, and agents that are necessary for the accomplishment of the district's purpose and fix their compensation.

(21) Procure insurance against loss to the district by reason of damages to the district's properties, works, or improvements resulting from fire, theft, accident, or other casualty or because of the liability of the district for damages to persons or property occurring in the operations of the district's works and improvements or the conduct of the district's activities.

(22) Exercise the powers of the district without obtaining the consent of other eligible entities. However, the district shall:

(A) restore or repair all public or private property damaged in carrying out the powers of the district and place the property in the property's original condition as nearly as practicable; or

(B) pay adequate compensation for the property.

(23) Dispose of, by public or private sale or lease, real or personal property determined by the board to be no longer necessary or needed for the operation or purposes of the district.

SECTION 111. IC 14-21-4-5, AS ADDED BY P.L.85-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) ~~A member~~ **Members** appointed under section 4(a)(1) through 4(a)(8) of this chapter serve for a term of three (3) years beginning July 1 the year of their appointment. However, a member appointed to fill a vacancy on the commission shall serve for the remainder of the unexpired term.

(b) Each appointed member of the commission serves at the pleasure of the appointing authority.

(c) The governor shall appoint a member of the commission to serve as the commission's chairperson.

SECTION 112. IC 15-11-9-1, AS ADDED BY P.L.2-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The director shall ~~establish a center for value added research to~~ perform the following duties:

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

(2) Develop recommendations for legislative and administrative

programs that will enhance economic development in the targeted agricultural industries.

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

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

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

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

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

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

SECTION 113. IC 15-16-8-1, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "detrimental plant" includes the following:

(1) Canada thistle (Cirsium arvense).

(2) Johnson grass (Sorghum ~~halrphense).~~ **halepense).**

(3) Columbus grass (Sorghum almum).

(4) Bur cucumber (Sicyos angulatus).

(5) Shattercane (Sorghum bicolor Moench spp. drummondii deWet).

(6) In residential areas only, noxious weeds and rank vegetation. The term does not include agricultural crops.

SECTION 114. IC 15-20-2-4, AS ADDED BY P.L.2-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A county auditor shall establish procedures in accordance with the requirements of sections 3(a) and 6 of this chapter by which a claimant may submit a claim to the county auditor or a designee of the county auditor.

(b) A county auditor who:

(1) receives a verified claim under section 3(a) **of this chapter** from a claimant; and

(2) is satisfied that the claim meets the requirements of sections 3(a) and 6 of this chapter;

shall immediately issue a warrant or check to the claimant for the verified amount of the claim. If a county option dog tax adopted under IC 6-9-39 is not in effect in the county, a claim under this section may be paid out of nonappropriated funds. A county auditor who is not satisfied that a claim meets the requirements of sections 3(a) and 6 of this chapter shall promptly notify the claimant.

(c) A person whose claim under section 3(a) **of this chapter** is denied by a county auditor may file an action in a court with jurisdiction to determine whether the county auditor acted in conformance with the requirements of this section and sections 3 and 6 of this chapter. If the court determines that the county auditor failed to comply with the requirements of this section or sections 3 and 6 of this chapter in evaluating the person's claim, the court may fashion an appropriate remedy, including an order directed to the county auditor to reconsider the person's claim.

SECTION 115. IC 16-18-2-137, AS AMENDED BY P.L.3-2008, SECTION 105, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 137. (a) "Food establishment", for purposes of IC 16-42-5 and IC 16-42-5.2, means any building, room, basement, vehicle of transportation, cellar, or open or enclosed area occupied or used for handling food.

(b) The term does not include the following:

(1) A dwelling where food is prepared on the premises by the occupants, free of charge, for their consumption or for consumption by their guests.

(2) A gathering of individuals at a venue of an organization that is organized for educational purposes in a nonpublic educational setting or for religious purposes, if:

(A) the individuals separately or jointly provide or prepare, free of charge, and consume their own food or that of others attending the gathering; and

(B) the gathering is for a purpose of the organization.

Gatherings for the purpose of the organization include funerals,

wedding receptions, christenings, bar or bat mitzvahs, baptisms, communions, and other events or celebrations sponsored by the organization.

(3) A vehicle used to transport food solely for distribution to the needy, either free of charge or for a nominal donation.

(4) A private gathering of individuals who separately or jointly provide or prepare and consume their own food or that of others attending the gathering, regardless of whether the gathering is held on public or private property.

(5) Except for food prepared by a for-profit entity, a venue of the sale of food prepared **for** an ~~the~~ organization:

(A) that is organized for:

(i) religious purposes; or

(ii) educational purposes in a nonpublic educational setting;

(B) that is exempt from taxation under Section 501 of the Internal Revenue Code; and

(C) that offers the food for sale to the final consumer at an event held for the benefit of the organization;

unless the food is being provided in a restaurant or a cafeteria with an extensive menu of prepared foods.

(6) Except for food prepared by a for-profit entity, an Indiana nonprofit organization that:

(A) is organized for civic, fraternal, veterans, or charitable purposes;

(B) is exempt from taxation under Section 501 of the Internal Revenue Code; and

(C) offers food for sale to the final consumer at an event held for the benefit of the organization;

if the events conducted by the organization take place for not more than fifteen (15) days in a calendar year.

SECTION 116. IC 16-31-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) The ~~state emergency management agency~~ **department of homeland security established by IC 10-19-2-1** may issue an order to a person who has practiced without a certificate in violation of this article imposing a civil penalty of not more than five hundred dollars ($500) per occurrence.

(b) A decision of the ~~state emergency management agency~~

department of homeland security under subsection (a) may be appealed to the commission under IC 4-21.5-3-7.

SECTION 117. IC 16-31-3.5-4.5, AS ADDED BY P.L.22-2005, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. (a) A temporary emergency medical dispatcher certificate may be issued by the ~~state emergency management agency.~~ **department of homeland security established by IC 10-19-2-1.** To obtain a temporary certificate, an individual must do the following:

(1) Meet the standards established by the commission. The commission's standards must include a declaration by a certified emergency medical dispatch agency that the certified emergency medical dispatch agency is temporarily unable to secure a certified emergency medical dispatcher.

(2) Pay the fee established by the commission.

(b) A temporary emergency medical dispatcher certificate is valid:

(1) for sixty (60) days after the date of issuance; and

(2) only for emergency medical dispatching performed for the emergency medical dispatching agency that supported the temporary certification.

(c) A temporary emergency medical dispatcher certificate issued under this section may be renewed for one (1) subsequent sixty (60) day period. To renew the temporary certification, the certificate holder must submit the same information and fee required for the original temporary certification.

SECTION 118. IC 16-42-5-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. If, upon inspection of a food establishment, a local health officer or food environmental health specialist finds an employer, operator, or other employee to be violating IC 16-41-20, IC 16-41-21, IC 16-41-23, IC 16-41-24, IC 16-41-34, or ~~IC 16-42-5,~~ **this chapter,** the local health officer or food environmental health specialist shall do at least one (1) of the following:

(1) Furnish evidence of the violation to the prosecuting attorney of the county or circuit in which the violation occurs. The prosecuting attorney shall prosecute all persons violating IC 16-41-20, IC 16-41-21, IC 16-41-23, IC 16-41-24, IC 16-41-34, or ~~IC 16-42-5,~~ **this chapter,** or rules adopted under

those provisions.

(2) Report the condition and violation to the state health commissioner or the commissioner's legally authorized agent. The state health commissioner may issue an order to the person in authority at the offending establishment to abate the condition or violation within five (5) days or within another reasonable time required to abate the condition or violation. The proceedings to abate must be in accordance with IC 4-21.5.

SECTION 119. IC 20-20-36.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 36.1. Indiana Concurrent Enrollment Partnership

Sec. 1. As used in this chapter, "concurrent enrollment partnership" refers to the Indiana concurrent enrollment partnership established by section 2 of this chapter.

Sec. 2. (a) The Indiana concurrent enrollment partnership is established to foster innovation and collaboration among state educational institutions and school corporations. The partnership shall:

(1) organize the concurrent enrollment partnership;

(2) establish unified rigorous academic standards and assessment requirements and share best practices that comply with appropriate national accreditation standards for concurrent enrollment programs under IC 21-43-5;

(3) coordinate outreach and recruitment of Indiana students and teachers to participate in concurrent enrollment programs;

(4) develop a plan to expand the dual enrollment program to every high school in Indiana as required under IC 20-30-10-4 by the 2010-2011 school year;

(5) before December 1, 2008, develop a fiscal analysis and make recommendations to the department, the budget committee, and the general assembly to make two (2) dual enrollment courses available without tuition and fees or at reduced tuition and fees to students in grades 11 and 12 beginning with the 2010-2011 school year;

(6) develop and submit an annual report on the programs listed under IC 21-43-5-4(a) to the department of education

and the commission for higher education before July 1 of each year; and

(7) offer recommendations on concurrent enrollment matters as requested by the state board and the commission for higher education.

(b) The report required under subsection (a)(6) must include the following information:

(1) An assessment of the academic standards required by the programs.

(2) Student performance under the programs.

(3) College attainment for students enrolled in the programs.

(4) Program costs.

(5) Student demand for the programs.

(6) Demographic information for students in the programs.

(7) The cost of, access to, and ease of transfer of courses in the programs.

Sec. 3. Membership in the concurrent enrollment partnership must include the following:

(1) Concurrent enrollment directors from each state educational institution that participates in the dual enrollment partnership.

(2) An individual appointed by the state superintendent.

(3) An individual appointed by the commission for higher education.

(4) A public school superintendent appointed by the state superintendent.

(5) A representative of the Indiana Non-Public Education Association appointed by the state superintendent.

(6) A school board member appointed by the state superintendent.

(7) A representative of the Independent Colleges of Indiana.

(8) A high school teacher participating in a concurrent enrollment program appointed by the state superintendent.

(9) A high school guidance counselor appointed by the state superintendent.

(10) An individual representing the Center of Excellence in Leadership of Learning appointed by the state superintendent.

Sec. 4. (a) The chair of the concurrent enrollment partnership

shall be elected by a majority of all dual enrollment partnership members at the initial meeting of the partnership.

(b) The chair shall call the meetings of the partnership.

Sec. 5. The commission for higher education shall provide support for the concurrent enrollment partnership.

Sec. 6. This chapter expires July 1, 2009.

SECTION 120. IC 20-20-36.2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 36.2. Levy Replacement Grant

Sec. 1. As used in this chapter, "credit" refers to a credit granted under IC 6-1.1-20.6.

Sec. 2. As used in this chapter, "circuit breaker replacement amount" refers to the amount determined under section 5 of this chapter.

Sec. 3. As used in this chapter, "grant" refers to a grant distributed under this chapter.

Sec. 4. (a) Notwithstanding any other provision, a school corporation is eligible for a grant under this chapter in a particular year only if for that year the school corporation's total property tax revenue is expected to be reduced by more than two percent (2%) because of the application of credits in that year.

(b) Subject to subsection (a), an eligible school corporation is entitled to a grant in:

(1) 2009 equal to the eligible school corporation's circuit breaker replacement amount for property taxes imposed for the March 1, 2008, and January 15, 2009, assessment dates; and

(2) 2010 equal to the eligible school corporation's circuit breaker replacement amount for property taxes imposed for the March 1, 2009, and January 15, 2010, assessment dates.

Sec. 5. (a) An eligible school corporation's circuit breaker replacement amount for 2009 is equal to the result determined under STEP FOUR of the following formula:

STEP ONE: Determine the amount of credits granted against the eligible school corporation's combined levy for the eligible school corporation's debt service fund, capital projects fund, transportation fund, school bus replacement fund, and racial balance fund.

STEP TWO: Determine the sum of the STEP ONE amounts for all eligible school corporations in Indiana.

STEP THREE: Divide fifty million dollars ($50,000,000) by the STEP TWO amount, rounding to the nearest ten thousandth (0.0001).

STEP FOUR: Multiply the STEP THREE result by the STEP ONE amount, rounding to the nearest dollar ($1).

(b) An eligible school corporation's circuit breaker replacement amount for 2010 is equal to the result determined under STEP FOUR of the following formula:

STEP ONE: Determine the amount of credits granted against the eligible school corporation's combined levy for the school corporation's debt service fund, capital projects fund, transportation fund, school bus replacement fund, and racial balance fund.

STEP TWO: Determine the sum of the STEP ONE amounts for all eligible school corporations in Indiana.

STEP THREE: Divide seventy million dollars ($70,000,000) by the STEP TWO amount, rounding to the nearest ten thousandth (0.0001).

STEP FOUR: Multiply the STEP THREE result by the STEP ONE amount, rounding to the nearest dollar ($1).

Sec. 6. The department shall administer the grant program.

Sec. 7. (a) Not later than May 1 of a calendar year, the budget agency shall certify to the department an initial estimate of the circuit breaker replacement amount attributable to each school corporation for the calendar year.

(b) Not later than November 1 of a calendar year, the budget agency shall certify to the department a final estimate of the circuit breaker replacement amount attributable to each eligible school corporation for the calendar year.

(c) The budget agency shall compute an amount certified under this section using the best information available to the budget agency at the time the certification is made.

Sec. 8. Subject to section 9 of this chapter, the department shall distribute a grant to an eligible school corporation equal to fifty percent (50%) of the eligible school corporation's estimated circuit breaker replacement amount for the calendar year in two (2) installments. An installment shall be paid not later than:

(1) June 20; and

(2) December 20;

of the calendar year.

Sec. 9. Based on the final estimate of the circuit breaker replacement amount certified to the department by the budget agency, the department shall settle any overpayment or underpayment of circuit breaker replacement amounts to an eligible school corporation. The department may offset overpayments of circuit breaker replacement amounts for a particular calendar year against:

(1) a grant; or

(2) state tuition support distribution;

that the eligible school corporation would otherwise be entitled to receive.

Sec. 10. An eligible school corporation shall deposit and use the amount received from a grant as follows:

(1) An amount equal to the revenue lost to the eligible school corporation's debt service fund as the result of the granting of credits shall be deposited in the eligible school corporation's debt service fund for purposes of the debt service fund.

(2) Any part of a grant remaining after making the deposit required under subdivision (1) may be deposited in any combination of the eligible school corporation's capital projects fund, transportation fund, school bus replacement fund, and racial balance fund, as determined by the school corporation.

SECTION 121. IC 20-23-15-3, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A school corporation shall hold a referendum at the first primary election after this chapter becomes applicable to the school corporation in which the registered voters who reside within the boundaries of the school corporation are entitled to vote as to whether the school corporation shall elect the members of the governing body of the school corporation under sections 6 through 11 of this chapter.

(b) The referendum shall be held under the direction of the county election board, which shall take all steps necessary to carry out the referendum.

~~(c) However, a referendum is not required in a county in which a referendum under this chapter has been held in a school corporation in that county within twenty-four (24) months of the effective date of this act.~~

SECTION 122. IC 20-26-5-30, AS AMENDED BY P.L.2-2006, SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. A school corporation may use funds under ~~IC 36-12-14-4~~ **IC 36-12-15-4** for the aid, maintenance, and support of nursery schools conducted by an association incorporated to operate a nursery school.

SECTION 123. IC 20-27-5-30, AS ADDED BY P.L.1-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. Each common carrier contract made under section 29 of this chapter must provide the following:

(1) The common carrier is solely responsible for the employment, physical condition, and conduct of every school bus driver employed by the carrier.

(2) The carrier must submit a certificate to the governing body showing that any school bus driver used in performing the contract meets the physical standards required by ~~IC 20-27-8-1(7).~~ **IC 20-27-8-1(a)(7).**

SECTION 124. IC 20-33-2-17.2, AS ADDED BY P.L.55-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.2. The governing body of a school corporation or the chief administrative officer of a nonpublic school system shall authorize the absence and excuse of each secondary school student who is a member of the Indiana wing of the civil air patrol and who is participating in a civil air patrol:

(1) international air cadet exchange program, for the length of the program; or

(2) emergency service operation, including:

(A) search and rescue missions designated by the Air Force Rescue Coordination Center;

(B) disaster relief, when requested by the Federal ~~or state~~ Emergency Management Agency **or the department of homeland security established by IC 10-19-2-1;**

(C) humanitarian services, when requested by the Federal ~~or state~~ Emergency Management Agency **or the department of**

homeland security established by IC 10-19-2-1;

(D) United States Air Force support designated by the First Air Force, North American Aerospace Defense Command; or

(E) United States Air Force military flights, if the flights are not available on days when school is not in session;

for not more than five (5) days in a school year;

if the student submits to school authorities appropriate documentation from the Indiana wing of the civil air patrol detailing the reason for the student's absence. A student excused from school attendance under this section may not be recorded as being absent on any date to which the excuse applies and may not be penalized by the school in any manner.

SECTION 125. IC 20-33-2-29, AS AMENDED BY P.L.146-2008, SECTION 475, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. (a) It is unlawful for a person operating or responsible for ~~(1)~~ an educational, ~~(2) a~~ correctional, ~~(3) a~~ charitable, or ~~(4) a~~ benevolent institution or training school to fail to ensure that a child under the person's authority attends school as required under this chapter. Each day of violation of this section constitutes a separate offense.

(b) If a child is placed in an institution or facility by or with the approval of the department of child services, the institution or facility shall charge the department of child services for the use of the space within the institution or facility (commonly called capital costs) that is used to provide educational services to the child based upon a prorated per child cost.

SECTION 126. IC 20-46-1-18, AS AMENDED BY P.L.146-2008, SECTION 502, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. ~~(a)~~ A school corporation's levy may not be considered in the determination of the school corporation's state tuition support distribution under IC 20-43 or the determination of any other property tax levy imposed by the school corporation.

SECTION 127. IC 22-3-7-9, AS AMENDED BY P.L.201-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) As used in this chapter, "employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company,

or corporation or the receiver or trustee of the same, using the services of another for pay. A parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the parent's, or the subsidiaries' employees for purposes of sections 6 and 33 of this chapter. Both a lessor and a lessee of employees shall each be considered joint employers of the employees provided by the lessor to the lessee for purposes of sections 6 and 33 of this chapter. The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth under section 2.5 of this chapter. If the employer is insured, the term includes the employer's insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer. The term does not include a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

(b) As used in this chapter, "employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer. For purposes of this chapter the following apply:

(1) Any reference to an employee who has suffered disablement, when the employee is dead, also includes the employee's legal representative, dependents, and other persons to whom compensation may be payable.

(2) An owner of a sole proprietorship may elect to include the owner as an employee under this chapter if the owner is actually engaged in the proprietorship business. If the owner makes this election, the owner must serve upon the owner's insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under this chapter unless the notice has been received. If the owner of a sole proprietorship is an independent contractor in the construction trades and does not make the election provided under this

subdivision, the owner must obtain an affidavit of exemption under section 34.5 of this chapter.

(3) A partner in a partnership may elect to include the partner as an employee under this chapter if the partner is actually engaged in the partnership business. If a partner makes this election, the partner must serve upon the partner's insurance carrier and upon the board written notice of the election. No partner may be considered an employee under this chapter until the notice has been received. If a partner in a partnership is an independent contractor in the construction trades and does not make the election provided under this subdivision, the partner must obtain an affidavit of exemption under section 34.5 of this chapter.

(4) Real estate professionals are not employees under this chapter if:

(A) they are licensed real estate agents;

(B) substantially all their remuneration is directly related to sales volume and not the number of hours worked; and

(C) they have written agreements with real estate brokers stating that they are not to be treated as employees for tax purposes.

(5) A person is an independent contractor in the construction trades and not an employee under this chapter if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.

(6) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or ~~49 CFR 1057,~~ **49 CFR 376** to a motor carrier is not an employee of the motor carrier for purposes of this chapter. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's compensation insurance policy or authorized self-insurance that insures the motor carrier if the owner-operator pays the premiums as requested by the motor carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

(7) An unpaid participant under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the

extent set forth under section 2.5 of this chapter.

(8) A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis is not an employee for purposes of this chapter.

(c) As used in this chapter, "minor" means an individual who has not reached seventeen (17) years of age. A minor employee shall be considered as being of full age for all purposes of this chapter. However, if the employee is a minor who, at the time of the last exposure, is employed, required, suffered, or permitted to work in violation of the child labor laws of this state, the amount of compensation and death benefits, as provided in this chapter, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the compensation or benefits that may be payable on account of the disability or death of the minor, and the employer shall be wholly liable for the other one-half (1/2) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age, and who at the time of the last exposure is employed, suffered, or permitted to work at any occupation which is not prohibited by law, the provisions of this subsection prescribing double the amount otherwise recoverable do not apply. The rights and remedies granted to a minor under this chapter on account of disease shall exclude all rights and remedies of the minor, ~~his~~ **the minor's** parents, ~~his~~ **the minor's** personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of any disease.

(d) This chapter does not apply to casual laborers as defined in subsection (b), nor to farm or agricultural employees, nor to household employees, nor to railroad employees engaged in train service as engineers, firemen, conductors, brakemen, flagmen, baggagemen, or foremen in charge of yard engines and helpers assigned thereto, nor to their employers with respect to these employees. Also, this chapter does not apply to employees or their employers with respect to employments in which the laws of the United States provide for compensation or liability for injury to the health, disability, or death by reason of diseases suffered by these employees.

(e) As used in this chapter, "disablement" means the event of becoming disabled from earning full wages at the work in which the employee was engaged when last exposed to the hazards of the occupational disease by the employer from whom the employee claims compensation or equal wages in other suitable employment, and "disability" means the state of being so incapacitated.

(f) For the purposes of this chapter, no compensation shall be payable for or on account of any occupational diseases unless disablement, as defined in subsection (e), occurs within two (2) years after the last day of the last exposure to the hazards of the disease except for the following:

(1) In all cases of occupational diseases caused by the inhalation of silica dust or coal dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards of the disease.

(2) In all cases of occupational disease caused by the exposure to radiation, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within two (2) years from the date on which the employee had knowledge of the nature of the employee's occupational disease or, by exercise of reasonable diligence, should have known of the existence of such disease and its causal relationship to the employee's employment.

(3) In all cases of occupational diseases caused by the inhalation of asbestos dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards of the disease if the last day of the last exposure was before July 1, 1985.

(4) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1985, and before July 1, 1988, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within twenty (20) years after the last day of the last exposure.

(5) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1988, no compensation shall be payable unless disablement (as defined in subsection (e)) occurs within

thirty-five (35) years after the last day of the last exposure.

(g) For the purposes of this chapter, no compensation shall be payable for or on account of death resulting from any occupational disease unless death occurs within two (2) years after the date of disablement. However, this subsection does not bar compensation for death:

(1) where death occurs during the pendency of a claim filed by an employee within two (2) years after the date of disablement and which claim has not resulted in a decision or has resulted in a decision which is in process of review or appeal; or

(2) where, by agreement filed or decision rendered, a compensable period of disability has been fixed and death occurs within two (2) years after the end of such fixed period, but in no event later than three hundred (300) weeks after the date of disablement.

(h) As used in this chapter, "billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

(i) As used in this chapter, "billing review standard" means the data used by a billing review service to determine pecuniary liability.

(j) As used in this chapter, "community" means a geographic service area based on ZIP code districts defined by the United States Postal Service according to the following groupings:

(1) The geographic service area served by ZIP codes with the first three (3) digits 463 and 464.

(2) The geographic service area served by ZIP codes with the first three (3) digits 465 and 466.

(3) The geographic service area served by ZIP codes with the first three (3) digits 467 and 468.

(4) The geographic service area served by ZIP codes with the first three (3) digits 469 and 479.

(5) The geographic service area served by ZIP codes with the first three (3) digits 460, 461 (except 46107), and 473.

(6) The geographic service area served by the 46107 ZIP code and ZIP codes with the first three (3) digits 462.

(7) The geographic service area served by ZIP codes with the first

three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by ZIP codes with the first three (3) digits 475, 476, and 477.

(k) As used in this chapter, "medical service provider" refers to a person or an entity that provides medical services, treatment, or supplies to an employee under this chapter.

(l) As used in this chapter, "pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under this chapter in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products.

SECTION 128. IC 22-8-1.1-51 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 51. (a) This section does not affect the ability or duty of the commissioner or the commissioner's designee to conduct investigations in the following circumstances:

(1) An employee requests an inspection under section 24.1 of this chapter.

(2) The commissioner receives a report of a death under section 43.1 of this chapter.

(3) The commissioner receives a report of a disaster under section 43.1 of this chapter.

(b) If: ~~the:~~

(1) ~~bureau~~ **INSafe** conducts an onsite consultation for an employer; and

(2) **the** employer complied in good faith with an act of the abatement of the particular alleged violation recommended by ~~the bureau,~~ **INSafe;**

the commissioner may not assess a penalty against the employer under section 25.1 of this chapter for an alleged violation of a condition or practice that ~~the bureau~~ **INSafe** specifically examined.

(c) Subsection (b) ~~only~~ applies **only** on a first inspection by the commissioner following an onsite consultation with ~~the bureau.~~ **INSafe.** This section does not relieve an employer of any obligation to stay in compliance with any safety or health standard or law which changes following an onsite consultation with ~~the bureau.~~ **INSafe.**

SECTION 129. IC 23-2-2.5-34, AS AMENDED BY P.L.230-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]: Sec. 34. (a) If it appears to the commissioner that:

(1) the offer of any franchise is subject to registration under this chapter and it is being, or it has been, offered for sale without such offer first being registered; or

(2) a person has engaged in or is about to engage in an act, a practice, or a course of business constituting a violation of this chapter or a rule or an order under this chapter;

the commissioner may investigate and may issue, with or without a prior hearing, orders and notices as the commissioner determines to be in the public interest, including cease and desist orders, orders to show cause, and notices. After notice and an opportunity for hearing, the commissioner may enter an order of rescission, restitution, or disgorgement, including interest at the rate of eight percent (8%) per year, directed to a person who has violated this chapter or a rule or order under this chapter. In addition to all other remedies, the commissioner may bring an action in the name of and on behalf of the state against any person participating in or about to participate in a violation of this chapter, to enjoin the person from continuing or doing an act furthering a violation of this chapter and may obtain the appointment of a receiver or conservator. Upon a proper showing by the commissioner, the court shall enter an order of the commissioner directing rescission, restitution, or disgorgement against a person who has violated this chapter or a rule or order under this chapter.

(b) Upon the issuance of an order or a notice by the commissioner under subsection (a), the commissioner shall promptly notify the respondent of the following:

(1) That the order or notice has been issued.

(2) The reasons the order or notice has been issued.

(3) That upon the receipt of a written request the matter will be set for a hearing to commence not later than forty-five (45) business days after the commissioner receives the request, unless the respondent consents to a later date.

If the respondent does not request a hearing and the commissioner does not order a hearing, the order or notice will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or

ordered, the commissioner, after giving notice of the hearing, may modify or vacate the order or extend it until final determination.

(c) In a final order, the commissioner may charge the costs of an investigation or a proceeding conducted in connection with a violation of:

(1) this chapter; or

(2) a rule or an order adopted or issued under this chapter;

to be paid as directed by the commissioner in the order.

(d) In a proceeding in a circuit or superior court under this section, the commissioner is entitled to recover all costs and expenses of investigation to which the commissioner would be entitled in an administrative proceeding, and the court shall include the costs in its final judgment.

(e) If the commissioner determines, after notice and opportunity for a hearing, that a person has violated this chapter, the commissioner may, in addition to or instead of all other remedies, impose a civil penalty upon the person in an amount not to exceed ten thousand dollars ($10,000) for each violation. An appeal from the decision of the commissioner imposing a civil penalty under this subsection may be taken by an aggrieved party under section 44 of this chapter.

(f) The commissioner may bring an action in the circuit or superior court of Marion County to enforce payment of any penalty imposed under subsection (e).

(g) Penalties collected under this section shall be deposited in the securities division enforcement account established under ~~IC 23-2-1-15(e).~~ **IC 23-19-6-1(f).**

SECTION 130. IC 23-2-5-3, AS AMENDED BY P.L.145-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a) As used in this chapter, "bona fide third party fee" includes fees for the following:**

(1) Credit reports, investigations, and appraisals performed by a person who holds a license or certificate as a real estate appraiser under IC 25-34.1-8.

(2) If the loan is to be secured by real property, title examinations, an abstract of title, title insurance, a property survey, and similar purposes.

(3) The services provided by a loan broker in procuring possible business for a lending institution if the fees are paid

by the lending institution.

~~(a)~~ **(b)** As used in this chapter, "certificate of registration" means a certificate issued by the commissioner authorizing an individual to:

(1) engage in origination activities on behalf of a licensee; or

(2) act as a principal manager on behalf of a licensee.

~~(b)~~ **(c)** As used in this chapter, "license" means a license issued by the commissioner authorizing a person to engage in the loan brokerage business.

~~(c)~~ **(d)** As used in this chapter, "licensee" means a person that is issued a license under this chapter.

~~(d)~~ **(e)** As used in this chapter, "loan broker" means any person who, in return for any consideration from any source procures, attempts to procure, or assists in procuring, a loan from a third party or any other person, whether or not the person seeking the loan actually obtains the loan. "Loan broker" does not include:

(1) any supervised financial organization (as defined in IC 24-4.5-1-301(20)), including a bank, savings bank, trust company, savings association, or credit union;

(2) any other financial institution that is:

(A) regulated by any agency of the United States or any state; and

(B) regularly actively engaged in the business of making consumer loans that are not secured by real estate or taking assignment of consumer sales contracts that are not secured by real estate;

(3) any insurance company;

(4) any person arranging financing for the sale of the person's product; or

(5) a creditor that is licensed under IC 24-4.4-2-402.

~~(e)~~ **(f)** As used in this chapter, "loan brokerage business" means a person acting as a loan broker.

~~(f)~~ **(g)** As used in this chapter, "origination activities" means communication with or assistance of a borrower or prospective borrower in the selection of loan products or terms.

~~(g)~~ **(h)** As used in this chapter, "originator" means a person engaged in origination activities. The term "originator" does not include a person who performs origination activities for any entity that is not a loan broker under ~~subsection (d).~~ **subsection (e).**

~~(h)~~ **(i)** As used in this chapter, "person" means an individual, a partnership, a trust, a corporation, a limited liability company, a limited liability partnership, a sole proprietorship, a joint venture, a joint stock company, or another group or entity, however organized.

~~(i)~~ **(j)** As used in this chapter, "registrant" means an individual who is registered:

(1) to engage in origination activities under this chapter; or

(2) as a principal manager.

~~(j)~~ **(k)** As used in this chapter, "ultimate equitable owner" means a person who, directly or indirectly, owns or controls ten percent (10%) or more of the equity interest in a loan broker licensed or required to be licensed under this chapter, regardless of whether the person owns or controls the equity interest through one (1) or more other persons or one (1) or more proxies, powers of attorney, or variances.

~~(k)~~ **(l)** As used in this chapter, "principal manager" means an individual who:

(1) has at least three (3) years of experience:

(A) as a loan broker; or

(B) in financial services;

that is acceptable to the commissioner; and

(2) is principally responsible for the supervision and management of the employees and business affairs of a licensee.

~~(l)~~ **(m)** As used in this chapter, "personal information" includes any of the following:

(1) An individual's first and last names or first initial and last name.

(2) Any of the following data elements:

(A) A Social Security number.

(B) A driver's license number.

(C) A state identification card number.

(D) A credit card number.

(E) A financial account number or debit card number in combination with a security code, password, or access code that would permit access to the person's account.

(3) With respect to an individual, any of the following:

(A) Address.

(B) Telephone number.

(C) Information concerning the individual's:

(i) income or other compensation;
(ii) credit history;
(iii) credit score;
(iv) assets;
(v) liabilities; or
(vi) employment history.

~~(m)~~ **(n)** As used in this chapter, personal information is "encrypted" if the personal information:

(1) has been transformed through the use of an algorithmic process into a form in which there is a low probability of assigning meaning without use of a confidential process or key; or

(2) is secured by another method that renders the personal information unreadable or unusable.

~~(n)~~ **(o)** As used in this chapter, personal information is "redacted" if the personal information has been altered or truncated so that not more than the last four (4) digits of:

(1) a Social Security number;
(2) a driver's license number;
(3) a state identification number; or
(4) an account number;

are accessible as part of the personal information.

SECTION 131. IC 23-2-5-19, AS AMENDED BY P.L.145-2008, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) The following persons are exempt from the requirements of sections 4, 5, 6, 9, 17, 18, and 21 of this chapter:

(1) Any attorney while engaging in the practice of law.

(2) Any certified public accountant, public accountant, or accountant practitioner holding a certificate or registered under IC 25-2.1 while performing the practice of accountancy (as defined by IC 25-2.1-1-10).

(3) Any broker-dealer, agent, or investment advisor registered under IC 23-19.

(4) Any person that:

(A) procures;
(B) promises to procure; or
(C) assists in procuring;

a loan that is not subject to the Truth in Lending Act (15 U.S.C. 1601 through 1667e).

(5) Any community development corporation (as defined in IC 4-4-28-2) acting as a subrecipient of funds from the Indiana housing and community development authority established by IC 5-20-1-3.

(6) The Indiana housing and community development authority.

~~(b) As used in this chapter, "bona fide third party fee" includes fees for the following:~~

~~(1) Credit reports, investigations, and appraisals performed by a person who holds a license or certificate as a real estate appraiser under IC 25-34.1-8.~~

~~(2) If the loan is to be secured by real property, title examinations, an abstract of title, title insurance, a property survey, and similar purposes.~~

~~(3) The services provided by a loan broker in procuring possible business for a lending institution if the fees are paid by the lending institution.~~

~~(c) As used in this section, "successful procurement of a loan" means that a binding commitment from a creditor to advance money has been received and accepted by the borrower.~~

~~(d)~~ **(b)** The burden of proof of any exemption or classification provided in this chapter is on the party claiming the exemption or classification.

SECTION 132. IC 23-18-12-3, AS AMENDED BY P.L.92-2008, SECTION 2, AND AS AMENDED BY P.L.106-2008, SECTION 53, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) ~~*Except as provided in subsection (e),*~~ The secretary of state shall collect the following fees when the documents described in this section are delivered for filing:

Document	*Electronic Filing* Fee	*Filing Fee (Other than electronic filing)*
(1) Articles of organization	*$75*	$90
(2) Application for use of indistinguishable name	*$10*	$20
(3) Application for reservation		

of name	*$10*	$20
(4) Application for renewal of reservation	*$10*	$20
(5) Notice of transfer or cancellation of reservation	*$10*	$20
(6) Application of registered name	*$20*	$30
(7) Application for renewal of registered name	*$20*	$30
(8) Certificate of change of registered agent's business address	No Fee	*No Fee*
(9) Certificate of resignation of agent	No Fee	*No Fee*
(10) Articles of amendment	*$20*	$30
(11) Restatement of articles of organization	*$20*	$30
(12) Articles of dissolution	*$20*	$30
(13) Application for certificate of authority	*$75*	$90
(14) Application for amended certificate of authority	*$20*	$30
(15) Application for certificate of withdrawal	*$20*	$30
(16) Application for reinstatement following administrative dissolution	*$20*	$30
(17) Articles of correction	*$20*	$30
(18) Certificate of change of registered agent	No Fee	*No Fee*
(19) Application for certificate of existence or authorization	*$15*	$15
(20) Biennial report ~~*filed in writing, including by facsimile*~~	*$20*	$30
~~*(21) Biennial report filed by electronic medium*~~	~~*$20*~~	
~~*(22)*~~ *(21)* Articles of merger involving a domestic limited liability company	*$75*	$90
~~*(23)*~~ *(22)* Any other document required or permitted to be		

filed under this article	*$20*	$30
~~*(24)*~~ **(23)** *Registration of intent to sell sexually explicit materials, products, or services*		*$250*

The secretary of state shall prescribe the electronic means of filing documents to which the electronic filing fees set forth in this section apply.

(b) The fee set forth in subsection (a)(20) for filing a biennial report is:

(1) for an electronic filing, ten dollars ($10) per year; or

(2) for a filing other than an electronic filing, fifteen dollars ($15) per year;

to be paid biennially.

(c) The secretary of state shall collect a fee of $10 each time process is served on the secretary of state under this article. If the party to a proceeding causing service of process prevails in the proceeding, that party is entitled to recover this fee as costs from the nonprevailing party.

(d) The secretary of state shall collect the following fees for copying and certifying the copy of any filed documents relating to a domestic or foreign limited liability company:

(1) One dollar ($1) per page for copying.

(2) Fifteen dollars ($15) for certification stamp.

~~*(e) If the document described in subsection (a)(1) or (a)(13) is filed by electronic means as prescribed by the secretary of state, the secretary of state shall collect a filing fee of seventy-five dollars ($75).*~~

SECTION 133. IC 24-4-16.4-3, AS ADDED BY P.L.92-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A person or an employee or agent of a person may not offer for sale or sell sexually explicit materials unless a registration and statement are properly filed ~~as described in IC 23-1-55-1.~~ **under IC 23-1-55.**

SECTION 134. IC 24-4.4-1-201, AS ADDED BY P.L.145-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 201. (1) Except as provided in subsection (2), this article applies to a first lien mortgage transaction:

(a) that is secured by an interest in land in Indiana; and

(b) the closing for which takes place after December 31, 2008.

(2) This article does not apply to a first lien mortgage transaction if:

(a) the debtor is not a resident of Indiana at the time the transaction is entered into; and

(b) the laws of the debtor's state of residence ~~requires~~ **require** that the transaction be made under the laws of the state of the debtor's residence.

SECTION 135. IC 24-4.4-2-502, AS ADDED BY P.L.145-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 502. (1) A violation by a creditor in a first lien mortgage transaction of Section 125 of the Federal Consumer Credit Protection Act (15 U.S.C. 1635) (concerning a debtor's right to rescind a transaction) constitutes a violation of this article. A creditor may not accrue interest during the period when a first lien mortgage transaction may be rescinded under Section 125 of the Federal Consumer **Credit** Protection Act (15 U.S.C. 1635).

(2) A creditor must make available for disbursement the proceeds of a transaction subject to subsection (1) on the later of:

(a) the date the creditor is reasonably satisfied that the debtor has not rescinded the transaction; or

(b) the first business day after the expiration of the rescission period under subsection (1).

SECTION 136. IC 24-4.5-1-301, AS AMENDED BY P.L.90-2008, SECTION 6, AND AS AMENDED BY P.L.145-2008, SECTION 21, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 301. General Definitions – In addition to definitions appearing in subsequent chapters in this article:

(1) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances, including course of dealing or usage of trade or course of performance.

(2) "Agricultural purpose" means a purpose related to the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures the agricultural products; "Agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any and all products raised or produced on farms and any processed or manufactured products thereof.

(3) "Average daily balance" means the sum of each of the daily

balances in a billing cycle divided by the number of days in the billing cycle, and if the billing cycle is a month, the creditor may elect to treat the number of days in each billing cycle as thirty (30).

(4) "Closing costs" with respect to a debt secured by an interest in land includes:

(a) fees or premiums for title examination, title insurance, or similar purposes, including surveys;

(b) fees for preparation of a deed, settlement statement, or other documents;

(c) escrows for future payments of taxes and insurance;

(d) fees for notarizing deeds and other documents;

(e) appraisal fees; and

(f) credit reports.

(5) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it.

(6) "Consumer credit" means credit offered or extended to a consumer primarily for a personal, family, or household purpose.

(7) "Credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(8) "Creditor" means a person:

(a) who regularly engages in the extension of consumer credit that is subject to a credit service charge or loan finance charge, as applicable, or is payable *by written agreement* in *more than four (4)* installments *(not including a down payment);* and

(b) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is not a note or contract.

(9) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments under a pension or retirement program.

(10) "Lender credit card or similar arrangement" means an arrangement or loan agreement, other than a seller credit card, pursuant to which a lender gives a debtor the privilege of using a credit card, letter of credit, or other credit confirmation or identification in transactions out of which debt arises:

(a) by the lender's honoring a draft or similar order for the

payment of money drawn or accepted by the debtor;

(b) by the lender's payment or agreement to pay the debtor's obligations; or

(c) by the lender's purchase from the obligee of the debtor's obligations.

(11) "Official fees" means:

(a) fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest related to a consumer credit sale, consumer lease, or consumer loan; or

(b) premiums payable for insurance in lieu of perfecting a security interest otherwise required by the creditor in connection with the sale, lease, or loan, if the premium does not exceed the fees and charges described in paragraph (a) which would otherwise be payable.

(12) "Organization" means a corporation, a government or governmental subdivision, or an agency, a trust, an estate, a partnership, a limited liability company, a cooperative, ~~*or*~~ an association, *a joint venture, an unincorporated organization, or any other entity, however organized.*

(13) "Payable in installments" means that payment is required or permitted by written agreement to be made in more than four (4) installments not including a down payment.

(14) "Person" includes ~~*a natural person or*~~ an individual ~~*and*~~ *or* an organization.

(15) "Person related to" with respect to an individual means:

(a) the spouse of the individual;

(b) a brother, brother-in-law, sister, *or* sister-in-law of the individual;

(c) an ancestor or lineal descendants of the individual or the individual's spouse; and

(d) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

"Person related to" with respect to an organization means:

(a) a person directly or indirectly controlling, controlled by, or under common control with the organization;

(b) an officer or director of the organization or a person

performing similar functions with respect to the organization or to a person related to the organization;

(c) the spouse of a person related to the organization; and

(d) a relative by blood or marriage of a person related to the organization who shares the same home with the person.

(16) "Presumed" or "presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(17) "Mortgage transaction" means a transaction in which a first mortgage or a land contract which constitutes a first lien is created or retained against land.

(18) "Regularly engaged" means a person who extends consumer credit more than:

(a) twenty-five (25) times; or

(b) five (5) times for transactions secured by a dwelling;

in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year.

(19) "Seller credit card" means an arrangement which gives to a buyer or lessee the privilege of using a credit card, letter of credit, or other credit confirmation or identification for the purpose of purchasing or leasing goods or services from that person, a person related to that person, or from that person and any other person. The term includes a card that is issued by a person, that is in the name of the seller, and that can be used by the buyer or lessee only for purchases or leases at locations of the named seller.

(20) "Supervised financial organization" means a person, other than an insurance company or other organization primarily engaged in an insurance business:

(a) organized, chartered, or holding an authorization certificate under the laws of a state or of the United States which authorizes the person to make loans and to receive deposits, including a savings, share, certificate, or deposit account; and

(b) subject to supervision by an official or agency of a state or of the United States.

(21) "Mortgage servicer" means the last person to whom a mortgagor or the mortgagor's successor in interest has been instructed by a mortgagee to send payments on a loan secured by a mortgage.

(22) "Affiliate", with respect to any person subject to this article, means a person that, directly or indirectly, through one (1) or more intermediaries:

(a) controls;

(b) is controlled by; or

(c) is under common control with;

the person subject to this article.

SECTION 137. IC 24-5-0.5-3, AS AMENDED BY P.L.85-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The following acts, ~~or~~ **and the following** representations as to the subject matter of a consumer transaction, made orally, in writing, or by electronic communication, by a supplier, are deceptive acts:

(1) That such subject of a consumer transaction has sponsorship, approval, performance, characteristics, accessories, uses, or benefits it does not have which the supplier knows or should reasonably know it does not have.

(2) That such subject of a consumer transaction is of a particular standard, quality, grade, style, or model, if it is not and if the supplier knows or should reasonably know that it is not.

(3) That such subject of a consumer transaction is new or unused, if it is not and if the supplier knows or should reasonably know that it is not.

(4) That such subject of a consumer transaction will be supplied to the public in greater quantity than the supplier intends or reasonably expects.

(5) That replacement or repair constituting the subject of a consumer transaction is needed, if it is not and if the supplier knows or should reasonably know that it is not.

(6) That a specific price advantage exists as to such subject of a consumer transaction, if it does not and if the supplier knows or should reasonably know that it does not.

(7) That the supplier has a sponsorship, approval, or affiliation in such consumer transaction the supplier does not have, and which the supplier knows or should reasonably know that the supplier does not have.

(8) That such consumer transaction involves or does not involve a warranty, a disclaimer of warranties, or other rights, remedies,

or obligations, if the representation is false and if the supplier knows or should reasonably know that the representation is false.

(9) That the consumer will receive a rebate, discount, or other benefit as an inducement for entering into a sale or lease in return for giving the supplier the names of prospective consumers or otherwise helping the supplier to enter into other consumer transactions, if earning the benefit, rebate, or discount is contingent upon the occurrence of an event subsequent to the time the consumer agrees to the purchase or lease.

(10) That the supplier is able to deliver or complete the subject of the consumer transaction within a stated period of time, when the supplier knows or should reasonably know the supplier could not. If no time period has been stated by the supplier, there is a presumption that the supplier has represented that the supplier will deliver or complete the subject of the consumer transaction within a reasonable time, according to the course of dealing or the usage of the trade.

(11) That the consumer will be able to purchase the subject of the consumer transaction as advertised by the supplier, if the supplier does not intend to sell it.

(12) That the replacement or repair constituting the subject of a consumer transaction can be made by the supplier for the estimate the supplier gives a customer for the replacement or repair, if the specified work is completed and:

(A) the cost exceeds the estimate by an amount equal to or greater than ten percent (10%) of the estimate;

(B) the supplier did not obtain written permission from the customer to authorize the supplier to complete the work even if the cost would exceed the amounts specified in clause (A);

(C) the total cost for services and parts for a single transaction is more than seven hundred fifty dollars ($750); and

(D) the supplier knew or reasonably should have known that the cost would exceed the estimate in the amounts specified in clause (A).

(13) That the replacement or repair constituting the subject of a consumer transaction is needed, and that the supplier disposes of the part repaired or replaced earlier than seventy-two (72) hours after both:

(A) the customer has been notified that the work has been completed; and

(B) the part repaired or replaced has been made available for examination upon the request of the customer.

(14) Engaging in the replacement or repair of the subject of a consumer transaction if the consumer has not authorized the replacement or repair, and if the supplier knows or should reasonably know that it is not authorized.

(15) The act of misrepresenting the geographic location of the supplier by listing a fictitious business name or an assumed business name (as described in IC 23-15-1) in a local telephone directory if:

(A) the name misrepresents the supplier's geographic location;

(B) the listing fails to identify the locality and state of the supplier's business;

(C) calls to the local telephone number are routinely forwarded or otherwise transferred to a supplier's business location that is outside the calling area covered by the local telephone directory; and

(D) the supplier's business location is located in a county that is not contiguous to a county in the calling area covered by the local telephone directory.

(16) The act of listing a fictitious business name or assumed business name (as described in IC 23-15-1) in a directory assistance database if:

(A) the name misrepresents the supplier's geographic location;

(B) calls to the local telephone number are routinely forwarded or otherwise transferred to a supplier's business location that is outside the local calling area; and

(C) the supplier's business location is located in a county that is not contiguous to a county in the local calling area.

(17) ~~That~~ The **violation by a** supplier ~~violated~~ **of** IC 24-3-4 concerning cigarettes for import or export.

(18) ~~That~~ **The act of** a supplier **in** knowingly ~~sells or resells~~ **selling or reselling** a product to a consumer if the product has been recalled, whether by the order of a court or a regulatory body, or voluntarily by the manufacturer, distributor, or retailer, unless the product has been repaired or modified to correct the

defect that was the subject of the recall.

(19) ~~That~~ The **violation by a** supplier ~~violated~~ **of** 47 U.S.C. 227, including any rules or regulations issued under 47 U.S.C. 227.

(b) Any representations on or within a product or its packaging or in advertising or promotional materials which would constitute a deceptive act shall be the deceptive act both of the supplier who places such representation thereon or therein, or who authored such materials, and such other suppliers who shall state orally or in writing that such representation is true if such other supplier shall know or have reason to know that such representation was false.

(c) If a supplier shows by a preponderance of the evidence that an act resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error, such act shall not be deceptive within the meaning of this chapter.

(d) It shall be a defense to any action brought under this chapter that the representation constituting an alleged deceptive act was one made in good faith by the supplier without knowledge of its falsity and in reliance upon the oral or written representations of the manufacturer, the person from whom the supplier acquired the product, any testing organization, or any other person provided that the source thereof is disclosed to the consumer.

(e) For purposes of subsection (a)(12), a supplier that provides estimates before performing repair or replacement work for a customer shall give the customer a written estimate itemizing as closely as possible the price for labor and parts necessary for the specific job before commencing the work.

(f) For purposes of subsection (a)(15), a telephone company or other provider of a telephone directory or directory assistance service or its officer or agent is immune from liability for publishing the listing of a fictitious business name or assumed business name of a supplier in its directory or directory assistance database unless the telephone company or other provider of a telephone directory or directory assistance service is the same person as the supplier who has committed the deceptive act.

(g) For purposes of subsection (a)(18), it is an affirmative defense to any action brought under this chapter that the product has been altered by a person other than the defendant to render the product completely incapable of serving its original purpose.

SECTION 138. IC 25-1-7-1, AS AMENDED BY P.L.3-2008, SECTION 178, AND AS AMENDED BY P.L.134-2008, SECTION 16, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of the attorney general.

"Licensee" means a person who is:

(1) licensed, certified, or registered by a board listed in this section; and

(2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State boxing commission (IC 25-9-1).

(6) Board of chiropractic examiners (IC 25-10-1).

(7) State board of cosmetology examiners (IC 25-8-3-1).

(8) State board of dentistry (IC 25-14-1).

(9) State board of funeral and cemetery service (IC 25-15-9).

(10) State board of registration for professional engineers (IC 25-31-1-3).

(11) Indiana state board of health facility administrators (IC 25-19-1).

(12) Medical licensing board of Indiana (IC 25-22.5-2).

(13) Indiana state board of nursing (IC 25-23-1).

(14) Indiana optometry board (IC 25-24).

(15) Indiana board of pharmacy (IC 25-26).

(16) Indiana plumbing commission (IC 25-28.5-1-3).

(17) Board of podiatric medicine (IC 25-29-2-1).

(18) Board of environmental health specialists (IC 25-32-1).

(19) State psychology board (IC 25-33).

(20) Speech-language pathology and audiology board (IC 25-35.6-2).

(21) Indiana real estate commission (IC 25-34.1-2).

(22) Indiana board of veterinary medical examiners ~~*(IC 15-5-1.1).*~~ *(IC 25-38.1).*

(23) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.

(24) Respiratory care committee (IC 25-34.5).

(25) Private investigator and security guard licensing board (IC 25-30-1-5.2).

(26) Occupational therapy committee (IC 25-23.5).

(27) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).

(28) Real estate appraiser licensure and certification board (IC 25-34.1-8).

(29) State board of registration for land surveyors (IC 25-21.5-2-1).

(30) Physician assistant committee (IC 25-27.5).

(31) Indiana athletic trainers board (IC 25-5.1-2-1).

(32) Indiana dietitians certification board (IC 25-14.5-2-1).

(33) Indiana hypnotist committee (IC 25-20.5-1-7).

(34) Indiana physical therapy committee (IC 25-27).

(35) Manufactured home installer licensing board (IC 25-23.7).

(36) Home inspectors licensing board (IC 25-20.2-3-1).

(37) State department of health, *for out-of-state mobile health care entities.*

(38) State board of massage therapy (IC 25-21.8-2-1).

(39) Any other occupational or professional agency created after June 30, 1981.

SECTION 139. IC 25-11-1-9, AS AMENDED BY P.L.3-2008, SECTION 184, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]: Sec. 9. (a) Upon the filing with the secretary of state, by any interested person, of a verified written complaint which charges any licensee hereunder with a specific violation of any of the provisions of this chapter, the secretary of state shall cause an investigation of the complaint to be made. If the

investigation shows probable cause for the revocation or suspension of the license, the secretary of state shall send a written notice to such licensee, stating in such notice the alleged grounds for the revocation or suspension and fixing a time and place for the hearing thereof. The hearing shall be held not less than five (5) days nor more than twenty (20) days from the time of the mailing of the notice, unless the parties consent otherwise. The secretary of state may subpoena witnesses, books, and records and may administer oaths. The licensee may appear and defend against such charges in person or by counsel. If upon such hearing the secretary of state finds the charges to be true, the secretary of state shall either revoke or suspend the license of the licensee. Suspension shall be for a time certain and in no event for a longer period than one (1) year. No license shall be issued to any person whose license has been revoked for a period of two (2) years from the date of revocation. Reapplication for a license, after revocation as provided, shall be made in the same manner as provided in this chapter for an original application for a license.

(b) Whenever it appears to the secretary of state that a person has engaged in or is about to engage in an act or practice constituting a violation of this chapter or a rule or order under this chapter, the secretary of state may investigate and may issue, with or without a prior hearing, orders and notices as the secretary of state determines to be in the public interest, including cease and desist orders, orders to show cause, and notices. After notice and hearing, the secretary of state may enter an order of rescission, restitution, or disgorgement, including interest at the rate of eight percent (8%) per year, directed to a person who has violated this chapter or a rule or order under this chapter. In addition to all other remedies, the secretary of state may bring an action in the name of and on behalf of the state against the person and any other person participating in or about to participate in a violation of this chapter, to enjoin the person from continuing or doing an act furthering a violation of this chapter and may obtain the appointment of a receiver or conservator. Upon a proper showing by the secretary of state, the court shall enter an order of rescission, restitution, or disgorgement of the secretary of state directed to a person who has violated this chapter or a rule or order under this chapter.

(c) Upon the issuance of an order or a notice by the secretary of state under subsection (b), the secretary of state shall promptly notify

the respondent of the following:

(1) That the order or notice has been issued.

(2) The reasons the order or notice has been issued.

(3) That upon the receipt of a written request the matter will be set for a hearing to commence not less than five (5) days and not more than twenty (20) days after the secretary of state receives the request, unless the parties consent otherwise.

If the respondent does not request a hearing and the secretary of state does not order a hearing, the order or notice will remain in effect until it is modified or vacated by the secretary of state. If a hearing is requested or ordered, the secretary of state, after giving notice of the hearing, may modify or vacate the order or extend it until final determination.

(d) In a proceeding in a circuit or superior court under this section, the secretary of state is entitled to recover all costs and expenses of investigation to which the ~~secretary of state~~ **securities commissioner** would be entitled in an administrative proceeding under ~~IC 23-2-1-16(d),~~ **IC 23-19-6-4,** and the court shall include the costs in its final judgment.

(e) For the purpose of any investigation or proceeding under this chapter, the secretary of state may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records that the secretary of state considers material to the inquiry.

(f) Upon order of the secretary of state in any hearing, a deposition may be taken of any witness. A deposition under this chapter shall be:

(1) conducted in the manner prescribed by law for depositions in civil actions; and

(2) made returnable to the secretary of state.

(g) If any person fails to obey a subpoena, the circuit or superior court, upon application by the secretary of state, may issue to the person an order requiring the person to appear before the secretary of state to produce documentary evidence, if so ordered, or to give evidence concerning the matter under investigation.

(h) A person is not excused from:

(1) attending any hearing or testifying before the secretary of state; or

(2) producing any document or record;

in obedience to a subpoena of the secretary of state, or in any proceeding instituted by the secretary of state, on the grounds that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture. However, a person may not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing about which the person is compelled, after validly claiming the person's privilege against self-incrimination, to testify or produce evidence, documentary or otherwise.

SECTION 140. IC 25-11-1-14, AS ADDED BY P.L.230-2007, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]: Sec. 14. The secretary of state may delegate any or all of the rights, duties, or obligations of the secretary of state under this chapter to:

(1) the securities commissioner appointed under ~~IC 23-2-1-15(a),~~ **IC 23-19-6-1(a);** or

(2) any other designee under the supervision and control of the secretary of state.

SECTION 141. IC 25-11-1-15, AS ADDED BY P.L.230-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]: Sec. 15. (a) If the secretary of state determines, after notice and opportunity for a hearing, that a person has violated this chapter, the secretary of state may, in addition to or instead of all other remedies, impose a civil penalty upon the person in an amount not to exceed ten thousand dollars ($10,000) for each violation. An appeal from the decision of the secretary of state imposing a civil penalty under this subsection may be taken by an aggrieved party under section 16 of this chapter.

(b) The secretary of state may bring an action in the circuit or superior court of Marion County to enforce payment of any penalty imposed under subsection (a).

(c) Penalties collected under this section shall be deposited in the securities division enforcement account established under ~~IC 23-2-1-15(e).~~ **IC 23-19-6-1(f).**

SECTION 142. IC 25-26-13-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) To be eligible for issuance of a pharmacy permit, an applicant must show to

the satisfaction of the board that:

(1) Persons at the location will engage in the bona fide practice of pharmacy. The application must show the number of hours each week, if any, that the pharmacy will be open to the general public.

(2) The pharmacy will maintain a sufficient stock of emergency and frequently prescribed drugs and devices as to adequately serve and protect the public health.

(3) Except as provided in section 19 of this chapter, a registered pharmacist will be in personal attendance and on duty in the licensed premises at all times when the practice of pharmacy is being conducted and that the pharmacist will be responsible for the lawful conduct of the pharmacy.

(4) One (1) pharmacist will have not more than four (4) certified pharmacy technicians or pharmacy technicians in training certified under IC 25-26-19 under the pharmacist's immediate and personal supervision at any time. As used in this clause, "immediate and personal supervision" means within reasonable visual and vocal distance of the pharmacist.

(5) The pharmacy will be located separate and apart from any area containing merchandise not offered for sale under the pharmacy permit. The pharmacy will:

(A) be stationary;

(B) be sufficiently secure, either through electronic or physical means, or a combination of both, to protect the products contained in the pharmacy and to detect and deter entry during those times when the pharmacy is closed;

(C) be well lighted and ventilated with clean and sanitary surroundings;

(D) be equipped with a sink with hot and cold running water or some means for heating water, a proper sewage outlet, and refrigeration;

(E) have a prescription filling area of sufficient size to permit the practice of pharmacy as practiced at that particular pharmacy; and

(F) have such additional fixtures, facilities, and equipment as the board requires to enable it to operate properly as a pharmacy in compliance with federal and state laws and regulations governing pharmacies.

~~A pharmacy licensed under IC 25-26-10 (before its repeal on July 1, 1977) on June 30, 1977, must comply with the provisions of this clause before December 31, 1982, unless for good cause shown the board grants a waiver or otherwise exempts it.~~

(b) Prior to opening a pharmacy after receipt of a pharmacy permit, the permit holder shall submit the premises to a qualifying inspection by a representative of the board and shall present a physical inventory of the drug and all other items in the inventory on the premises.

(c) At all times, the wholesale value of the drug inventory on the licensed items must be at least ten percent (10%) of the wholesale value of the items in the licensed area.

SECTION 143. IC 25-26-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "protocol" means the policies, procedures, and protocols of a hospital listed in ~~IC 16-18-2-161(1)~~ **IC 16-18-2-161(a)(1)** concerning the adjustment of a patient's drug regimen by a pharmacist.

SECTION 144. IC 25-26-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This section applies to a pharmacist **who is** practicing in a hospital:

(1) that is listed in ~~IC 16-18-2-161(1)~~ **IC 16-18-2-161(a)(1); and**

(2) in which the pharmacist is supervised by a physician as required under the protocols of the facility that are developed by health care professionals, including physicians, pharmacists, and registered nurses.

(b) The protocols developed under this chapter must at a minimum require that the medical records of the patient are available to both the patient's practitioner and the pharmacist and that the procedures performed by the pharmacist relate to a condition for which the patient has first seen a physician or other licensed practitioner.

SECTION 145. IC 27-1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The name of any company organized under this article shall contain the word "insurance" and the word "company," "corporation" or "incorporated," or shall end with an abbreviation of one of these words, except that the word "company" or the abbreviation "Co." may be used only if that word or abbreviation is not immediately preceded by the word "and," or any substitute therefor.

No company organized under this article shall:

(a) Use as a part of its corporate name the words "United States," "Federal," "government," "official," or any word that would imply that the company was an administrative agency of the state of Indiana or of the United States, or is subject to supervision of any department other than the department of insurance of the state of Indiana.

(b) Take or assume a corporate name the same as, or confusingly similar to, the name of any other insurance company then existing under the laws of this state or authorized to transact business in this state, unless at the same time (1) such other company shall change its corporate name or withdraw from transacting business in this state, and (2) the written consent of such company, signed and verified under oath by its secretary, shall be filed with the department.

Any company organized under this article may change its corporate name at any time by amending its articles of incorporation in the manner hereinafter provided. The provisions of this section shall not affect the right of any insurance company which is existing under the laws of this state ~~at the time this article takes effect~~ **on March 8, 1935,** or of any such company which thereafter reorganizes or reincorporates under this article or of any company authorized to transact business in this state ~~at the time this article takes effect~~ **on March 8, 1935,** to continue the use of its corporate name.

SECTION 146. IC 27-4-1-4, AS AMENDED BY P.L.112-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. **4.** (a) The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender the policyholder's insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into

any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract. However, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever. However, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

(i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;

(ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership,

maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or

(iii) policies or contracts of any other kind or kinds of insurance whatsoever.

However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance. Nothing in clause (A), (B), or (C) shall be construed as making or permitting any excessive, inadequate, or unfairly discriminatory charge or rate or any charge or rate determined by the department or commissioner to meet the requirements of any other insurance rate regulatory law of this state.

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or

abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or insurance producer thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed insurance producer thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, an insurance producer, or a solicitor duly licensed under the laws of this state, but such broker, insurance producer, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance producer or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of the lender's right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of

any nonprofit organization of insurance producers or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, insurance producer, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon of the right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs

or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

(25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning the resolution of an appealed grievance decision.

(26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) (expired July 1, 2007, and removed) or IC 27-8-5-19.2 (expired July 1, 2007, and repealed).

(27) Violating IC 27-2-21 concerning use of credit information.

(28) Violating IC 27-4-9-3 concerning recommendations to consumers.

(29) Engaging in dishonest or predatory insurance practices in marketing or sales of insurance to members of the United States Armed Forces as:

(A) described in the federal Military Personnel Financial Services Protection Act, P.L.109-290; or

(B) defined in rules adopted under subsection (b).

(30) Violating IC 27-8-19.8-20.1 concerning stranger originated life insurance.

(b) Except with respect to federal insurance programs under Subchapter III of Chapter 19 of Title 38 of the United States Code, the commissioner may, consistent with the federal Military Personnel Financial Services Protection Act (P.L.109-290), adopt rules under IC 4-22-2 to:

(1) define; and

(2) while the members are on a United States military installation or elsewhere in Indiana, protect members of the United States Armed Forces from;

dishonest or predatory insurance practices.

SECTION 147. IC 28-1-2-30.5, AS ADDED BY P.L.90-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30.5. (a) This section applies to the following:

(1) Any:

(A) financial institution;

(B) person required to file notification with the department

under IC 24-4.5-6-202;

(C) person subject to IC 24-7; or

(D) other person subject to regulation by the department under this title.

(2) Any person licensed or required to be licensed under IC 24-4.5.

(b) As used in this section, "customer", with respect to a person described in subsection (a), means an individual consumer, or the individual's legal representative, who obtains or has obtained from the person a financial:

(1) product; or

(2) service;

that is to be used primarily for personal, family, or household purposes. The term does not include an affiliate of the person.

(c) As used in this section, "personal information" includes any of the following:

(1) An individual's first and last names or first initial and last name.

(2) Any of the following data elements:

(A) A Social Security number.

(B) A driver's license number.

(C) A state identification card number.

(D) A credit card number.

(E) A financial account number or debit card number.

(3) With respect to an individual, any of the following:

(A) Address.

(B) Telephone number.

(C) Information concerning the individual's:

(i) income or other compensation;

(ii) credit history;

(iii) credit score;

(iv) assets;

(v) liabilities; or

(vi) employment history.

(d) As used in this ~~chapter,~~ **section,** personal information is "encrypted" if the personal information:

(1) has been transformed through the use of an algorithmic process into a form in which there is a low probability of

assigning meaning without use of a confidential process or key; or

(2) is secured by another method that renders the personal information unreadable or unusable.

(e) As used in this ~~chapter,~~ **section,** personal information is "redacted" if the personal information has been altered or truncated so that not more than the last four (4) digits of:

(1) a Social Security number;

(2) a driver's license number;

(3) a state identification number; or

(4) an account number;

are accessible as part of the personal information.

(f) As used in this ~~chapter,~~ **section,** "personal records" means any records that:

(1) are maintained, whether as a paper record or in an electronic or a computerized form, by a person to whom this section applies; and

(2) contain the unencrypted, unredacted personal information of one (1) or more customers or potential customers.

(g) A person to whom this section applies shall keep and handle personal records in a manner that:

(1) reasonably safeguards the personal records from destruction, theft, or other loss; and

(2) protects the personal records from misuse.

(h) If a breach of the security of any personal records occurs, the person maintaining the records is subject to the disclosure requirements under IC 24-4.9-3, unless the person is exempt from the disclosure requirements under IC 24-4.9-3-4.

(i) A person to whom this section applies may not dispose of personal records without first:

(1) shredding, incinerating, or mutilating the personal records; or

(2) erasing or otherwise rendering illegible or unusable the personal information contained in the records.

(j) If a person to whom this section applies ceases doing business, the person shall, as part of the winding up of the business, safeguard any personal records maintained by the person in accordance with this section until such time as the person is entitled or required to destroy the records under:

(1) applicable law; or

(2) the person's own records maintenance policies.

SECTION 148. IC 28-1-29-8, AS AMENDED BY P.L.3-2008, SECTION 220, AND AS AMENDED BY P.L.90-2008, SECTION 31, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A licensee shall deliver to every contract debtor, at the time the contract is made, a copy of the contract, showing the:

(1) date executed;

(2) rate of charge the licensee will impose;

(3) initial set up fee;

(4) cancellation fee;

(5) amount of debts claimed by the contract debtor to be due the contract debtor's creditors;

(6) total amount of fee to be assessed by the licensee, including the initial set up fee, but excluding the cancellation fee; and

(7) total amount of debt to be repaid under the contract;

and shall immediately notify all creditors of the licensee's and debtor's relationship. The contract shall specify the schedule of payments from the debtor under the debt program.

(b) A licensee may take no fee unless a debt program or a finance program, or both, agreed upon by the licensee and the contract debtor, has been arranged. All creditors must be notified of the debtor's and licensee's relationship. Acceptance of a program payment constitutes agreement by the creditor to the program.

(c) A licensee shall give to the contract debtor a dated receipt for each payment, at the time of the payment, unless the payment is made by check, money order, or direct deposit.

(d) A licensee shall, upon cancellation by a contract debtor of the contract, notify immediately in writing all creditors of **the** contract debtor.

(e) A licensee shall maintain in the licensee's business such books, accounts, and records as will enable the department or the attorney general to determine whether ~~*such license*~~ *the licensee* is complying with this chapter. Such books, accounts, and records shall be preserved for at least three (3) years after making the final entry of any contract recorded therein. *A licensee is subject to IC 28-1-2-30.5 with respect to any records maintained by the licensee.*

(f) A licensee may not, except as provided in subsection (g), receive a fee from the contract debtor for services in excess of fifteen percent (15%) of the amount *of the debt payable to creditors that* the debtor agrees to pay through the licensee, divided into equal monthly payments over the term of the contract. The total monthly amount of fees paid by the contract debtor to the licensee plus the fair share fees paid by the contract debtor's creditors to the licensee shall not exceed twenty percent (20%) of the monthly amount the debtor agrees to pay through the licensee. The accrual method of accounting shall apply to the creditor's fair share fees received by the licensee. The program fee may be charged for any one (1) month or part of a month. As a portion of the total fees and charges stated in the contract, the licensee may require the debtor to pay a maximum initial payment of fifty dollars ($50). The initial payment must be deducted from the total contract fees and charges to determine the monthly amortizable amount for subsequent fees. Unless approved by the department, the licensee may not retain in the debtor's trust account, for charges, an amount greater than one (1) month's fee plus the close-out fee. Any fee charged by the licensee to the debtor under this section for services rendered by the licensee, other than the amount pursuant to subsection (g), is not considered a debt owed by the debtor to the licensee.

(g) Upon:

(1) cancellation of the contract by a contract debtor; or

(2) termination of payments by a contract debtor;

a licensee may not withhold for the licensee's own benefit, in addition to the amounts specified in subsection (f), more than one hundred dollars ($100), which may be accrued as a close-out fee. The licensee may not charge the contract debtor more than one (1) set up fee or cancellation fee, or both, unless the contract debtor leaves the services of the licensee for more than six (6) months.

(h) A licensee may not enter into a contract with a debtor unless a thorough, written budget analysis of the debtor indicates that the debtor can reasonably meet the payments required under a proposed debt program or finance program.

(i) A licensee may not enter into a contract with a contract debtor for a period longer than twenty-four (24) months.

(j) A licensee may provide services under this chapter in the same place of business in which another business is operating, or from which

other products or services are sold, if the director issues a written determination that:

(1) the operation of the other business; or

(2) the sale of other products and services;

from the location in question is not contrary to the best interests of the licensee's contract debtors.

(k) A licensee without a physical location in Indiana may:

(1) solicit sales of; and

(2) sell;

additional products and services to Indiana residents if the director issues a written determination that the proposed solicitation or sale is not contrary to the best interests of contract debtors.

(l) A licensee may assess a charge not to exceed twenty-five dollars ($25) for each return by a bank or other depository institution of a dishonored check, negotiable order of withdrawal, or share draft issued by the contract debtor.

SECTION 149. IC 28-7-5-4, AS AMENDED BY P.L.3-2008, SECTION 223, AND AS AMENDED BY P.L.90-2008, SECTION 49, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Application for a pawnbroker's license shall be submitted on a form prescribed by the department and must include all information required by the department. An application submitted under this section must identify the location or locations at which the applicant proposes to engage in business as a pawnbroker in Indiana. If any business, other than the business of acting as a pawnbroker under this chapter, will be conducted by the applicant or another person at any location identified under this subsection, the applicant shall indicate for each location at which another business will be conducted:

(1) the nature of the other business;

(2) the name under which the other business operates;

(3) the address of the principal office of the other business;

(4) the name and address of the business's resident agent in Indiana; and

(5) any other information the director may require.

(b) An application submitted under this section must indicate whether ~~*(1) the applicant*~~ *any individual described in section 8(a)(2) or 8(a)(3) of this chapter* at the time of the application:

(1) is under indictment for a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction; or

(2) ~~*the applicant*~~ has been convicted of or pleaded guilty or nolo contendere to a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.

(c) The director may request that the applicant provide evidence of compliance with this section at:

(1) the time of application;

(2) the time of renewal of a license; or

(3) any other time considered necessary by the director.

(d) For purposes of subsection (c), evidence of compliance with this section may include:

(1) criminal background checks, including a national criminal history *background* check *(as defined in IC 10-13-3-12)* by the Federal Bureau of Investigation *for any individual described in subsection (b);*

(2) credit histories; and

(3) other background checks considered necessary by the director.

If the director requests a national criminal history background check under subdivision (1) for an ~~*person*~~ **individual** *described in that subdivision, the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate, at the time evidence of compliance is requested under subsection (c). The individual to whom the request is made shall pay any fees or costs associated with the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.*

SECTION 150. IC 28-8-4-25, AS AMENDED BY P.L.3-2008, SECTION 224, AND AS AMENDED BY P.L.90-2008, SECTION 57, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. In addition to the items listed in section 24 of this chapter, if an applicant is ~~*a corporation,*~~ *not organized as a sole proprietorship,* the applicant must provide the

following items and information relating to the applicant's ~~*corporate*~~ *organizational* structure:

(1) State of incorporation *or organization.*

(2) Date of incorporation *or organization.*

(3) A certificate from the state in which the applicant was incorporated *or organized* stating that the ~~*corporation*~~ *entity* is in good standing.

(4) A description of the ~~*corporate*~~ *organizational* structure of the applicant, including the following:

(A) The identity of the parent of the applicant.

(B) The identity of each subsidiary of the applicant.

(C) The names of the stock exchanges, *if any,* in which the applicant, the parent, and the subsidiaries are publicly traded.

(5) The:

(A) name;

(B) business address;

(C) residence address; and

(D) employment history;

for each ~~*executive officer, key shareholder, and officer or manager who will be in charge of the applicant's licensed activities.*~~ *individual described in section 35(b)(2) or 35(b)(3) of this chapter.*

(6) The:

(A) history of material litigation; and

(B) ~~*the*~~ history of criminal indictments, convictions, and guilty or nolo contendere pleas for felonies involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction;

for each ~~*executive officer, key shareholder, and director of the applicant.*~~ *individual described in section 35(b)(2) or 35(b)(3) of this chapter.*

(7) Except as provided in subdivision (8), copies of the applicant's audited financial statements for the current year and, if available, for the preceding two (2) years, including a:

(A) balance sheet;

(B) statement of income or loss;

(C) statement of changes in shareholder equity; and

(D) statement of changes in financial position.

(8) If the applicant is a wholly owned subsidiary of:

(A) a corporation publicly traded in the United States, financial statements for the current year or the parent corporation's Form 10K reports filed with the United States Securities and Exchange Commission for the preceding three (3) years may be submitted with the applicant's unaudited financial statements; or

(B) a corporation publicly traded outside the United States, similar documentation filed with the parent corporation's non-United States regulator may be submitted with the applicant's unaudited financial statements.

(9) Copies of filings, if any, made by the applicant with the United States Securities and Exchange Commission, or with a similar regulator in a country other than the United States, not more than one (1) year before the date of filing of the application.

SECTION 151. IC 29-1-2-1, AS AMENDED BY P.L.101-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The estate of a person dying intestate shall descend and be distributed as provided in this section.

(b) Except as otherwise provided in subsection (c), the surviving spouse shall receive the following share:

(1) One-half (1/2) of the net estate if the intestate is survived by at least one (1) child or by the issue of at least one (1) deceased child.

(2) Three-fourths (3/4) of the net estate, if there is no surviving issue, but the intestate is survived by one (1) or both of the intestate's parents.

(3) All of the net estate, if there is no surviving issue or parent.

(c) If the surviving spouse is a second or other subsequent spouse who did not at any time have children by the decedent, and the decedent left surviving the decedent a child or children or the descendants of a child or children by a previous spouse, the surviving second or subsequent childless spouse shall take only an amount equal to twenty-five percent (25%) of the remainder of:

(1) the fair market value as of the date of death of the real property of the deceased spouse; minus

(2) the value of the liens and encumbrances on the real property of the deceased spouse.

The fee shall, at the decedent's death, vest at once in the decedent's surviving child or children, or the descendants of the decedent's child or children who may be dead. A second or subsequent childless spouse described in this subsection shall, however, receive the same share of the personal property of the decedent as is provided in subsection (b) with respect to surviving spouses generally.

(d) The share of the net estate not distributable to the surviving spouse, or the entire net estate if there is no surviving spouse, shall descend and be distributed as follows:

(1) To the issue of the intestate, if they are all of the same degree of kinship to the intestate, they shall take equally, or if of unequal degree, then those of more remote degrees shall take by representation.

(2) Except as provided in subsection (e), if there is a surviving spouse but no surviving issue of the intestate, then to the surviving parents of the intestate.

(3) Except as provided in subsection (e), if there is no surviving spouse or issue of the intestate, then to the surviving parents, brothers, and sisters, and the issue of deceased brothers and sisters of the intestate. Each living parent of the intestate shall be treated as of the same degree as a brother or sister and shall be entitled to the same share as a brother or sister. However, the share of each parent shall be not less than one-fourth (1/4) of the decedent's net estate. Issue of deceased brothers and sisters shall take by representation.

(4) If there is no surviving parent or brother or sister of the intestate, then to the issue of brothers and sisters. If the distributees described in this subdivision are all in the same degree of kinship to the intestate, they shall take equally or, if of unequal degree, then those of more remote degrees shall take by representation.

(5) If there is no surviving issue or parent of the intestate or issue of a parent, then to the surviving grandparents of the intestate equally.

(6) If there is no surviving issue or parent or issue of a parent, or grandparent of the intestate, then the estate of the decedent shall be divided into that number of shares equal to the sum of:

(A) the number of brothers and sisters of the decedent's

parents surviving the decedent; plus

(B) the number of deceased brothers and sisters of the decedent's parents leaving issue surviving both them and the decedent;

and one (1) of the shares shall pass to each of the brothers and sisters of the decedent's parents or their respective issue per stirpes.

(7) If interests in real estate go to a husband and wife under this subsection, the aggregate interests so descending shall be owned by them as tenants by the entireties. Interests in personal property so descending shall be owned as tenants in common.

(8) If there is no person mentioned in subdivisions (1) through (7), then to the state.

(e) A parent may not receive an intestate share of the estate of the parent's minor or adult child if ~~(1)~~ the parent was convicted of causing the death of the **child's** other parent by:

~~(A)~~ **(1)** murder (IC 35-42-1-1);

~~(B)~~ **(2)** voluntary manslaughter (IC 35-42-1-3);

~~(C)~~ **(3)** another criminal act, if the death does not result from the operation of a vehicle; or

~~(D)~~ **(4)** a crime in any other jurisdiction in which the elements of the crime are substantially similar to the elements of a crime listed in ~~clauses (A) through (C). and~~ **subdivisions (1) through (3).**

~~(2) the victim of the crime is the other parent of the child.~~

If a parent is disqualified from receiving an intestate share under this subsection, the estate of the deceased child shall be distributed as though the parent had predeceased the child.

SECTION 152. IC 30-2-10-9, AS AMENDED BY P.L.61-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Except as provided in ~~subsection~~ **subsections** (b) **and (c),** a person who knowingly violates this chapter commits a Class A misdemeanor.

(b) A person who knowingly or intentionally uses or disburses funds in a funeral trust established under this chapter for purposes other than the purposes required under this chapter commits a Class C felony.

(c) A trustee that disburses funds in a funeral trust established under this chapter without verifying:

(1) the death of the individual for whom services are to be provided under the contract; and

(2) that the beneficiary fully performed all funeral and burial services provided for in the contract;

through the use of documentation required under rules adopted by the state board of funeral and cemetery service established by IC 25-15-9-1 commits a Class A infraction.

SECTION 153. IC 30-4-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. ~~(Trust Code Study Commission Report)~~ The report of the Trust Code Study Commission made according to IC ~~1971,~~ 2-5-11 **(repealed)** may be consulted by the courts to determine the reasons, purpose and policies of this article, and may be used as a guide to its construction and application.

SECTION 154. IC 31-9-2-0.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.4. "Abandoned child", for purposes of IC 31-34-21-4 and IC 31-35-2-6.5, means a child who is, or who appears to be, not more than forty-five (45) days of age and whose parent:**

(1) has knowingly or intentionally left the child with an emergency medical services provider; and

(2) did not express an intent to return for the child.

SECTION 155. IC 31-9-2-0.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.5. ~~(a)~~ "Abandoned infant", for purposes of IC 31-34-21-5.6, means:

(1) a child who is less than twelve (12) months of age and whose parent, guardian, or custodian has knowingly or intentionally left the child in:

(A) an environment that endangers the child's life or health; or

(B) a hospital or medical facility;

and has no reasonable plan to assume the care, custody, and control of the child; or

(2) a child who is, or who appears to be, not more than forty-five (45) days of age and whose parent:

(A) has knowingly or intentionally left the child with an emergency medical services provider; and

(B) did not express an intent to return for the child.

~~(b) "Abandoned infant", for purposes of IC 31-34-21-4 and IC 31-35-2-6.5, means a child who is, or who appears to be, not more than forty-five (45) days of age and whose parent:~~

~~(1) has knowingly or intentionally left the child with an emergency medical services provider; and~~

~~(2) did not express an intent to return for the child.~~

SECTION 156. IC 31-14-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) If there is not a presumed biological father under section 1 ~~or 1.5~~ of this chapter, there is a rebuttable presumption that a man is the child's biological father if, with the consent of the child's mother, the man:

(1) receives the child into the man's home; and

(2) openly holds the child out as the man's biological child.

(b) The circumstances under this section do not establish the man's paternity. A man's paternity may only be established as described in IC 31-14-2-1.

SECTION 157. IC 31-14-11-15, AS AMENDED BY P.L.3-2008, SECTION 230, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) A party affected by a support order shall inform the clerk and the state central collection unit established within the child support bureau by IC 31-25-3-1 of any change of address not more than fifteen (15) days after the party's address is changed.

(b) At the time of the issuance or modification of a support order, the parties affected by the order shall inform the clerk and the state central collection unit established within the child support bureau by IC 31-25-3-1 of:

(1) whether any of the parties is receiving or has received assistance under the:

(A) federal Aid to Families with Dependent Children program (42 U.S.C. 601 et seq.); or

(B) federal Temporary Assistance ~~to~~ **for** Needy Families (TANF) program (45 CFR 260 et seq.); and

(2) the Social Security number of any child affected by the order. The Social Security number required under subdivision (2) shall be kept confidential and used only to carry out the purposes of the Title IV-D program.

SECTION 158. IC 31-16-9-3, AS AMENDED BY P.L.3-2008,

SECTION 232, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A party affected by a support order shall inform the clerk and the state central collection unit established within the child support bureau by IC 31-25-3-1 of any change of address not more than fifteen (15) days after the party's address is changed.

(b) At the time of the issuance or modification of a support order, the parties affected by the order shall inform the clerk of the court and the state central collection unit established within the child support bureau by IC 31-25-3-1 of:

(1) whether any of the parties is receiving or has received assistance under the:

(A) federal Aid to Families with Dependent Children program (42 U.S.C. 601 et seq.); or

(B) federal Temporary Assistance ~~to~~ **for** Needy Families (TANF) program (45 CFR 260 et seq.); and

(2) the Social Security number of any child affected by the order.

The Social Security number required under subdivision (2) shall be kept confidential and used only to carry out the purposes of the Title IV-D program.

SECTION 159. IC 31-16-10-2, AS AMENDED BY P.L.1-2007, SECTION 193, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) If the clerk of the court or the state central collection unit is notified by the Title IV-D agency or the agency's designee that:

(1) the child who is the beneficiary of a support order is receiving assistance under the

~~(A) federal Aid to Families with Dependent Children program (42 U.S.C. 601 et seq.); or~~

~~(B)~~ federal Temporary Assistance ~~to~~ **for** Needy Families (TANF) program (45 CFR 260 et seq.); and

(2) an assignment of support rights in favor of the state is in effect against the person obligated to make child support payments;

the clerk of the court or the state central collection unit shall forward the child support payments directly to the Title IV-D agency without further order of the court.

(b) The Title IV-D agency shall disburse the payments in accordance with federal regulations governing the Title IV-D program.

SECTION 160. IC 31-34-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A statement or videotape that:

(1) is made by a child who at the time of the statement or videotape:

(A) is less than fourteen (14) years of age; or

(B) is at least fourteen (14) years of age but less than eighteen (18) years of age and has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:

(i) is likely to continue indefinitely;

(ii) constitutes a substantial disability to the child's ability to function normally in society; and

(iii) reflects the child's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated;

(2) concerns an act that is a material element in determining whether a child is a child in need of services; **and**

(3) is not otherwise admissible in evidence under statute or court rule;

is admissible in evidence in an action described in section 1 of this chapter if the requirements of section 3 of this chapter are met.

SECTION 161. IC 34-16-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. A person who is sued under this chapter (or IC 34-4-28 before ~~is~~ **its** repeal) shall answer, under oath or affirmation, questions concerning the money or other property the defendant is alleged to have received.

SECTION 162. IC 34-24-1-1, AS AMENDED BY P.L.114-2008, SECTION 27, AND AS AMENDED BY P.L.119-2008, SECTION 13, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The following may be seized:

(1) All vehicles (as defined by IC 35-41-1), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the following:

(A) A controlled substance for the purpose of committing,

attempting to commit, or conspiring to commit any of the following:

(i) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).

(ii) Dealing in methamphetamine (IC 35-48-4-1.1).

(iii) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(iv) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(v) Dealing in a schedule V controlled substance (IC 35-48-4-4).

(vi) Dealing in a counterfeit substance (IC 35-48-4-5).

(vii) Possession of cocaine or a narcotic drug (IC 35-48-4-6).

(viii) Possession of methamphetamine (IC 35-48-4-6.1).

(ix) Dealing in paraphernalia (IC 35-48-4-8.5).

(x) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

(B) Any stolen (IC 35-43-4-2) or converted property (IC 35-43-4-3) if the retail or repurchase value of that property is one hundred dollars ($100) or more.

(C) Any hazardous waste in violation of ~~*IC 13-30-10-4.*~~ *IC 13-30-10-1.5.*

(D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass destruction (as defined in IC 35-41-1-29.4) used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism (as defined by IC 35-41-1-26.5).

(2) All money, negotiable instruments, securities, weapons, communications devices, or any property used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism or commonly used as consideration for a violation of IC 35-48-4 (other than items subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):

(A) furnished or intended to be furnished by any person in exchange for an act that is in violation of a criminal statute;

(B) used to facilitate any violation of a criminal statute; or

(C) traceable as proceeds of the violation of a criminal statute.

(3) Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal statute.

(4) A vehicle that is used by a person to:

(A) commit, attempt to commit, or conspire to commit;

(B) facilitate the commission of; or

(C) escape from the commission of;

murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense under IC 35-47 as part of or in furtherance of an act of terrorism.

(5) Real property owned by a person who uses it to commit any of the following as a Class A felony, a Class B felony, or a Class C felony:

(A) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).

(B) Dealing in methamphetamine (IC 35-48-4-1.1).

(C) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(D) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(E) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

(6) Equipment and recordings used by a person to commit fraud under IC 35-43-5-4(10).

(7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.

(8) Property (as defined by IC 35-41-1-23) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).

(9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.

(10) Any equipment, ~~*used or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4-4.*~~ *including computer equipment and cellular telephones, used for or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter*

in violation of IC 35-42-4.

(11) Destructive devices used, possessed, transported, or sold in violation of IC 35-47.5.

(12) Tobacco products that are sold in violation of IC 24-3-5, tobacco products that a person attempts to sell in violation of IC 24-3-5, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.

(13) Property used by a person to commit counterfeiting or forgery in violation of IC 35-43-5-2.

(14) After December 31, 2005, if a person is convicted of an offense specified in IC 25-26-14-26(b) or IC 35-43-10, the following real or personal property:

(A) Property used or intended to be used to commit, facilitate, or promote the commission of the offense.

(B) Property constituting, derived from, or traceable to the gross proceeds that the person obtained directly or indirectly as a result of the offense.

(15) Except as provided in subsection (e), a motor vehicle used by a person who operates the motor vehicle:

(A) while intoxicated, in violation of IC 9-30-5-1 through IC 9-30-5-5, if in the previous five (5) years the person has two (2) or more prior unrelated convictions:

(i) for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or

(ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction; or

(B) on a highway while the person's driver's license is suspended in violation of IC 9-24-19-2 through IC 9-24-19-4, if in the previous five (5) years the person has two (2) or more prior unrelated convictions:

(i) for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or

(ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction.

If a court orders the seizure of a motor vehicle under this subdivision, the court shall transmit an order to the bureau of motor vehicles recommending that the bureau not permit a motor vehicle to be registered in the name of the person whose motor

vehicle was seized until the person possesses a current driving license (as defined in IC 9-13-2-41).

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Equipment under subsection (a)(10) may not be seized unless it can be proven by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).

(d) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

(1) IC 35-48-4-1 (dealing in or manufacturing cocaine or a narcotic drug).

(2) IC 35-48-4-1.1 (dealing in methamphetamine).

(3) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).

(4) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

(5) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Class B felony.

(6) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a Class A felony, Class B felony, or Class C felony.

(7) IC 35-48-4-6.1 (possession of methamphetamine) as a Class A felony, Class B felony, or Class C felony.

(8) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as a Class C felony.

(e) A motor vehicle operated by a person who is not:

(1) an owner of the motor vehicle; or

(2) the spouse of the person who owns the motor vehicle;

is not subject to seizure under subsection (a)(15) unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a)(15).

SECTION 163. IC 36-6-4-3, AS AMENDED BY P.L.2-2008, SECTION 82, AND AS AMENDED BY P.L.146-2008, SECTION 709, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The executive shall do the following:

(1) Keep a written record of official proceedings.

(2) Manage all township property interests.

(3) Keep township records open for public inspection.

(4) Attend all meetings of the township legislative body.

(5) Receive and pay out township funds.

(6) Examine and settle all accounts and demands chargeable against the township.

(7) Administer township assistance under IC 12-20 and IC 12-30-4.

(8) Perform the duties of fence viewer under IC 32-26.

~~*(9) Act as township assessor when required by IC 36-6-5.*~~

~~*(10)*~~ *(9)* Provide and maintain cemeteries under IC 23-14.

~~*(11)*~~ *(10)* Provide fire protection under IC 36-8, except in a township that:

(A) is located in a county having a consolidated city; and

(B) consolidated the township's fire department under IC 36-3-1-6.1.

~~*(12)*~~ *(11)* File an annual personnel report under IC 5-11-13.

~~*(13)*~~ *(12)* Provide and maintain township parks and community centers under IC 36-10.

~~*(14)*~~ *(13)* Destroy detrimental plants, noxious weeds, and rank vegetation under ~~*IC 15-3-4.*~~ *IC 15-16-8.*

~~*(15)*~~ *(14)* Provide insulin to the poor under IC 12-20-16.

~~*(16)*~~ *(15)* Perform other duties prescribed by statute.

SECTION 164. IC 36-6-5-1, AS AMENDED BY P.L.3-2008, SECTION 262, AND AS AMENDED BY P.L.146-2008, SECTION 710, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) ~~*Except as provided in subsection (f),*~~ *Subject to subsection (g), before 2009,* a township

assessor shall be elected under IC 3-10-2-13 by the voters of each township:

(1) having:

~~*(1)*~~ *(A)* a population of more than eight thousand (8,000); or

~~*(2)*~~ *(B)* an elected township assessor or the authority to elect a township assessor before January 1, 1979; *and*

(2) in which the number of parcels of real property on January 1, 2008, is at least fifteen thousand (15,000).

(b) ~~*Except as provided in subsection (f),*~~ *Subject to subsection (g), before 2009,* a township assessor shall be elected under IC 3-10-2-14 **(repealed effective July 1, 2008)** in each township:

(1) having a population of more than five thousand (5,000) but not more than eight thousand (8,000), if:

~~*(1)*~~ **(A)** the legislative body of the township, ~~*(A)*~~ by resolution, declares that the office of township assessor is necessary; and

~~*(2)*~~ *(B)* the resolution is filed with the county election board not later than the first date that a declaration of candidacy may be filed under IC 3-8-2; *and*

(2) in which the number of parcels of real property on January 1, 2008, is at least fifteen thousand (15,000).

(c) ~~*Except as provided in subsection (f),*~~ *Subject to subsection (g),* a township government that is created by merger under IC 36-6-1.5 shall elect only one (1) township assessor under this section.

(d) Subject to subsection (g), after 2008 a township assessor shall be elected under IC 3-10-2-13 only by the voters of each township in which:

(1) the number of parcels of real property on January 1, 2008, is at least fifteen thousand (15,000); and

(2) the transfer to the county assessor of the assessment duties prescribed by IC 6-1.1 is disapproved in the referendum under IC 36-2-15.

~~*(d)*~~ *(e)* The township assessor must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The assessor forfeits office if the assessor ceases to be a resident of the township.

~~*(e)*~~ *(f)* The term of office of a township assessor is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified. However, the term of office of a township

assessor elected at a general election in which no other township officer is elected ends on December 31 after the next election in which any other township officer is elected.

~~(f)~~ *(g)* A person who runs for the office of township assessor in an election after June 30, 2008, is subject to IC 3-8-1-23.6.

(h) After June 30, 2008, the county assessor shall perform the assessment duties prescribed by IC 6-1.1 in a township in which the number of parcels of real property on January 1, 2008, is less than fifteen thousand (15,000).

SECTION 165. IC 36-7-14-48, AS AMENDED BY P.L.146-2008, SECTION 741, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 48. (a) Notwithstanding section 39(a) of this chapter, with respect to the allocation and distribution of property taxes for the accomplishment of a program adopted under section 45 of this chapter, "base assessed value" means the net assessed value of all of the property, other than personal property, as finally determined for the assessment date immediately preceding the effective date of the allocation provision, as adjusted under section 39(h) of this chapter.

(b) The allocation fund established under section 39(b) of this chapter for the allocation area for a program adopted under section 45 of this chapter may be used only for purposes related to the accomplishment of the program, including the following:

(1) The construction, rehabilitation, or repair of residential units within the allocation area.

(2) The construction, reconstruction, or repair of any infrastructure (including streets, sidewalks, and sewers) within or serving the allocation area.

(3) The acquisition of real property and interests in real property within the allocation area.

(4) The demolition of real property within the allocation area.

(5) The provision of financial assistance to enable individuals and families to purchase or lease residential units within the allocation area. However, financial assistance may be provided only to those individuals and families whose income is at or below the county's median income for individuals and families, respectively.

(6) The provision of financial assistance to neighborhood development corporations to permit them to provide financial

assistance for the purposes described in subdivision (5).

(7) For property taxes first due and payable before January 1, 2009, providing each taxpayer in the allocation area a credit for property tax replacement as determined under subsections (c) and (d). However, the commission may provide this credit only if the municipal legislative body (in the case of a redevelopment commission established by a municipality) or the county executive (in the case of a redevelopment commission established by a county) establishes the credit by ordinance adopted in the year before the year in which the credit is provided.

(c) The maximum credit that may be provided under subsection (b)(7) to a taxpayer in a taxing district that contains all or part of an allocation area established for a program adopted under section 45 of this chapter shall be determined as follows:

STEP ONE: Determine that part of the sum of the amounts described in IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) **(before their repeal)** that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) **(before its repeal)** for that year as determined under IC 6-1.1-21-4(a)(1) **(before its repeal)** that is attributable to the taxing district; by

(B) the amount determined under STEP ONE.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the taxpayer's taxes (as defined in IC 6-1.1-21-2) **(before its repeal)** levied in the taxing district allocated to the allocation fund, including the amount that would have been allocated but for the credit.

(d) The commission may determine to grant to taxpayers in an allocation area from its allocation fund a credit under this section, as calculated under subsection (c). Except as provided in subsection (g), one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2) **(before its repeal)** that under IC 6-1.1-22-9 are due and payable in a year. The commission must provide for the credit annually by a resolution and must find in the resolution the following:

(1) That the money to be collected and deposited in the allocation fund, based upon historical collection rates, after granting the credit will equal the amounts payable for contractual obligations from the fund, plus ten percent (10%) of those amounts.

(2) If bonds payable from the fund are outstanding, that there is a debt service reserve for the bonds that at least equals the amount of the credit to be granted.

(3) If bonds of a lessor under section 25.2 of this chapter or under IC 36-1-10 are outstanding and if lease rentals are payable from the fund, that there is a debt service reserve for those bonds that at least equals the amount of the credit to be granted.

If the tax increment is insufficient to grant the credit in full, the commission may grant the credit in part, prorated among all taxpayers.

(e) Notwithstanding section 39(b) of this chapter, the allocation fund established under section 39(b) of this chapter for the allocation area for a program adopted under section 45 of this chapter may only be used to do one (1) or more of the following:

(1) Accomplish one (1) or more of the actions set forth in section 39(b)(2)(A) through 39(b)(2)(H) and 39(b)(2)(J) of this chapter for property that is residential in nature.

(2) Reimburse the county or municipality for expenditures made by the county or municipality in order to accomplish the housing program in that allocation area.

The allocation fund may not be used for operating expenses of the commission.

(f) Notwithstanding section 39(b) of this chapter, the commission shall, relative to the allocation fund established under section 39(b) of this chapter for an allocation area for a program adopted under section 45 of this chapter, do the following before July 15 of each year:

(1) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to produce the property taxes necessary:

(A) to make, when due, principal and interest payments on bonds described in section 39(b)(2) of this chapter;

(B) to pay the amount necessary for other purposes described

in section 39(b)(2) of this chapter; and

(C) to reimburse the county or municipality for anticipated expenditures described in subsection (e)(2).

(2) Provide a written notice to the county auditor, the fiscal body of the county or municipality that established the department of redevelopment, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(A) state the amount, if any, of excess property taxes that the commission has determined may be paid to the respective taxing units in the manner prescribed in section 39(b)(1) of this chapter; or

(B) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission.

(g) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in ~~IC 6-1.1-20.9-1)~~ **IC 6-1.1-12-37)** are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (d) for the taxes (as defined in IC 6-1.1-21-2) **(before its repeal)** due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2) **(before its repeal).**

SECTION 166. IC 36-7-22-12, AS AMENDED BY P.L.131-2008, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The board shall use the formula approved by the legislative body under section 7(a)(4) of this chapter to determine the percentage of benefit to be received by each parcel of real property within the economic improvement district. The board shall apply the percentage determined for each parcel to the total

amount that is to be defrayed by special assessment and determine the assessment for each parcel.

(b) Promptly after determining the proposed assessment for each parcel, the board shall mail notice to each owner of property to be assessed. This notice must:

(1) set forth the amount of the proposed assessment;

(2) state that the proposed assessment on each parcel of real property in the economic improvement district is on file and can be seen in the board's office;

(3) state the time and place where written remonstrances against the assessment may be filed;

(4) set forth the time and place where the board will hear any owner of assessed real property who has filed a remonstrance before the hearing date; and

(5) state that the board, after hearing evidence, may increase or decrease, or leave unchanged, the assessment on any parcel.

(c) The notices must be deposited in the mail twenty (20) days before the hearing date. The notices to the owners must be addressed as the names and addresses appear on the tax duplicates and the records of the county auditor.

(d) At the time fixed in the notice, the board shall hear any owner of assessed real property who has filed a written remonstrance before the date of the hearing. The hearing may be continued from time to time as long as is necessary to hear the owners.

(e) The board shall render its decision by increasing, decreasing, or confirming each assessment by setting opposite each name, parcel, and proposed assessment, the amount of the assessment as determined by the board. However, if the total of the assessments exceeds the amount needed, the board shall make a prorated reduction in each assessment.

(f) Except as provided in section 13 of this chapter, the signing of the assessment schedule by a majority of the members of the board and the delivery of the schedule to the county auditor ~~constitutes~~ **constitute** a final and conclusive determination of the benefits that are assessed.

(g) Each economic improvement district assessment is:

(1) included within the definition of property taxation under IC 6-1.1-1-14; and

(2) a lien on the real property that is assessed in the economic improvement district.

The general assembly finds that an economic improvement district assessment is a property tax levied for the general public welfare.

(h) An economic improvement district assessment paid by a property owner is a property tax for the purposes of applying Section 164 of the Internal Revenue Code to the determination of adjusted gross income. However, an economic improvement district assessment paid by a property ~~tax~~ owner is not eligible for a credit under IC 6-1.1, IC 6-3.5, or any other law.

(i) The board shall certify to the county auditor the schedule of assessments of benefits.

SECTION 167. IC 36-7-24-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "facility" refers to the following:

(1) A secure facility for juveniles (as defined in IC 31-9-2-115).

(2) A shelter care facility for juveniles (as defined in ~~IC 31-9-2-118).~~ **IC 31-9-2-117).**

SECTION 168. IC 36-7-35-8, AS ADDED BY P.L.144-2008, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 8. As used in this chapter, "residentially distressed area" means an area:

(1) that has a significant number of:

(A) dwellings (as defined in ~~IC 6-1.1-20.9-1)~~ **IC 6-1.1-12-37)** within the area that are:

(i) not permanently occupied;

(ii) subject to an order issued under IC 36-7-9; or

(iii) evidencing significant building deficiencies; or

(B) vacant parcels of real property (as defined by IC 6-1.1-1-15); or

(2) that has experienced a net loss in the number of dwellings (as defined in ~~IC 6-1.1-20.9-1).~~ **IC 6-1.1-12-37).**

SECTION 169. IC 36-7.6-4-13, AS ADDED BY P.L.232-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]: Sec. 13. (a) All:

(1) property owned by a development authority;

(2) revenue of a development authority; and

(3) bonds issued by a development authority, the interest on the bonds, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received

upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(b) All securities issued under this chapter are exempt from the registration requirements of ~~IC 23-2-1~~ **IC 23-19** and other securities registration statutes.

SECTION 170. IC 36-8-8.5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) The ad valorem property tax levy limits imposed by IC 6-1.1-18.5 do not apply to ad valorem property taxes imposed by a civil taxing unit for a calendar year to pay pension benefits under section 12(c) of this chapter to the extent provided in subsection (b).

(b) For purposes of determining the property tax levy limit imposed on a civil taxing unit under IC 6-1.1-18.5, the civil taxing unit's ad valorem property tax levy for a calendar year does not include an amount equal to the amounts paid by the civil taxing unit for pension benefits in that calendar year under section 12(c) of this chapter, minus:

(1) the amount of pension relief distributions under IC 5-10.3-11-4, IC 5-10.3-11-4.5 **(repealed effective January 1, 2009),** and IC 5-10.3-11-4.7 to be received by the civil taxing unit in that calendar year that is attributable to pension benefits paid under section 12(c) of this chapter for that calendar year; and

(2) an amount equal to the percentage of the civil taxing unit's pension distributions that were relieved under IC 5-13-12-4 in the preceding calendar year, multiplied by the amount of pension benefits paid under section 12(c) of this chapter in that calendar year.

SECTION 171. IC 36-8-21.5-12, AS ADDED BY P.L.89-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. The department shall do the following not later than six (6) months after a county submits a report under section 11 of this chapter:

(1) Review the siren coverage report.

(2) Make any recommendations to the county that the department determines ~~is~~ **to be** necessary to ensure comprehensive severe

weather warning siren coverage for all residents of the county.

SECTION 172. IC 36-8-21.5-13, AS ADDED BY P.L.89-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) A county's siren coverage plan must contain the following information:

(1) The information included in the county's siren coverage report under section 11 of this chapter, including the following:

(A) Information concerning any areas in the county that are not within the range of an existing or a planned siren, as:

(i) identified by the county in its siren coverage report; and

(ii) updated or revised by the county as needed to provide an accurate and current assessment of the county's existing and planned sirens and need for additional sirens.

(B) Information concerning any areas in the county that are within the range of an existing siren if the department has determined that the existing siren does not provide consistent or adequate coverage for the area. As necessary, the county shall update the information provided under this clause as follows:

(i) To include any additional existing sirens that the county legislative body has determined do not provide consistent or adequate coverage for an area. The county shall provide the test, activation, or failure rate data to support its determination as may be required by a rule adopted by the department under this chapter.

(ii) To exclude any siren that the department has determined does not provide consistent or adequate coverage for an area. The county shall provide such proof as may be required by a rule adopted by the department under this chapter that the siren has been repaired or replaced.

(C) Any additional or revised information that:

(i) was not included in the county's siren coverage report; and

(ii) is necessary to provide an accurate and current assessment of the county's existing and planned sirens and need for additional sirens.

(2) An estimate of the nature and location of development that is expected to occur in each area identified under subdivision (1)

during the ten (10) years immediately following the date of the adoption of the plan.

(3) An estimate of the type, location, and cost of the siren or sirens that are necessary to provide complete siren coverage for the areas identified under subdivision (1). The plan must indicate:

(A) the proposed timing and sequencing of the acquisition and installation of each siren; and

(B) the infrastructure agency that is responsible for acquiring and providing for the installation of each siren.

(4) A general description of the sources and amounts of money used to pay for any sirens installed in the county during the five (5) years immediately preceding the date of the plan.

(b) For each area in which the plan provides for the acquisition and installation of a siren, the plan must:

(1) provide for the acquisition and installation within the ten (10) years immediately following the date of the plan's adoption; and

(2) identify the revenue sources and estimate the amount of the revenue sources that the county intends to use to acquire and install the sirens identified under subsection (a)(3).

(c) In preparing, or causing to be prepared, the plan required by this section, the county:

(1) may consult with:

(A) the department; or

(B) a qualified engineer licensed to perform engineering services in Indiana; and

(2) shall consult with each:

(A) infrastructure agency; and

(B) planning agency;

with jurisdiction in an area described in subsection (a)(1).

(d) Before adopting the siren coverage plan prepared under this section, the county legislative body must do the following:

(1) Give notice of and hold at least one (1) public hearing on the plan.

(2) Publish, in accordance with IC 5-3-1, a schedule stating the time and place of each hearing. The schedule must also state where the entire plan is on file and may be examined in its entirety for at least ten (10) days before the hearing.

(e) After considering any comments made at the hearing required by

subsection (d), the county legislative body shall:

(1) adopt the plan:

(A) as originally proposed; or

(B) as modified by the county legislative body after the hearing required by ~~subsection (c),~~ **subsection (d);** and

(2) submit the plan to the department.

(f) A siren coverage plan adopted under this section takes effect on January 1 after its adoption. Each unit having planning and zoning jurisdiction in an area described in subsection (a)(1) shall incorporate the siren coverage plan as part of the unit's comprehensive plan and capital improvement plan, as appropriate.

SECTION 173. IC 36-8-21.5-14, AS ADDED BY P.L.89-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. The department shall assist a county that adopts a siren coverage plan to do the following:

(1) ~~Implementation of~~ **Implement** the plan.

(2) Obtain federal and other grants to enable the county ~~in implementation of~~ **to implement** the plan.

SECTION 174. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 6-2.5-4-16; IC 12-7-2-178.1; IC 13-22-5; IC 20-20-36; IC 20-34-4-7; IC 31-25-2-9.

SECTION 175. P.L.119-2008, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 21. IC 35-38-1-7.1, as amended by this act, and IC 35-42-4-12 and ~~IC 35-52-4-13,~~ **IC 35-42-4-13,** both as added by this act, apply only to crimes committed after June 30, 2008.

SECTION 176. **An emergency is declared for this act.**

P.L.2-2009
[S.423. Approved March 24, 2009.]

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

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

SECTION 1. IC 4-4-10.9-1.2, AS AMENDED BY P.L.162-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.2. "Affected statutes" means all statutes that grant a power to or impose a duty on the authority, including but not limited to IC 4-4-11, IC 4-4-11.4, **IC 4-4-11.6,** IC 4-4-21, IC 4-4-31, IC 4-13.5, IC 5-1-16, IC 8-9.5, IC 8-14.5, IC 8-15, IC 8-15.5, IC 8-16, IC 13-18-13, IC 13-18-21, IC 13-19-5, IC 14-14, and IC 20-12-63.

SECTION 2. IC 4-4-11.6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 11.6. Additional Authority; Substitute Natural Gas Contracts

Sec. 1. As used in this chapter, "account" refers to the substitute natural gas account established by section 27 of this chapter.

Sec. 2. As used in this chapter, "authority" refers to the Indiana finance authority.

Sec. 3. As used in this chapter, "coal gasification facility" means a facility that:

(1) uses a manufacturing process that converts coal into substitute natural gas; and

(2) not later than June 30, 2009, has applied for a federal loan guarantee through the United States Department of Energy Loan Guarantee Program Office, Solicitation Number DE-FOA-0000008 for the financing of the facility.

Sec. 4. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 5. As used in this chapter, "energy utility" has the meaning set forth in IC 8-1-2.5-2.

Sec. 6. As used in this chapter, "management contract" means a contract that:

(1) is entered into by the authority and a regulated energy utility; and

(2) provides for:

(A) the delivery, billing, collection, and remittance of monies received for SNG delivered in the service area of the regulated energy utility; and

(B) reasonable compensation for services provided by the regulated energy utility under the terms of the contract.

Sec. 7. As used in this chapter, "purchase contract" means a contract that:

(1) is entered into by the authority and a producer of SNG for the sale and purchase of SNG;

(2) has a thirty (30) year term;

(3) provides a guarantee of savings for retail end use customers; and

(4) contains other terms and conditions determined necessary by the authority.

Sec. 8. As used in this chapter, "regulated energy utility" means an energy utility that is subject to IC 8-1-2-42.

Sec. 9. As used in this chapter, "related contract" means a contract for services that the authority determines are necessary and appropriate for the delivery of SNG to the city gate point of a regulated energy utility.

Sec. 10. As used in this chapter, "retail end use customer" means a customer who acquires energy at retail for the customer's own consumption:

(1) from a gas utility that must apply to the commission under IC 8-1-2-42 for approval of gas cost changes; or

(2) under a program approved by the commission through which the customer purchases gas that would be subject to price adjustments under IC 8-1-2-42 if the gas were sold by a gas utility.

Sec. 11. As used in this chapter, "substitute natural gas" or "SNG" means pipeline quality gas produced by a facility that uses a gasification process to convert coal into a gas capable of being

used by a utility to supply gas utility service to retail end use customers in Indiana.

Sec. 12. The general assembly makes the following findings:

(1) The furnishing of reliable supplies of reasonably priced natural gas for sales to retail customers is essential for the well being of the people of Indiana. Natural gas prices are volatile, and energy utilities have been unable to mitigate completely the effects of the volatility.

(2) Long term contracts for the purchase of SNG between the authority and SNG producers will enhance the receipt of federal incentives for the development, construction, and financing of new coal gasification facilities in Indiana.

(3) The authority's participation in and oversight of the purchase, sale, and delivery of SNG to retail end use customers is critical to obtain low cost financing for the construction of new coal gasification facilities.

(4) Obtaining low cost financing for the construction of new coal gasification facilities is necessary to allow retail end use customers to enjoy the benefits of a reliable, reasonably priced, and long term energy supply.

Sec. 13. The authority may do the following:

(1) Enter into contracts for the purchase, transportation, and delivery of SNG.

(2) Establish and collect rates and charges for SNG.

(3) Enter into contracts for private professional and technical assistance concerning SNG contracts.

Sec. 14. (a) The authority, either directly or as an assignee of an energy utility, may enter into purchase contracts for the purchase of SNG from coal gasification facilities.

(b) The authority shall submit a final purchase contract to the commission for approval.

Sec. 15. The authority may enter into management and related contracts as needed to transport, store, deliver, manage, and bill and collect for the delivery and sale of SNG to retail end use customers.

Sec. 16. Notwithstanding any other law, including public purchasing and competitive bidding requirements, the authority may procure purchase and related contracts using the processes and procedures it considers appropriate to obtain a reliable, long

term supply of SNG.

Sec. 17. Before negotiating the terms of, entering into, or accepting assignment of a contract under this chapter, the authority shall consult with the consumer counselor of the office of utility consumer counselor appointed under IC 8-1-1.1-3.

Sec. 18. (a) The authority may take title to SNG under the terms of the purchase contract to which the authority is a party.

(b) The commission shall allocate on an annual basis SNG purchased by the authority to the retail end use customers of a regulated energy utility based on the proportion of the amount of gas delivered by the regulated energy utility to the total amount of gas delivered by all regulated energy utilities in the immediately preceding calendar year.

(c) SNG is considered sold by the authority when the SNG is delivered to retail end use customers.

(d) The authority has the right to sell SNG to third parties instead of retail end use customers if the authority determines that sales to third parties are necessary and appropriate to manage the delivery of SNG to retail end use customers.

Sec. 19. (a) If the authority sells SNG to retail end use customers, the authority shall sell the SNG at a price that is sufficient to permit recovery by the authority of costs related to the SNG sold to the retail end use customers, including the following:

(1) Costs of purchasing SNG.

(2) Costs of transporting SNG.

(3) Costs of delivering SNG.

(4) Costs incurred by the authority in administering this chapter.

(5) Costs associated with supplying working capital, maintaining financial reserves, and allowing for defaults by retail end use customers.

The mechanism and processes that the authority uses to calculate the costs must be capable of audit and verification.

(b) The commission shall require a regulated energy utility to include in the rates collected from retail end use customers that purchase SNG from the authority the price for SNG sold to the retail end use customers by the authority.

(c) The commission shall adopt rules under IC 4-22-2 to carry out the requirements of this section. A rule adopted under this

subsection must require that a bill provided by a regulated energy utility to a retail end use customer include a line item for costs associated with the purchase and delivery of SNG.

Sec. 20. (a) A payment for SNG:

(1) to which the authority holds title; and

(2) that is delivered by a regulated energy utility to its retail end use customers;

is a direct obligation of the retail end use customers to the authority. The regulated energy utility shall collect the payments from the retail end use customers as an agent of the authority.

(b) Payments made under subsection (a):

(1) are the property of the authority;

(2) shall be segregated and held in trust for the authority by the regulated energy utility that collects the payments; and

(3) shall be credited to the account.

Sec. 21. The obligation of the authority to pay for SNG, or for any services under a contract entered into under this chapter, is limited to the funds available in the account plus any other amount recoverable by the authority through a provision included in a contract under section 19 of this chapter. An obligation under this section is not supported by the full faith and credit of the state.

Sec. 22. (a) Upon the request of the authority, the commission shall order a regulated energy utility to enter into a management contract with the authority to:

(1) distribute and deliver SNG purchased by the authority; and

(2) provide billing, collection, and other services related to the purchase, distribution, and delivery of the SNG.

(b) A management contract entered into under subsection (a) must include a mechanism by which the regulated energy utility is reimbursed for all costs incurred in performing the management contract in excess of costs that, as determined by the commission, the regulated energy utility would otherwise have incurred in the ordinary course of business.

Sec. 23. Notwithstanding any other law, the authority is not:

(1) considered an energy utility solely by virtue of its participation in any transaction described in this chapter;

(2) subject to the jurisdiction of the commission except as provided in this chapter; or

(3) required to obtain the approval of the commission except as provided in this chapter.

Sec. 24. If the authority enters into a contract under this chapter, the state covenants and agrees, for the benefit of the parties to the contract, as well as any entity that provides financing to a party to the contract, that the state will not take or permit any action that would:

(1) impair the contract; or

(2) otherwise limit, alter, or impair the ability of the authority to satisfy its contractual obligations, including the establishment and collection of the price for SNG from retail end use customers;

until the contract has been performed in full.

Sec. 25. This chapter does not authorize the authority to take ownership of the transportation, transmission, generation, production, or distribution assets of an energy utility.

Sec. 26. This chapter may not be construed to reduce or modify an energy utility's obligation to provide energy service.

Sec. 27. (a) The authority shall establish and administer a separate account known as the substitute natural gas account.

(b) The account consists of payments credited to the account under section 20(b)(3) of this chapter.

(c) The authority shall use the account to provide funding and pay expenses to satisfy the obligations of this chapter.

Sec. 28. In addition to the rules adopted under section 19(c) of this chapter, the authority may adopt rules under IC 4-22-2 to implement this chapter, including a rule to protect confidential or proprietary financial or trade secret information included in reports provided to the authority by SNG producers, energy utilities, or regulated energy utilities.

Sec. 29. The terms of a customer choice program (as defined in IC 8-1-2-42.1) may not impair the ability of the authority to deliver and sell SNG to retail end use customers.

SECTION 3. **An emergency is declared for this act.**

P.L.3-2009
[H.1049. Approved April 8, 2009.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 2-5-27.2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. As used in this chapter, "commission" refers to the commission on ~~mental retardation and~~ developmental disabilities established under section 2 of this chapter.

SECTION 2. IC 2-5-27.2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. There is established the commission on ~~mental retardation and~~ developmental disabilities as a legislative study committee.

SECTION 3. IC 2-5-27.2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The commission consists of the following members:

(1) Two (2) members of the house of representatives appointed by the speaker of the house of representatives. The members appointed under this subdivision may not be members of the same political party.

(2) Two (2) members of the senate appointed by the president pro tempore of the senate. The members appointed under this subdivision may not be members of the same political party.

(3) The following members appointed by the governor:

(A) Three (3) members at large.

(B) One (1) member who is a consumer of ~~mental retardation or~~ developmental disability services.

(C) One (1) member who is a representative of advocacy groups for consumers of ~~mental retardation and~~ developmental disability services.

(D) Two (2) members who are representatives of families of

consumers of ~~mental retardation and~~ developmental disability services.

(E) One (1) member who is a representative of an organization providing services to individuals with ~~mental retardation and~~ developmental disabilities.

(b) The term of a commission member appointed under subsection (a)(3) is three (3) years.

(c) The governor shall fill a vacancy of a member under subsection (a)(3) within ten (10) days after the vacancy occurs.

(d) If:

(1) the term of a member appointed under subsection (a)(3) expires;

(2) the member is not reappointed; and

(3) a successor is not appointed;

the term of the member continues until a successor is appointed.

SECTION 4. IC 2-5-27.2-4, AS AMENDED BY P.L.99-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. The commission shall do the following:

(1) Develop a long range plan to stimulate further development of cost effective, innovative models of community based services, including recommendations that identify implementation schedules, plans for resource development, and appropriate regulatory changes.

(2) Review and make recommendations regarding any unmet needs for ~~mental retardation and~~ developmental disability services, including the following:

(A) Community residential and family support services.

(B) Services for aging families caring for their children ~~who have mental retardation~~ and adults with a developmental disability.

(C) Services for families in emergency or crisis situations.

(D) Services needed to move children and adults from nursing homes and state hospitals to the community.

(3) Study and make recommendations for the state to use state employees or contract with a private entity to manage and implement home and community based services waivers under 42 U.S.C. 1396n(c).

(4) Study and make recommendations regarding state funding needed to provide supplemental room and board costs for

individuals who otherwise qualify for residential services under the home and community based services waivers.

(5) Monitor and recommend changes for improvements in the implementation of home and community based services waivers managed by the state or by a private entity.

(6) Review and make recommendations regarding the implementation of the comprehensive plan prepared by the developmental disabilities task force established by P.L.245-1997, SECTION 1.

(7) Review and make recommendations regarding the development by the division of disability and rehabilitative services of a statewide plan to address quality assurance in community based services.

(8) Annually review the infants and toddlers with disabilities program established under IC 12-12.7-2.

SECTION 5. IC 12-11-13-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) The ombudsman shall prepare a report each year on the operations of the program.

(b) A copy of the report required under subsection (a) shall be provided to the following:

(1) The governor.

(2) The legislative council. The report must be in an electronic format under IC 5-14-6.

(3) The division.

(4) The members of the ~~Indiana~~ commission on ~~mental retardation and~~ developmental disabilities established by ~~P.L.78-1994.~~ **IC 2-5-27.2-2.**

SECTION 6. IC 12-11-13-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. The ombudsman shall report:

(1) annually; or

(2) upon request;

to the ~~Indiana~~ commission on ~~mental retardation and~~ developmental disabilities established by ~~P.L.78-1994.~~ **IC 2-5-27.2-2.**

SECTION 7. IC 12-12.7-2-19, AS ADDED BY P.L.93-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 19. The budget agency shall annually report to the health finance commission, the budget committee, and the commission

on ~~mental retardation and~~ developmental disabilities the following information concerning the funding of the program under this chapter:

(1) The total amount billed to a federal or state program each state fiscal year for services provided under this chapter, including the following programs:

(A) Medicaid.

(B) The children's health insurance program.

(C) The federal Temporary Assistance for Needy Families (TANF) program (45 CFR 265).

(D) Any other state or federal program.

(2) The total amount billed each state fiscal year to an insurance company for services provided under this chapter and the total amount reimbursed by the insurance company.

(3) The total copayments collected under this chapter each state fiscal year.

(4) The total administrative expenditures.

The report must be submitted before September 1 for the preceding state fiscal year in an electronic format under IC 5-14-6.

P.L.4-2009

[H.1193. Approved April 8, 2009.]

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

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

SECTION 1. IC 15-11-11-6.5, AS ADDED BY P.L.91-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.5. As used in this chapter, "unit" means a city, town, county, ~~or~~ township, **school corporation (as defined in IC 20-18-2-16(a)), or a college or university (as defined in IC 21-7-13-10).**

P.L.5-2009
[H.1218. Approved April 8, 2009.]

AN ACT to amend the Indiana Code concerning commercial law.

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

SECTION 1. IC 26-4-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The corporation's board is created. The governing powers of the corporation are vested in the board, which is composed of thirteen (13) members as described in subsections (b) and (c).

(b) The board consists of the following ten (10) voting members:

(1) Two (2) members appointed by the largest Indiana organization representing the interests of grain and feed dealers in Indiana.

(2) Two (2) members appointed by the largest Indiana organization representing general farm interests in Indiana.

(3) One (1) member appointed by the second largest Indiana organization representing general farm interests in Indiana.

(4) One (1) member appointed by the largest Indiana organization exclusively representing the interests of corn producers.

(5) One (1) member appointed by the largest Indiana organization exclusively representing the interests of soybean producers in Indiana.

(6) ~~One (1) member~~ **Two (2) members** appointed by the largest Indiana organization representing the interests of bankers in Indiana.

~~(7) One (1) member appointed by the second largest Indiana organization representing the interests of bankers in Indiana.~~

~~(8)~~ **(7)** One (1) member appointed by the largest Indiana organization representing the interests of the seed trade in Indiana.

The members appointed under subdivisions (2) through (5) must be

producers.

(c) The board consists of the following three (3) nonvoting members:

(1) The attorney general.

(2) The treasurer of state.

(3) The director of the agency, who shall serve as the chairperson.

(d) The attorney general and treasurer of state may each designate a representative to serve on the board.

SECTION 2. IC 26-4-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The fund consists of money paid into the fund from the producers of grain under section 4 of this chapter.

(b) The expenses of administering the fund must be paid from money in the fund. After the fund reaches an amount in excess of ~~five million dollars ($5,000,000),~~ **ten million dollars ($10,000,000),** the board may annually take not more than two hundred fifty thousand dollars ($250,000) and allocate it to a separate administrative expenses account to pay administrative expenses. Administrative expenses under this section may include:

(1) processing refunds;

(2) enforcement of the fund;

(3) record keeping in relation to the fund; and

(4) the ordinary management and investment fees connected with the operation of the fund.

(c) Board approved legal fees and legal expenses in actions brought against the corporation, board, or fund must be paid from money in the fund. These fees and expenses are not administrative costs and may not be paid from the administrative expense account.

SECTION 3. IC 26-4-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) The producer premiums required under section 4 of this chapter must be collected until the fund contains more than ~~ten million dollars ($10,000,000)~~ **fifteen million dollars ($15,000,000)** as of June 30 of any given year.

(b) Except as provided in subsection (c), after the fund reaches ~~ten million dollars ($10,000,000),~~ **fifteen million dollars ($15,000,000),** the board may not require the collection of additional producer premiums until the amount in the fund drops below ~~five million dollars ($5,000,000)~~ **ten million dollars ($10,000,000),** as determined under

section 9 of this chapter. In a year when the board determines that the fund is at or below ~~five million dollars ($5,000,000),~~ **ten million dollars ($10,000,000),** the board shall reinstate the collection described in this chapter.

(c) The board shall reinstate the collection described in this chapter if as of May 1:

(1) the fund contains at least ~~five million dollars ($5,000,000);~~ **ten million dollars ($10,000,000);**

(2) the board is aware of a failure of a grain buyer; and

(3) the amount of compensation from the fund to cover producers' claims, as determined by the board, is equal to or greater than the amount of money in the fund.

SECTION 4. IC 26-4-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) At the May meeting required under IC 26-4-3-5, the board shall certify the amount of money in the fund on May 1.

(b) Except as provided in section 8(c) of this chapter, the board may not require the collection of a producer premium during a fiscal year when the board certifies under subsection (a) that the fund has money in excess of ~~five million dollars ($5,000,000).~~ **ten million dollars ($10,000,000).** If the fund is at or below ~~five million dollars ($5,000,000)~~ **ten million dollars ($10,000,000),** the board shall reinstate the collection.

P.L.6-2009
[H.1258. Approved April 8, 2009.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-13-2-102.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 102.3. "Metered space", for purposes of IC 9-18-17 and IC 9-18-18, means a public parking space at which parking is regulated by:**

(1) a parking meter; or

(2) an official traffic control device that imposes a maximum parking time for the public parking space.

The term does not include parking spaces or areas regulated under IC 9-21-18.

SECTION 2. IC 9-18-17-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4. (a) A person who has been issued under this chapter a license plate designating the person's motor vehicle as being owned or leased by a former prisoner of war may not be:**

(1) charged a fee for parking the motor vehicle displaying the license plate in a metered space; or

(2) assessed a penalty for parking the motor vehicle displaying the license plate in a metered space for longer than the time permitted.

(b) This section does not authorize parking of a motor vehicle in a parking place during a time when parking in the space is prohibited if the prohibition is:

(1) posted; and

(2) authorized:

(A) by ordinance in a city or town; or

(B) by order of the Indiana department of transportation.

(c) A person other than the owner or lessee of a motor vehicle displaying a former prisoner of war license plate authorized by this chapter is not entitled to the parking privileges established by this section.

SECTION 3. IC 9-18-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A person qualifying under section 1 of this chapter may not be:

(1) charged ~~the following: (1)~~ a fee for parking in a metered space; **or**

(2) **assessed** a penalty for parking in a metered space for longer than the time permitted.

(b) This section does not authorize parking of a motor vehicle in ~~places where parking is not allowed at any~~ **a parking place during a** time when **parking in the space is prohibited if** the prohibition is:

(1) posted; and**(2)** authorized:

(A) by ordinances in cities and towns; or

(B) by order of the Indiana department of transportation.

(c) A person other than the owner of the motor vehicle displaying a disabled veteran license plate authorized by this chapter is not entitled to the parking privileges authorized by this section.

P.L.7-2009

[H.1292. Approved April 8, 2009.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 25-26-22 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 22. Pharmacy Audits

Sec. 1. The definitions contained in IC 25-26-13-2 apply throughout this chapter.

Sec. 2. As used in this chapter, "audit" means an audit of a pharmacy:

(1) on behalf of a third party payer; and

(2) related to a particular claim made by the pharmacy to the third party payer.

Sec. 3. As used in this chapter, "extrapolation audit" means an audit of a sample of claims submitted by a pharmacy to a third party payer, the results of which are used to estimate audit results for a larger group of unaudited claims submitted by the pharmacy to the third party payer.

Sec. 4. An audit must be conducted in compliance with this chapter.

Sec. 5. An auditor conducting an audit shall comply with all of the following:

(1) The contract under which the audit is performed must provide a description of audit procedures that will be followed.

(2) For an onsite audit conducted at a pharmacy's location, the auditor that conducts the audit shall provide written notice to the pharmacy at least two (2) weeks before the initial onsite audit is performed for each audit cycle.

(3) The auditor shall not interfere with the delivery of pharmacist services to a patient and shall use every effort to minimize inconvenience and disruption to pharmacy operations during the audit. This subdivision does not prohibit audits during normal business hours of the pharmacy.

(4) If the audit requires use of clinical or professional judgment, the audit must be conducted by or in consultation with a licensed pharmacist.

(5) The auditor shall allow the use of written or otherwise transmitted hospital, physician, or other health practitioner records to validate a pharmacy record with respect to a prescription for a legend drug.

(6) The auditor shall perform the audit according to the same standards and parameters that the auditor uses to audit all other similarly situated pharmacies on behalf of the third

party payer.

(7) The period covered by the audit must not exceed twenty-four (24) months after the date on which the claim that is the subject of the audit was submitted to or adjudicated by the third party payer, and the pharmacy must be permitted to resubmit electronically any claims disputed by the audit. This subdivision does not limit the period for audits under the Medicaid program that are conducted due to a federal requirement.

(8) The audit must not be initiated or scheduled during the first five (5) calendar days of any month without the voluntary consent of the pharmacy. The consent may not be mandated by a contract or any other means.

(9) Payment to the on-site auditor for conducting the audit must not be based on a percentage of any amount recovered as a result of the audit.

Sec. 6. Following an audit, the auditor shall provide to the pharmacy written audit reports as follows:

(1) The auditor shall deliver a preliminary audit report to the pharmacy not later than ninety (90) days after the audit is concluded.

(2) The auditor shall provide with the preliminary audit report a written appeal procedure for the pharmacy to follow if the pharmacy desires to appeal a finding contained in the preliminary audit report.

(3) The auditor shall deliver a final audit report to the pharmacy not later than one hundred twenty (120) days after:

(A) the preliminary audit report is received by the pharmacy; or

(B) if an appeal is filed, a final appeal determination is made;

whichever is later.

(4) Each audit report must be signed by the auditor and a pharmacist participating in the audit.

(5) The auditor shall provide a copy of the final audit report to the third party payer.

Sec. 7. (a) A clerical error related to or contained in a document that is necessary to the conduct of an audit does not constitute fraud without proof of intent to commit fraud.

(b) A clerical error that results in inappropriate payment of a claim by the third party payer may result in recoupment of any inappropriately made payment.

Sec. 8. An audit finding of an overpayment or underpayment of a claim:

(1) must be based on an actual overpayment or underpayment; and

(2) may not be based on a projection that is based on the number of:

(A) patients who:

(i) have similar diagnoses; and

(ii) are served by the pharmacy; or

(B) prescriptions for or refills of similar legend drugs that are dispensed by the pharmacy.

Sec. 9. (a) A final audit report must first be distributed before recoupment of funds may be made based on an audit finding of overpayment or underpayment.

(b) Except for audits conducted under the Medicaid program, interest on funds described in subsection (a) does not accrue during the audit period.

Sec. 10. The results of an extrapolation audit may not be used by an auditor as a basis for calculating overpayment or underpayment recoupments or penalties.

Sec. 11. This chapter does not apply to an investigative audit conducted for purposes of determining whether fraud, willful misrepresentation, or alleged serious abuse has occurred.

SECTION 2. [EFFECTIVE JULY 1, 2009] **(a) IC 25-26-22, as added by this act, applies only to an audit related to pharmacy services that are provided after June 30, 2009.**

(b) This SECTION expires June 30, 2014.

SECTION 3. [EFFECTIVE JULY 1, 2009] **(a) Before November 1, 2009, the health finance commission (established by IC 2-5-23-3) shall study and make recommendations concerning the following:**

(1) Whether pharmacy audits conducted under IC 25-26-22 (as added by this act) should provide for an independent third party appeal.

(2) If an independent third party audit is recommended, who should pay the costs for the audit.

(b) This SECTION expires December 1, 2009.

P.L.8-2009
[H.1331. Approved April 8, 2009.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-8-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A city shall provide the active members of the police and fire departments with all uniforms, clothing, arms, and equipment necessary to perform their duties. **Except as provided in section 4.5 of this chapter,** after one (1) year of regular service in either department, a member may be required by the city to furnish and maintain all of ~~his~~ **the active member's** uniforms, clothing, arms, and equipment upon payment to the member by the city of an annual cash allowance of at least two hundred dollars ($200). The city may credit the uniform allowance to each member against ~~his~~ **the active member's** purchases during the calendar year and provide for the payment of any cash balance remaining at the end of the calendar year.

(b) All uniforms, clothing, arms, and equipment provided by the city under this section remain the property of the city. The city may sell the property when it becomes unfit for use, and all money received shall be paid into the general fund of the city. Any property lost or destroyed through the carelessness or neglect of ~~a~~ **an active** member shall be charged against the **active** member and the value deducted from ~~his~~ **the active member's** pay.

SECTION 2. IC 36-8-4-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4.5. (a) As used in this section, "body armor" has the meaning set forth in IC 35-47-5-13(a).**

(b) After December 31, 2009, a unit shall provide an active member of the police department of the unit with body armor for the torso. The unit shall replace the body armor for the torso

according to the replacement period recommended by the manufacturer of the body armor for the torso.

(c) An active member of the police department of a unit shall not be required to maintain the body armor for the torso furnished under this section from any annual cash allowance paid to the member under section 4(a) of this chapter.

(d) Body armor for the torso provided by a unit under this section remains the property of the unit. The unit may sell the property when it becomes unfit for use, and all money received shall be paid into the general fund of the unit.

SECTION 3. IC 36-9-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. **(a)** A unit may establish a cumulative building or sinking fund or cumulative capital improvement funds to provide money for one (1) or more of the following purposes:

(1) To purchase, construct, equip, and maintain buildings for public purposes.

(2) To acquire the land, and any improvements on it, that are necessary for the construction of public buildings.

(3) To demolish any improvements on land acquired under this section, and to level, grade, and prepare the land for the construction of a public building.

(4) To acquire land or rights-of-way to be used as a public way or other means of ingress or egress to land acquired for the construction of a public building.

(5) To improve or construct any public way or other means of ingress or egress to land acquired for the construction of a public building.

(b) In addition to the purposes described in subsection (a), a cumulative capital improvement fund may be used to purchase body armor (as defined in IC 36-8-4-4.5(a)) for active members of a police department.

SECTION 4. IC 36-9-16-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. A unit may establish cumulative capital improvement funds to provide money for one (1) or more of the following purposes:

(1) To acquire land or rights-of-way to be used for public ways or sidewalks.

(2) To construct and maintain public ways or sidewalks.
(3) To acquire land or rights-of-way for the construction of sanitary or storm sewers, or both.
(4) To construct and maintain sanitary or storm sewers, or both.
(5) To acquire, by purchase or lease, or to pay all or part of the purchase price of a utility.
(6) To purchase or lease land, buildings, or rights-of-way for the use of any utility that is acquired or operated by the unit.
(7) To purchase or acquire land, with or without buildings, for park or recreation purposes.
(8) To purchase, lease, or pay all or part of the purchase price of motor vehicles for the use of the police or fire department, or both, including ambulances and firefighting vehicles with the necessary equipment, ladders, and hoses.
(9) To retire in whole or in part any general obligation bonds of the unit that were issued for the purpose of acquiring or constructing improvements or properties that would qualify for the use of cumulative capital improvement funds.
(10) To purchase or lease equipment and other nonconsumable personal property needed by the unit for any public transportation use.
(11) In a county or a consolidated city, to purchase or lease equipment to be used to illuminate a public way or sidewalk.
(12) The fund may be used for any of the following purposes:
(A) To purchase, lease, upgrade, maintain, or repair one (1) or more of the following:
(i) Computer hardware.
(ii) Computer software.
(iii) Wiring and computer networks.
(iv) Communication access systems used to connect with computer networks or electronic gateways.
(B) To pay for the services of full-time or part-time computer maintenance employees.
(C) To conduct nonrecurring inservice technology training of unit employees.
(13) To purchase body armor (as defined in IC 36-8-4-4.5(a)) for active members of a police department.

P.L.9-2009
[H.1389. Approved April 8, 2009.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-33-5-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 15. (a) Each school corporation shall provide each student who applies for free or reduced priced lunches under the national school lunch program with an enrollment form for the twenty-first century scholars program under IC 21-12-6.**

(b) The department shall provide each school corporation with sufficient application forms under this section.

(c) Each school shall give assistance in reading the instructions and completing the enrollment forms for the twenty-first century scholars program.

P.L.10-2009
[H.1479. Approved April 8, 2009.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-28-2-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 11. The department shall collaborate with nonprofit**

entities, the commission for higher education, and state educational institutions to develop and implement initiatives focusing on the recruitment and retention of qualified educators from underrepresented populations. The initiatives should include, but are not limited to, the following activities:

(1) Development of a recruitment plan for underrepresented and teacher shortage areas.

(2) Production of a web site as a communication tool that provides resource information and scholarship opportunities.

(3) Development of a research agenda and network support system at each state educational institution to remove barriers and address challenges faced by students of underrepresented populations in order to recruit, retain, and graduate these students.

P.L.11-2009

[H.1037. Approved April 11, 2009.]

AN ACT to amend the Indiana Code concerning alcohol and tobacco.

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

SECTION 1. IC 7.1-3-25-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4.5. (a) Except as provided in subsection (b), a successor, upon acquiring products, shall:**

(1) reappoint the existing wholesaler for:

(A) all acquired products; and

(B) the territories covered by the existing wholesaler for the products; or

(2) comply with this chapter to transfer the products to another wholesaler.

(b) If the products acquired by a successor represent at least fifteen percent (15%) of an existing wholesaler's dollar sales in the twelve (12) months preceding the closing of the transaction in which the successor acquires the products, the successor:

(1) shall reappoint the existing wholesaler for:

(A) all acquired products; and

(B) the territories covered by the existing wholesaler for the products; and

(2) may not transfer the product to another wholesaler.

SECTION 2. IC 7.1-3-25-6, AS ADDED BY P.L.224-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. The successor shall notify the existing wholesaler of the successor's intent not to appoint the existing wholesaler for all or a part of the existing wholesaler's territory for the product **not later than sixty (60) days after the closing of the transaction in which the successor acquires the product.** The successor shall mail the notice by certified mail, return receipt requested, to the existing wholesaler. The successor shall include in the notice the names, addresses, and telephone numbers of the successor's designees.

P.L.12-2009

[S.57. Approved April 14, 2009.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-28-2-6, AS AMENDED BY P.L.144-2007, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Subject to subsection (c) and in addition to the powers and duties set forth in IC 20-20-22 or this article, the advisory board may adopt rules under IC 4-22-2 to do the following:

(1) Set standards for teacher licensing and for the administration of a professional licensing and certification process by the department.

(2) Approve or disapprove teacher preparation programs.

(3) Set fees to be charged in connection with teacher licensing.

(4) Suspend, revoke, or reinstate teacher licenses.

(5) Enter into agreements with other states to acquire reciprocal approval of teacher preparation programs.

(6) Set standards for teacher licensing concerning new subjects of study.

(7) Evaluate work experience and military service concerning postsecondary education and experience equivalency.

(8) Perform any other action that:

(A) relates to the improvement of instruction in the public schools through teacher education and professional development through continuing education; and

(B) attracts qualified candidates for teacher education from among the high school graduates of Indiana.

(9) Set standards for endorsement of school psychologists as independent practice school psychologists under IC 20-28-12.

(10) Before July 1, 2010, set standards for sign language interpreters who provide services to children with disabilities in an educational setting and an enforcement mechanism for the interpreter standards.

(b) Notwithstanding subsection (a)(1), an individual is entitled to one (1) year of occupational experience for purposes of obtaining an occupational specialist certificate under this article for each year the individual holds a license under IC 25-8-6.

(c) Before publishing notice of the intent to adopt a rule under IC 4-22-2, the advisory board must submit the proposed rule to the state superintendent for approval. If the state superintendent approves the rule, the advisory board may publish notice of the intent to adopt the rule. If the state superintendent does not approve the rule, the advisory board may not publish notice of the intent to adopt the rule.

(d) The advisory board may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to establish procedures to expedite the issuance, renewal, or reinstatement under this article of a license or certificate of a person whose spouse serves on active duty (as

defined in IC 25-1-12-2) and is assigned to a duty station in Indiana. Before publishing notice of the intent to adopt a permanent rule under IC 4-22-2, the advisory board must comply with subsection (c).

P.L.13-2009
[S.271. Approved April 14, 2009.]

AN ACT to amend the Indiana Code concerning higher education.

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

SECTION 1. IC 21-46-3-5, AS ADDED BY P.L.2-2007, SECTION 287, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Requests for any increases in funds for the expansion or other alteration of the facilities of the laboratory including:

(1) all changes in policies, including approval of a charge for any services furnished by the laboratory or the level of the charges; or

(2) the establishment of branch laboratories;

must originate from the Indiana state board of animal health, subject to the written approval of the ~~board of trustees~~ **treasurer** of Purdue University.

(b) The proceeds from the fees under this chapter ~~must be used for equipment and supplies for the laboratory.~~ **may not be used for faculty salaries.** All fees collected must be deposited into a separate fund within the treasury of Purdue University.

P.L.14-2009
[S.301. Approved April 14, 2009.]

AN ACT to amend the Indiana Code concerning Medicaid.

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

SECTION 1. IC 12-15-2-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 23. (a) This section is effective beginning October 1, 2009.**

(b) Except as provided in subsection (c), when the office conducts a look back (as described in 42 U.S.C. 1396p(c)) to determine, for purposes of eligibility, whether an individual improperly transferred assets, the office shall not consider in total one thousand two hundred dollars ($1,200) per year of contributions made by the individual to a:

(1) family member; or

(2) nonprofit organization;

as an improper transfer.

(c) The office may disregard a contribution by an individual if the individual can demonstrate that the transfer follows a pattern that existed for at least three (3) years before applying for Medicaid or was not for the purpose of fraud.

(d) Any rule adopted by the office of the secretary concerning a transfer of property may not apply to a transfer of property that occurred before the effective date of the rule.

SECTION 2. IC 12-15-2-23.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 23.5. (a) This section is effective beginning October 1, 2009.**

(b) The office may not implement the optional provision allowed in 42 U.S.C 1396p(c)(1)(A) to apply penalties specified in 42 U.S.C. 1396p(c)(1)(A) to a noninstitutionalized individual or the spouse of

the noninstitutionalized individual for the disposal of assets for less than fair market value.

(c) In implementing the federal Deficit Reduction Act of 2005, the office shall comply with the following:

(1) A rule adopted may not apply to the transfer of property or another transaction that occurred before the passage of the rule.

(2) The office may not require an individual to return all assets in order to reduce a penalty period for the transfer of assets. The office shall allow a penalty period to be proportionally reduced for a partial return of assets.

SECTION 3. IC 30-4-3-25.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 25.5. (a) This section applies beginning October 1, 2009.**

(b) Except as provided in subsection (d), when a trust created to comply with 42 U.S.C. 1396p(d)(4)(A) is terminated, the trustee shall not distribute trust property to any person entitled to payment from the trust until the office of Medicaid policy and planning has been fully reimbursed for assistance rendered to the person for whom the trust was created.

(c) The primary purpose of a trust described in subsection (b) is to ensure that the state is repaid Medicaid benefits provided in return for excepting the trust from the general requirements of 42 U.S.C. 1396(d).

(d) A trustee may pay federal and state taxes from the trust before reimbursing the office of Medicaid policy and planning.

P.L.15-2009
[S.304. Approved April 14, 2009.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-15-13-6, AS AMENDED BY P.L.187-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Except as provided by IC 12-15-35-50, a notice or bulletin that is issued by:

(1) the office;

(2) a contractor of the office; or

(3) a managed care plan under the office;

concerning a change to the Medicaid program that does not require use of the rulemaking process under IC 4-22-2 may not become effective until forty-five (45) days after the date the notice or bulletin is ~~mailed~~ **communicated** to the parties affected by the notice or bulletin.

(b) The office must ~~mail~~ **provide** a **written** notice or bulletin described in subsection (a) within five (5) business days after the date on the notice or bulletin.

P.L.16-2009
[S.346. Approved April 14, 2009.]

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

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

SECTION 1. IC 1-1-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. The repeal **or expiration** of a special act incorporating a corporation has no effect on the subsequent reorganization of the corporation under a general statute.

SECTION 2. IC 1-1-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. The repeal **or expiration** of a legalizing or validating statute or part of a statute does not affect the legalization or validation.

SECTION 3. IC 1-1-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) This section applies to the repeal **or expiration** of a statute or part of a statute authorizing either of the following:

(1) The transfer, conveyance, or acceptance of:
(A) property;
(B) powers, duties, and liabilities; or
(C) rules adopted under IC 4-22-2;
by a governmental entity.
(2) Cession or retrocession of jurisdiction over property between the state and the United States.

(b) The repeal **or expiration** does not affect the validity of the transfer, conveyance, or acceptance of:
(1) property;
(2) powers, duties, and liabilities; or
(3) rules;
occurring before the effectiveness of the repeal **or the date of the expiration.**

(c) The repeal **or expiration** does not affect the validity of the cession or retrocession of jurisdiction over property between the state and the United States.

SECTION 4. IC 1-1-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. Whenever a statute ~~is repealed~~ that nullified an action:

(1) is repealed; or

(2) expires;

the action is not approved or ratified unless the approval or ratification is expressly provided in the statute.

SECTION 5. IC 1-1-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. Whenever a statute ~~is repealed~~ that voided a rule:

(1) is repealed; or

(2) expires;

the rule is not revived unless the statute expressly provides for the revival.

SECTION 6. IC 1-1-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. The repeal **or expiration** of a statute or part of a statute that:

(1) sets forth the effective date of a statute or part of a statute; and

(2) is repealed **or expires** after the statute or part of a statute has taken effect;

has no effect on the effective date of the statute.

SECTION 7. IC 1-1-5-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 10. The expiration of a statute has the same effect that the repeal of the statute, effective on the date of the expiration of the statute, would have had.**

SECTION 8. IC 2-5-1.1-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 17. It is not the intent of the general assembly in enacting sections 12 (repealed), 13, 14, 15, and 16 of this chapter to change the judicial rule of statutory construction expressed in Tinder, Pros. Atty. et al. v. Clarke Auto Co., Inc. (1958), 238 Ind. 302, 149 N.E.2d 808 and later cases that the motive of individual sponsors of legislation cannot be imputed to the general assembly unless there is a basis for it in its statutory expression.**

SECTION 9. IC 2-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

ARTICLE 5.5. LEGISLATIVE STUDY COMMITTEES

Chapter 1. General Provisions

Sec. 1. This chapter applies to all committees established under this article.

Sec. 2. As used in this chapter, "committee" refers to a commission, a committee, or another body (however designated) established under this article.

Sec. 3. Except as provided in this article, the legislative services agency shall provide staff support to a committee.

Sec. 4. Each member of a committee is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative and lay members, respectively, of interim study committees established by the legislative council.

Sec. 5. The affirmative votes of a majority of the voting members appointed to a committee are required for the committee to take action on any measure, including the final report.

Sec. 6. Except as otherwise specifically provided by this article, a committee shall operate under the policies and rules of the legislative council.

Sec. 7. All funds necessary for a committee to carry out its functions shall be paid from appropriations to the legislative council and the legislative services agency.

Sec. 8. A committee shall submit interim and final reports to the legislative council in an electronic format under IC 5-14-6.

Sec. 9. Except as otherwise provided by this article, the chapter that establishes a committee expires January 1 of the second year after the chapter takes effect.

Chapter 2. Sentencing Policy Study Committee

Sec. 1. As used in this chapter, "committee" refers to the sentencing policy study committee established by section 3 of this chapter.

Sec. 2. The general assembly finds that a comprehensive study of sentencing laws and policies is desirable in order to:

(1) ensure that sentencing laws and policies protect the public safety;

(2) establish fairness and uniformity in sentencing laws and

policies;

(3) determine whether incarceration or alternative sanctions are appropriate for various categories of criminal offenses; and

(4) maximize cost effectiveness in the administration of sentencing laws and policies.

Sec. 3. The sentencing policy study committee is established.

Sec. 4. (a) The committee shall evaluate sentencing laws and policies as they relate to:

(1) the purposes of the criminal justice and corrections systems;

(2) the availability of sentencing options; and

(3) the inmate population in department of correction facilities.

(b) If, based on the committee's evaluation under this section, the committee determines changes are necessary or appropriate, the committee shall make recommendations to the general assembly for the modification of sentencing laws and policies and for the addition, deletion, or expansion of sentencing options.

Sec. 5. The committee shall do the following:

(1) Evaluate the existing classification of criminal offenses into felony and misdemeanor categories. In determining the proper category for each felony and misdemeanor, the committee shall consider, to the extent they have relevance, the following:

(A) The nature and degree of harm likely to be caused by the offense, including whether the offense involves property, irreplaceable property, a person, a number of persons, or a breach of the public trust.

(B) The deterrent effect a particular classification may have on the commission of the offense.

(C) The current incidence of the offense in Indiana.

(D) The rights of the victim.

(2) Recommend structures to be used by a sentencing court in determining the most appropriate sentence to be imposed in a criminal case, including any combination of imprisonment, probation, restitution, community service, or house arrest. The committee shall also consider the following:

(A) The nature and characteristics of the offense.

(B) The severity of the offense in relation to other offenses.

(C) The characteristics of the defendant that mitigate or aggravate the seriousness of the criminal conduct and the punishment deserved for that conduct.

(D) The number of the defendant's prior convictions.

(E) The available resources and capacity of the department of correction, local confinement facilities, and community based sanctions.

(F) The rights of the victim.

The committee shall include with each set of sentencing structures an estimate of the effect of the sentencing structures on the department of correction and local facilities with respect to both fiscal impact and inmate population.

(3) Review community corrections and home detention programs for the purpose of:

(A) standardizing procedures and establishing rules for the supervision of home detainees; and

(B) establishing procedures for the supervision of home detainees by community corrections programs of adjoining counties.

(4) Determine the long range needs of the criminal justice and corrections systems and recommend policy priorities for those systems.

(5) Identify critical problems in the criminal justice and corrections systems and recommend strategies to solve the problems.

(6) Assess the cost effectiveness of the use of state and local funds in the criminal justice and corrections systems.

(7) Recommend a comprehensive community corrections strategy based on the following:

(A) A review of existing community corrections programs.

(B) The identification of additional types of community corrections programs necessary to create an effective continuum of corrections sanctions.

(C) The identification of categories of offenders who should be eligible for sentencing to community corrections programs and the impact that changes to the existing system of community corrections programs would have on sentencing practices.

(D) The identification of necessary changes in state oversight and coordination of community corrections programs.

(E) An evaluation of mechanisms for state funding and local community participation in the operation and implementation of community corrections programs.

(F) An analysis of the rate of recidivism of clients under the supervision of existing community corrections programs.

(8) Propose plans, programs, and legislation for improving the effectiveness of the criminal justice and corrections systems.

(9) Evaluate the use of faith based organizations as an alternative to incarceration.

(10) Study issues related to sex offenders, including:

(A) lifetime parole;

(B) GPS or other electronic monitoring;

(C) a classification system for sex offenders;

(D) recidivism; and

(E) treatment.

Sec. 6. The committee may study other topics assigned by the legislative council or as directed by the committee chair. The committee may meet as often as necessary.

Sec. 7. The committee consists of twenty (20) members appointed as follows:

(1) Four (4) members of the senate, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the president pro tempore of the senate.

(2) Four (4) members of the house of representatives, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the speaker of the house of representatives.

(3) The chief justice of the supreme court or the chief justice's designee.

(4) The commissioner of the department of correction or the commissioner's designee.

(5) The director of the Indiana criminal justice institute or the director's designee.

(6) The executive director of the prosecuting attorneys council of Indiana or the executive director's designee.

(7) The executive director of the public defender council of Indiana or the executive director's designee.

(8) One (1) person with experience in administering community corrections programs, appointed by the governor.

(9) One (1) person with experience in administering probation programs, appointed by the governor.

(10) Two (2) judges who exercise juvenile jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.

(11) Two (2) judges who exercise criminal jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.

(12) One (1) board certified psychologist or psychiatrist who has expertise in treating sex offenders, appointed by the governor to act as a nonvoting adviser to the committee.

Sec. 8. The chairman of the legislative council shall appoint a legislative member of the committee to serve as the chairperson of the committee. Whenever there is a new chairman of the legislative council, the new chairman may remove the chairperson of the committee and appoint another chairperson.

Sec. 9. If a legislative member of the committee ceases to be a member of the chamber from which the member was appointed, the member also ceases to be a member of the committee.

Sec. 10. A legislative member of the committee may be removed at any time by the appointing authority who appointed the legislative member.

Sec. 11. If a vacancy exists on the committee, the appointing authority who appointed the former member whose position is vacant shall appoint an individual to fill the vacancy.

Sec. 12. The committee shall submit a final report of the results of its study to the legislative council before November 1, 2010.

Sec. 13. The Indiana criminal justice institute shall provide staff support to the committee.

Sec. 14. This chapter expires December 31, 2010.

Chapter 3. Lake Management Work Group

Sec. 1. The lake management work group is established.

Sec. 2. The activities of the work group must be directed to problems and issues associated with lakes that meet the definition of a public freshwater lake under IC 14-26-2-3.

Sec. 3. (a) The work group consists of twenty-six (26) members appointed as follows:

(1) Four (4) members of the general assembly consisting of:

(A) two (2) members of the house of representatives who may not be members of the same political party, appointed by the speaker of the house of representatives; and

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

(2) Three (3) representatives of the department of natural resources, at least one (1) of whom must be an officer in the division of law enforcement, appointed by the governor.

(3) The commissioner of the department of environmental management or the commissioner's designee.

(4) One (1) representative of the Indiana Lake Management Society or a similar organization of citizens concerned about lakes, appointed by the governor.

(5) One (1) representative of the Natural Resources Conservation Service of the United States Department of Agriculture appointed by the governor upon the recommendation of the Natural Resources Conservation Service.

(6) One (1) representative of soil and water conservation districts organized under IC 14-32 or IC 13-3-1 or IC 14-32-3 (before their repeal), appointed by the governor.

(7) Ten (10) members appointed by the governor, each of whom is:

(A) a participant in lake related recreational activities;

(B) a resident of a lake area;

(C) the owner or operator of a lake related business; or

(D) interested in the natural environment of Indiana lakes.

(8) One (1) representative of the United States Army Corps of Engineers appointed by the governor upon the recommendation of the commander of the Louisville District of the United States Army Corps of Engineers.

(9) One (1) representative of an agricultural organization, appointed by the governor.

(10) One (1) representative of an environmental organization, appointed by the governor.

(11) Two (2) other individuals appointed by the governor as at-large members.

(b) When appointing two (2) members of the house of representatives to the work group under subsection (a)(1)(A), the speaker of the house of representatives shall appoint one (1) representative to serve as chairperson of the work group beginning July 1, 2009, and ending June 30, 2010.

(c) To fill the positions created by subsection (a)(7), the governor shall appoint at least one (1) resident to represent each congressional district in Indiana. Each individual who was appointed by the governor as a member of the work group under P.L.65-2000 (before its expiration) is appointed to serve on the work group until the governor appoints a successor.

Sec. 4. The work group shall meet at the call of the chairperson but may not meet more than four (4) times each year.

Sec. 5. The work group shall do the following:

(1) Monitor, review, and coordinate the implementation of the work group's recommendations issued under P.L.239-1997 and P.L.65-2000.

(2) Facilitate collaborative efforts among commonly affected state, county, and local governmental entities in cooperation with lake residents and related organizations.

(3) Conduct public meetings to hear testimony and receive written comments concerning lake resource concerns and the implementation of the work group's recommendations.

(4) Develop proposed solutions to problems concerning the implementation of the work group's recommendations.

(5) Review, update, and coordinate the implementation of new and existing recommendations by communicating with the public, the general assembly, and other governmental entities concerning lake resources.

(6) Review and coordinate the development and maintenance of an Internet web site that includes information on the management of lake and watershed resources.

(7) Issue reports to the natural resources study committee when directed to do so.

(8) Review all funding that is used for Indiana's waterways, including potential funding sources that could be used by the general assembly to correct funding problems.

(9) Issue a final report before July 1, 2010.

Sec. 6. The work group shall make its reports available to:

(1) the natural resources study committee;

(2) the department of natural resources;

(3) members of the house agriculture, natural resources, and rural development standing committee and the senate natural resources standing committee; and

(4) the public.

Sec. 7. The work group is under the direction of the department of natural resources. The department may contract with a facilitator to facilitate the work of the work group. The department of natural resources shall staff the work group.

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

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

(c) Each member of the work group who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council.

Sec. 9. (a) Except as provided in subsection (b), per diem, mileage, travel allowances, and other expenses paid to committee members shall be paid from appropriations made to the department of natural resources.

(b) Per diem, mileage, and travel allowances paid to committee members who are members of the general assembly shall be paid from appropriations made to the legislative council or the legislative services agency.

Sec. 10. This chapter expires July 1, 2010.

Chapter 4. Interim Study Committee on Alcoholic Beverage Issues

Sec. 1. As used in this chapter, "committee" refers to the interim study committee on alcoholic beverage issues established by section 2 of this chapter.

Sec. 2. The interim study committee on alcoholic beverage issues is established.

Sec. 3. The committee shall study and make recommendations to the legislative council concerning the following:

(1) Alcohol server training and employee permits for sales clerks in dealer establishments.

(2) Additional one, two, or three-way permits for restaurants in economic development areas.

(3) Displaying alcoholic beverages in separate areas in dealer establishments.

(4) The historic origins of Indiana alcoholic beverage laws and the Twenty-first Amendment to the Constitution of the United States and its place and purpose in the twenty-first century.

Sec. 4. Before November 1, 2009, the committee shall issue a final report to the legislative council containing the findings and recommendations of the committee.

Sec. 5. This chapter expires December 31, 2009.

SECTION 10. IC 4-23-30 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 30. Mortgage Lending and Fraud Prevention Task Force

Sec. 1. As used in this chapter, "task force" refers to the mortgage lending and fraud prevention task force created under section 2 of this chapter.

Sec. 2. The following agencies shall create the mortgage lending and fraud prevention task force by each appointing an equal number of representatives to serve on the task force:

(1) The securities division of the office of the secretary of state established under IC 23-19-6-1(a).

(2) The homeowner protection unit established by the attorney general under IC 4-6-12-2.

(3) The department of financial institutions established by

IC 28-11-1-1.

(4) The department of insurance created by IC 27-1-1-1.

(5) The Indiana real estate commission created by IC 25-34.1-2-1.

(6) The real estate appraiser licensure and certification board created by IC 25-34.1-8-1.

Sec. 3. The members of the task force annually shall appoint a chair from among the members of the task force. Each year, the chair shall rotate among the agencies set forth in section 2 of this chapter.

Sec. 4. Subject to section 5 of this chapter, the task force shall meet each month to:

(1) coordinate the state's efforts to:

(A) regulate the various participants involved in originating, issuing, and closing home loans;

(B) enforce state laws and rules concerning mortgage lending practices and mortgage fraud; and

(C) prevent fraudulent practices in the home loan industry; and

(2) share information and resources necessary for the efficient administration of the tasks set forth in subdivision (1), unless prohibited by law.

Sec. 5. With respect to any meeting of the task force:

(1) one (1) or more members of the task force may participate in the meeting; or

(2) the meeting may be conducted in its entirety;

by means of a conference telephone or similar communications equipment by which all persons participating in the meeting can communicate with each other. Participation by the means described in this subsection constitutes presence in person at the meeting.

Sec. 6. (a) Not later than November 1 of each year, the task force shall report to the legislative council on the activities of each agency comprising the task force under section 2 of this chapter with respect to the most recent state fiscal year. The report required under this section must include:

(1) information on the regulatory activities of each agency described in section 2 of this chapter, including a description of any:

(A) disciplinary or enforcement actions taken;

(B) criminal prosecutions pursued;

(C) rules adopted;

(D) policies issued; or

(E) legislative recommendations made;

concerning the professions involved in originating, issuing, and closing home loans;

(2) a description of any challenges:

(A) encountered by the task force during the most recent state fiscal year; or

(B) anticipated by the task force in the current state fiscal year;

in carrying out the duties set forth in section 4 of this chapter;

(3) any additional information required by the legislative council; and

(4) any recommendations by the task force for legislation necessary to assist the task force in carrying out the duties set forth in section 4 of this chapter.

(b) A report to the legislative council under this section must be in an electronic format under IC 5-14-6.

SECTION 11. IC 5-2-6.2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 6.2. Project IMPACT

Sec. 1. As used in this chapter, "Project IMPACT" refers to each of the affiliate organizations authorized under section 3(1) through 3(5) of this chapter.

Sec. 2. As used in this chapter, "Project IMPACT USA, Inc." refers to the national, nonprofit organization known by that name that seeks to assist states in providing comprehensive family restoration programs in an effort to assist in reducing juvenile delinquency and violence among families through personal empowerment and community involvement.

Sec. 3. Project IMPACT USA, Inc., is authorized to develop and implement the following five (5) affiliate organizations to be administered at the following sites:

(1) Project IMPACT Allen in Fort Wayne.

(2) Project IMPACT Lake in Gary.

(3) Project IMPACT Marion in Indianapolis.

(4) Project IMPACT St. Joseph in South Bend.

(5) Project IMPACT Vanderburgh in Evansville.

Sec. 4. Project IMPACT is a comprehensive family restoration program providing delinquency prevention services to problematic youth and their families.

Sec. 5. The objectives of Project IMPACT are the following:

(1) To reduce the number of arrests.

(2) To reduce the number of school suspensions.

(3) To reduce the number of youth referred to juvenile courts for delinquency and unruly behavior.

(4) To increase a troubled youth's ability to cope with daily problems.

(5) To improve relationships between problematic youth and parents.

(6) To change conventional methods of youth incarceration by providing positive alternatives to:

(A) drug abuse;

(B) gangs;

(C) school failure; and

(D) other difficult situations for youth.

(7) To assist problematic youth and their families to:

(A) focus on personal responsibility;

(B) experience achievement;

(C) learn discipline;

(D) develop confidence; and

(E) promote family reconciliation.

Sec. 6. Project IMPACT may provide the following programs:

(1) A juvenile diversion program that consists of:

(A) individual and family counseling;

(B) personal development workshops;

(C) referral assistance; and

(D) case management.

(2) A school dropout prevention program that consists of:

(A) counseling and referrals;

(B) tutoring and mentoring;

(C) family forums; and

(D) career education.

(3) A job training and placement program that consists of:

(A) career planning;

(B) job readiness training;

(C) internships; and

(D) job placement services.

(4) A parent education program that consists of:

(A) teaching parenting skills;

(B) child and adolescent development;

(C) behavior modification;

(D) parental involvement;

(E) a fatherhood program; and

(F) a teen parent program.

(5) Family spirituality counseling to include mentoring and follow-up services sustained through the faith community.

Sec. 7. Project IMPACT may provide services to problematic youth and their families, including persons referred to Project IMPACT from:

(1) juvenile courts;

(2) local schools; and

(3) community organizations.

Sec. 8. In order to carry out this chapter, Project IMPACT may enter into a contract with the Indiana criminal justice institute established under IC 5-2-6.

SECTION 12. IC 5-13-5-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6. (a) A financial institution that is a depository for the state on March 21, 1996, and any successor financial institution, continues to be a depository for the state after March 21, 1996, without reapplying under IC 5-13-10.5, until the earliest of the following occurs:**

(1) The board of depositories revokes the status of the financial institution as a depository.

(2) The financial institution notifies the state board of finance that the financial institution is resigning as a depository for the state.

(3) Another law terminates the depository status of the financial institution.

A financial institution that qualifies under this subsection as a depository for the state after March 21, 1996, shall be treated after March 21, 1996, as if the financial institution were designated as a depository under IC 5-13-10.5.

(b) A financial institution that is a depository for a political subdivision on March 21, 1996, and any successor financial institution continues to be a depository for the political subdivision after March 21, 1996, without reapplying under IC 5-13-10.5 or IC 5-13-8-1, until the earliest of the following occurs:

(1) The state board of finance revokes the status of the financial institution as a depository.

(2) The financial institution notifies the state board of finance or the local board of finance for the political subdivision that the financial institution is resigning as a depository for the political subdivision.

(3) Another law terminates the depository status of the financial institution.

A financial institution that qualifies under this subsection as a depository for a political subdivision after March 21, 1996, shall be treated after March 21, 1996, as if the financial institution were designated as a depository under IC 5-13-8.

(c) Subject to IC 5-13-8-9, a financial institution that is a depository for the state on March 21, 1996, and any successor financial institution is eligible after March 21, 1996, to become a depository for any political subdivision for which the financial institution is not already a depository without reapplying under IC 5-13-10.5 or IC 5-13-8-1. A financial institution that qualifies under this subsection as a depository for a political subdivision after March 21, 1996, shall be treated after March 21, 1996, as if the financial institution were designated as a depository under IC 5-13-8.

(d) The treasurer of state shall add any financial institution that qualifies as a depository for political subdivisions under subsection (b) or (c) to the list of depositories eligible to receive the public funds of political subdivisions under IC 5-13-8-1.

SECTION 13. IC 6-1.1-5.5-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 13. (a) Notwithstanding section 4(a) of this chapter, a person filing a sales disclosure form under this chapter with respect to a sale of real property that occurs:**

(1) after December 31, 2003; and

(2) before January 1, 2012;

shall pay a fee of ten dollars ($10) to the county auditor.

(b) Notwithstanding sections 4(b) and 12(d) of this chapter, fifty percent (50%) of the revenue collected under:

(1) subsection (a); and

(2) section 12 of this chapter;

for the period referred to in subsection (a) shall be deposited in the county sales disclosure fund established under section 4.5 of this chapter. Ten percent (10%) of the revenue collected before July 1, 2005, shall be transferred to the treasurer of state for deposit in the assessment training and administration fund established by section 4.7 of this chapter. Forty percent (40%) of the revenue collected before July 1, 2005, shall be transferred to the treasurer of state for deposit in the state general fund. Fifty percent (50%) of the revenue collected after June 30, 2005, shall be transferred to the assessment training and administration fund established by section 4.7 of this chapter.

(c) The department of local government finance may provide training of assessment officials and employees of the department through the Indiana chapter of the International Association of Assessing Officers on various dates and at various locations in Indiana.

(d) This section expires January 1, 2012.

SECTION 14. IC 6-8.1-3-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 21. (a) As used in this section, "associate member" has the meaning set forth in bylaw 13(c) of the bylaws of the Multistate Tax Commission, as amended through October 17, 2002.**

(b) As used in this section, "biennium" means a period consisting of two (2) consecutive state fiscal years beginning on July 1 of an odd-numbered year.

(c) The governor and the commissioner shall take the steps necessary for Indiana to become an associate member of the Multistate Tax Commission (444 North Capitol Street, NW, Suite 425, Washington, DC 20001).

(d) For a biennium beginning after January 1, 2009, the department shall make a separate request for the cost of membership in the Multistate Tax Commission as part of the department's biennial budget request.

SECTION 15. IC 9-18-10-3.5 IS ADDED TO THE INDIANA

CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.5. (a) The bureau and the department of state revenue may continue to implement any rule or policy adopted before July 1, 2007, requiring a person that owns a semitrailer that is permanently registered under section 3 of this chapter to annually renew the registration.**

(b) The continued implementation of a rule or policy described in subsection (a) is considered compliance with the requirements of sections 2 and 3 of this chapter.

SECTION 16. IC 10-11-2-28.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 28.1. (a) The special police employees of the state police assigned to security activities under IC 10-1-1-29 or IC 10-1-1-30 (before their repeal) initially shall be composed of the employees of the Indiana department of administration who are employed on June 30, 2002, as part of its security officer activity. Civilian employees of the Indiana department of administration who support the security officer activity become employees of the department.**

(b) Except as provided in subsection (c), an employee of the Indiana department of administration who becomes a member of the department under subsection (a) on July 1, 2002:

(1) is entitled to have the employee's service under the Indiana department of administration before July 1, 2002, included for the purpose of computing all applicable employment rights and benefits with the security section;

(2) is a member of the state retirement fund or pension plan in which the employee was a member on June 30, 2002; and

(3) if the employee was covered on June 30, 2002, by a labor agreement to which the state is a party, continues to be subject to the terms and conditions of the agreement and any successor labor agreements entered into by the state.

(c) An employee of the Indiana department of administration who:

(1) becomes a member of the department under subsection (a); and

(2) becomes a state police officer after fulfilling the law enforcement training requirements and all other requirements of the department;

is not entitled to have the employee's service under the Indiana department of administration or the security section included for the purpose of computing all applicable employment rights and benefits as a state police officer.

SECTION 17. IC 12-8-1-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 16. (a) The office of the secretary shall:**

(1) cooperate with; and

(2) assist;

a nonprofit organization with the purpose to implement and administer a program to provide health care to uninsured Indiana residents.

(b) The office of the secretary shall assist a nonprofit organization that has the purpose described in subsection (a) with the following:

(1) Determining eligibility of potential participants who have an income of not more than one hundred percent (100%) of the federal poverty level for a program described in this section.

(2) Issuing a plan card that is valid for one (1) year to an individual if:

(A) the office of the secretary has determined the individual is eligible for the program; and

(B) the individual has paid the office of the secretary a registration fee determined by the office.

(3) Operating a toll free telephone number that provides provider referral services for participants in the program.

(4) Implementing the program described in this section to combine the resources of the office of the secretary and the nonprofit organization in a manner that would not result in the additional expenditure of state funds.

SECTION 18. IC 12-15-2.3-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 13. There is annually appropriated to the office of the secretary of family and social services from the state general fund an amount sufficient to provide services to those individuals eligible for Medicaid under IC 12-15-2-13.5 and this chapter.**

SECTION 19. IC 12-15-39.6-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 15. An individual who:**

(1) owns, as of January 1, 1998, a qualified long term care policy; and

(2) has not exhausted the benefits of the qualified long term care policy described in subdivision (1);

is entitled to receive an asset disregard as provided in section 10 of this chapter.

SECTION 20. IC 13-17-3-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4.5. (a) A reference in this section to a provision of the Indiana Administrative Code or Code of Federal Regulations includes a reference to a successor provision.**

(b) As used in this section, "construction" has the meaning set forth in 326 IAC 1-2-21.

(c) As used in this section, "modification" has the meaning set forth in 326 IAC 1-2-42.

(d) As used in this section, "operation" has the meaning set forth in 326 IAC 2-1.1-1(11).

(e) As used in this section, "process" has the meaning set forth in 326 IAC 2-1.1-1(17).

(f) As used in this section, "regulated pollutant" has the meaning set forth in 326 IAC 1-2-66.

(g) If a rule of the air pollution control board lists emission units, operations, or processes of which construction or modification are exempt from the requirement to obtain a registration, permit, modification approval, or permit revision, the air pollution control board may not condition the exemption on whether the potential to emit any regulated pollutant from the construction or modification exceeds an emission threshold establishing the requirement to obtain a registration, permit, modification approval, or permit revision under 326 IAC 2.

(h) This section does not apply to construction or modification:

(1) subject to federal prevention of significant deterioration requirements as set out in 326 IAC 2-2 and 40 CFR 52.21;

(2) subject to nonattainment new source review requirements as set out in 326 IAC 2-3;

(3) at a source that has an operation permit issued under 326

IAC 2-7, where the construction or modification would be considered a Title I modification under 40 CFR Part 70; or

(4) that would result in the source needing to make a transition to an operating permit issued under 326 IAC 2-6.1, 326 IAC 2-7, or 326 IAC 2-8.

SECTION 21. IC 13-23-5-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3. (a) An underground storage tank system that contains fuel composed of greater than fifteen percent (15%) alcohol is considered to comply with section 1(b) of this chapter if either of the following applies:**

(1) The system predates May 11, 2007.

(2) The system predates the solid waste management board's adoption after May 11, 2007, of any additional rules concerning technical and safety requirements for storing and dispensing alcohol blended fuel.

(b) Replacement tanks or ancillary equipment installed in existing underground storage tank systems storing or dispensing alcohol blended fuels must meet the standards contained in additional rules adopted by the solid waste management board as described in subsection (a)(2) only if the installation occurs after the adoption of those rules.

SECTION 22. IC 14-15-3-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 12.5. Notwithstanding sections 10, 11, and 12 of this chapter, any exemption to the motorboat speed limit that was:**

(1) granted by the department in response to a petition from a majority of abutting property owners; and

(2) in effect on August 31, 1985;

remains in effect. However, if a majority of abutting property owners petition the department to rescind or amend the exemption, the department may rescind or amend the exemption.

SECTION 23. IC 14-27-7.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 7.7. Lease of Williams Dam

Sec. 1. The director may enter into a long term lease of the

Williams Dam on the East Fork of the White River in Lawrence County.

Sec. 2. A lease executed under this chapter must meet the following requirements:

(1) It must be for the development of hydroelectric power at the Williams Dam Fishing Area.

(2) It must enhance the recreation and fishing potential of the Williams Dam Fishing Area.

(3) The initial term of the lease may not exceed forty (40) years.

Sec. 3. A lease executed under this chapter may provide for renewal at the option of the director, with the approval of the governor.

Sec. 4. A lease executed under this chapter may include any other limitations or restrictions determined necessary by the director.

Sec. 5. Revenue from a lease under this chapter shall be used solely for the division of fish and wildlife.

SECTION 24. IC 14-34-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) The director may require a permit applicant to submit additional information concerning the identity, location, and nature of archeological and historic sites in or within one thousand (1,000) feet of the permit area in accordance with rules adopted by the commission to implement this section.

(b) In the rules implementing this section, the commission shall provide that the director may require a permit applicant to identify and evaluate important archeological and historic sites through the following:

(1) Searches of the records of the following:

(A) Research institutions.

(B) The state historical preservation office.

(2) Field investigations.

(3) Other appropriate investigations according to standards incorporated in the rules.

(c) The commission's rules must be consistent with the principles set forth in IC 14-34-4-10(c).

(d) This section and the rules adopted under this section may

not be enforced if and to the extent that any federal court holds that the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201-1328) does not authorize the requirements of records searches, field investigations, or other studies in connection with application for surface coal mining operations.

SECTION 25. IC 14-34-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) The director may not approve a permit application unless, in addition to the findings required by section 7 of this chapter, the director states in writing that the director has considered the effects of the proposed mining operation on a place listed on or eligible for listing on the National Register of Historic Places or the Indiana state register of historic sites and structures.

(b) If the director considers it appropriate in accordance with rules adopted by the commission under this section, the director may impose conditions on a permit for the protection of properties or sites listed on or eligible for listing on the National Register of Historic Places or the Indiana state register of historic sites and structures requiring that:

(1) mining operations not occur in the areas occupied by the properties or sites; or

(2) measures be implemented to mitigate the effects of the operation upon those properties or sites before mining.

(c) The commission shall adopt rules under IC 4-22-2 to implement this section consistent with the following general principles:

(1) The commission's rules may not prohibit the use of information from any source and shall recognize the responsibilities of the state historic preservation officer under IC 14-21-1-12 and IC 14-21-1-15.

(2) The commission's rules must provide for participation by professional and amateur archeologists, anthropologists, historians, or related experts in any:

(A) field investigations;

(B) studies; or

(C) records searches;

required by the director under this section.

(3) The commission's rules must strive to ensure that field investigations and studies are required only where a substantial likelihood exists that important and significant archeological or

historic sites are present.

(4) In considering the effect of proposed surface coal mining and reclamation operations on a property or site eligible for listing on the National Register of Historic Places, the director shall consider the following:

(A) Based on information available from the division of historic preservation and archeology, the relative importance of the property or site compared to other properties or sites in Indiana listed on or eligible for listing on the National Register of Historic Places.

(B) The cost of an investigation of the permit area or site as estimated by the applicant. A decision that an investigation is not required may not be based on cost alone.

(5) This section does not authorize rules that impair the ownership of artifacts or other material found on private land.

(d) The director may do the following:

(1) Investigate the possibility of obtaining available federal or private:

(A) grants;

(B) subsidies; or

(C) aid;

to defer the cost to private individuals of measures required by the director under this section.

(2) Apply for any:

(A) grants;

(B) aid; or

(C) subsidies;

that the director determines are available.

(e) In making the finding required by this section, the director shall take into account the general principles set forth in subsection (c).

(f) This section and the rules adopted under this section may not be enforced if and to the extent that any federal court holds that the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201-1328) does not authorize the requirements of records searches, field investigations, or other studies in connection with application for surface coal mining operations.

SECTION 26. IC 16-41-9-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2009]: **Sec. 15. In carrying out its duties under this chapter, a public health authority shall attempt to seek the cooperation of cases, carriers, contacts, or suspect cases to implement the least restrictive but medically necessary procedures to protect the public health.**

SECTION 27. IC 26-1-6.2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 6.2. Enforcement of Rights and Obligations Under Repealed Uniform Bulk Sales Law

Sec. 1. Rights and obligations that arose under IC 26-1-6.1 before its repeal by P.L.77-2007 remain valid and may be enforced as though IC 26-1-6.1 had not been repealed.

SECTION 28. IC 27-5.1-2-44 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 44. A rate or form filed by a farm mutual insurance company before July 1, 2003, is valid and remains in effect notwithstanding the repeal of IC 27-5 and the addition of this article.**

SECTION 29. IC 27-8-5-16.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 16.3. (a) As used in this section, "small employer" has the meaning set forth in IC 27-8-15-14.**

(b) The commissioner and the office of the secretary of family and social services may implement a program to allow two (2) or more small employers to join together to purchase health insurance, as described in section 16(8) of this chapter.

(c) The commissioner shall adopt rules under IC 4-22-2 necessary to implement this section.

SECTION 30. IC 32-21-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. **(a)** Title to real property owned by the state or a political subdivision (as defined in IC 36-1-2-13) may not be alienated by adverse possession.

(b) A cause of action based on adverse possession may not be commenced against a political subdivision (as defined in IC 36-1-2-13) after June 30, 1998.

SECTION 31. IC 32-31-3-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2009]: **Sec. 1.1. Rental agreements entered into before July 1, 1989, remain valid and may be terminated, completed, consummated, or enforced as though this chapter had not been enacted.**

SECTION 32. IC 34-26-5-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 20. (a) A protective order issued before July 1, 2002, under IC 31-34-17, IC 31-37-16, or IC 34-26-2 (before their repeal) remains in effect for the period indicated in the court order granting the protective order.**

(b) A protective order issued before July 1, 2002, under IC 31-14-16 or IC 31-15-5 remains in effect for the period indicated in the court order granting the protective order.

(c) After June 30, 2002, a protected person must use the forms developed by the division of state court administration under section 3 of this chapter if the person is seeking an extension or a modification of an order issued under subsection (a) or (b).

SECTION 33. IC 36-2-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 8.5. Election and Terms of Office of Certain County Officers

Sec. 1. (a) As used in this section, "county office" has the meaning set forth in IC 36-1-8-15.

(b) The general assembly finds the following:

(1) That due to events that occurred at different times in Indiana's history, the beginning of the terms of certain elected county offices varies from a uniform date due to changes in the dates of general elections, vacancies in offices, and other events described by the Indiana supreme court in the following cases:

(A) Howard v. State, 10 Ind. 74 (Ind. 1857).

(B) Greible v. State, 12 N.E. 700 (Ind. 1887).

(C) State v. Menaugh, 51 N.E. 117 (Ind. 1898).

(D) Scott v. State, 52 N.E. 163 (Ind. 1898).

(2) That on many occasions at the beginning of the twentieth century, the general assembly attempted to standardize the beginning of the terms of county offices.

(3) That the voters of Indiana approved an amendment to Article 6, Section 2 of the Constitution of the State of Indiana at the November 2004 general election authorizing the general assembly to provide by law for uniform dates for beginning the terms of county offices.

(4) That the variation in the beginning dates of the terms of county offices is not a general condition but affects only a known and fixed set of county offices.

(5) That a statement of a rule applicable to each county office whose term varies from a uniform date would be clearer in application than a general statement of a rule to make the beginning of the terms of those county offices uniform.

(c) The general assembly enacts this chapter to:

(1) provide a rule applicable to each county office whose term of office deviates from a uniform date as of June 30, 2005; and

(2) implement Article 6, Section 2(b) of the Constitution of the State of Indiana to provide for a uniform date for beginning the terms of county offices described in Article 6, Section 2(a) of the Constitution of the State of Indiana.

Sec. 2. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Adams County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office on January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office on January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 3. (a) As used in this section, "treasurer" refers to the treasurer of Adams County.

(b) Notwithstanding any other law concerning terms of office,

the following apply:

(1) The individual elected to the office of treasurer at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of treasurer at the November 2008 general election is entitled to:

(A) take office on January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of treasurer at the November 2012 general election is entitled to:

(A) take office on January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

Sec. 4. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Bartholomew County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office on January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office on January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 5. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Blackford County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of clerk at the

November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of clerk at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

Sec. 6. (a) As used in this section, "recorder" refers to the recorder of Blackford County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of recorder at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of recorder at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

Sec. 7. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Brown County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the

November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 8. (a) As used in this section, "recorder" refers to the recorder of Cass County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 9. (a) As used in this section, "auditor" refers to the auditor of Clark County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 10. (a) As used in this section, "clerk" refers to the clerk of

the circuit court of Clark County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 11. (a) As used in this section, "treasurer" refers to the treasurer of Clay County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of treasurer at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of treasurer at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of treasurer at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 12. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Clinton County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the

office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 13. (a) As used in this section, "recorder" refers to the recorder of Clinton County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of recorder at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of recorder at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

Sec. 14. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Daviess County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until March 13, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office March 13, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 15. (a) As used in this section, "coroner" refers to the coroner of Daviess County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of coroner at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of coroner at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of coroner at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

Sec. 16. (a) As used in this section, "recorder" refers to the recorder of Dearborn County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 17. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Decatur County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 18. (a) As used in this section, "recorder" refers to the recorder of Decatur County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 19. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Delaware County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 20. (a) As used in this section, "auditor" refers to the auditor of Dubois County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 21. (a) As used in this section, "auditor" refers to the auditor of Elkhart County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 22. (a) As used in this section, "recorder" refers to the recorder of Elkhart County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 23. (a) As used in this section, "auditor" refers to the auditor of Fayette County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to;

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 24. (a) As used in this section, "auditor" refers to the auditor of Franklin County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 25. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Franklin County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until February 14, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office February 14, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 26. (a) As used in this section, "recorder" refers to the recorder of Grant County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of recorder at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of recorder at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

Sec. 27. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Hamilton County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 28. (a) As used in this section, "auditor" refers to the auditor of Hancock County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 29. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Howard County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 30. (a) As used in this section, "auditor" refers to the auditor of Huntington County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 31. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Huntington County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 32. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Jackson County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until February 25, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office February 25, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 33. (a) As used in this section, "treasurer" refers to the treasurer of Jackson County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of treasurer at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of treasurer at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of treasurer at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

Sec. 34. (a) As used in this section, "auditor" refers to the auditor of Jay County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 35. (a) As used in this section, "recorder" refers to the recorder of Jay County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the

November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 36. (a) As used in this section, "auditor" refers to the auditor of Johnson County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 37. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Johnson County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies;

and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 38. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Knox County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until March 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office March 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 39. (a) As used in this section, "recorder" refers to the recorder of Knox County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies;

and

(B) serve in the office until January 1, 2015.

Sec. 40. (a) As used in this section, "auditor" refers to the auditor of Kosciusko County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 41. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Lake County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 42. (a) As used in this section, "clerk" refers to the clerk of the circuit court of LaPorte County.

(b) Notwithstanding any other law concerning terms of office,

the following apply:

(1) The individual elected to the office of clerk at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of clerk at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of clerk at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

Sec. 43. (a) As used in this section, "auditor" refers to the auditor of Marshall County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 44. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Marshall County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the

November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 45. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Martin County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 46. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Miami County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the

November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 47. (a) As used in this section, "auditor" refers to the auditor of Montgomery County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 48. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Porter County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 49. (a) As used in this section, "recorder" refers to the

recorder of Porter County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 50. (a) As used in this section, "treasurer" refers to the treasurer of Porter County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of treasurer at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of treasurer at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of treasurer at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

Sec. 51. (a) As used in this section, "auditor" refers to the auditor of Posey County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the

office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 52. (a) As used in this section, "recorder" refers to the recorder of Posey County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 53. (a) As used in this section, "recorder" refers to the recorder of Pulaski County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of recorder at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of recorder at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

Sec. 54. (a) As used in this section, "treasurer" refers to the treasurer of Putnam County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of treasurer at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of treasurer at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of treasurer at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

Sec. 55. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Randolph County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of clerk at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of clerk at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

Sec. 56. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Ripley County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of clerk at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of clerk at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

Sec. 57. (a) As used in this section, "recorder" refers to the recorder of Ripley County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of recorder at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of recorder at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

Sec. 58. (a) As used in this section, "auditor" refers to the auditor of St. Joseph County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 59. (a) As used in this section, "recorder" refers to the recorder of Shelby County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 60. (a) As used in this section, "auditor" refers to the auditor of Spencer County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 61. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Spencer County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2004 general election is entitled to serve in the office until March 1, 2010.

(2) The individual elected to the office of clerk at the November 2008 general election is entitled to:

(A) take office March 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of clerk at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

Sec. 62. (a) As used in this section, "recorder" refers to the recorder of Starke County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 63. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Steuben County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 64. (a) As used in this section, "auditor" refers to the auditor of Sullivan County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until March 15, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office March 15, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 65. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Sullivan County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until March 15, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office March 15, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 66. (a) As used in this section, "treasurer" refers to the treasurer of Sullivan County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of treasurer at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of treasurer at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of treasurer at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

Sec. 67. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Switzerland County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 68. (a) As used in this section, "treasurer" refers to the treasurer of Switzerland County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of treasurer at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of treasurer at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of treasurer at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

Sec. 69. (a) As used in this section, "auditor" refers to the auditor of Union County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 70. (a) As used in this section, "recorder" refers to the recorder of Union County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 71. (a) As used in this section, "treasurer" refers to the treasurer of Vigo County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of treasurer at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of treasurer at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of treasurer at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

Sec. 72. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Wabash County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 73. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Warren County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 74. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Whitley County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the

November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 75. (a) As used in this section, "recorder" refers to the recorder of Whitley County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

Sec. 76. This chapter expires January 1, 2018.

SECTION 34. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: P.L.119-1986, SECTION 3; P.L.368-1987, SECTION 1; P.L.108-1988, SECTION 8; P.L.277-1989, SECTION 2; P.L.18-1996, SECTION 37; P.L.113-1997, SECTION 3; P.L.86-1998, SECTION 2; P.L.101-1999, SECTION 8; P.L.65-2000, SECTION 1; P.L.112-2000; SECTION 8; P.L.152-2001, SECTION 4; P.L.179-2001, SECTION 6; P.L.123-2002, SECTION 55; P.L.133-2002, SECTION 70; P.L.1-2003, SECTION 107; P.L.127-2003, SECTION 1; P.L.129-2003, SECTION 17; P.L.140-2003, SECTION 1;

P.L.245-2003, SECTION 37; P.L.28-2004, SECTION 195; P.L.61-2005, SECTION 1; P.L.88-2005, SECTIONS 19 through 93; P.L.228-2005, SECTION 31; P.L.35-2006, SECTION 1; P.L.138-2006, SECTION 16; P.L.139-2006, SECTION 11; P.L.140-2006, SECTION 47; P.L.173-2006, SECTION 56; P.L.173-2006, SECTION 62; P.L.63-2007, SECTION 6; P.L.75-2007, SECTION 3; P.L.77-2007, SECTION 5; P.L.145-2007, SECTION 17; P.L.216-2007, SECTION 56; P.L.218-2007, SECTION 61; P.L.221-2007, SECTION 48; P.L.234-2007, SECTION 206; P.L.7-2008, SECTION 1; P.L.60-2008, SECTION 1; P.L.63-2008, SECTION 7; P.L.94-2008, SECTION 68; P.L.145-2008, SECTION 35.

P.L.17-2009
[S.424. Approved April 14, 2009.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-8-2-203, AS AMENDED BY P.L.225-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 203. "Pest or pathogen" has the following meaning:

(1) Except as provided in IC 14-24-4.5, for purposes of IC 14-24, means:

(A) an arthropod;

(B) a nematode;

(C) a microorganism;

(D) a fungus;

(E) a parasitic plant;

(F) a mollusk;

(G) a plant disease; or

(H) an exotic weed;

that may be injurious to nursery stock, agricultural crops, other vegetation, **natural resources,** or bees.

(2) For purposes of IC 14-24-4.5, the meaning set forth in IC 14-24-4.5-2(4).

SECTION 2. IC 14-24-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. If as a result of an inspection under section 1 of this chapter a site is determined to be infested with a pest or pathogen that is likely to spread or communicate to adjacent or contiguous territory in an adjoining ~~township,~~ **area,** the director may ~~declare all or a part of the township~~ **prescribe the boundaries of an area** where the pest or pathogen is located **and declare the area** to be an infested area.

P.L.18-2009

[S.545. Approved April 14, 2009.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-22-6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) If the director:

(1) determines that a species of wild animal present within a state park poses an unusual hazard to the health or safety of one (1) or more individuals;

(2) determines, based upon the opinion of a professional biologist, that it is likely that:

(A) a species of wild animal present within a state park will cause obvious and measurable damage to the ecological balance within the state park; and

(B) the ecological balance within the state park will not be maintained unless action is taken to control the population of the species within the state park; or

(3) is required under a condition of a lease from the federal government to manage a particular wild animal species;

the director shall ~~by emergency rule adopted under IC 4-22-2-37.1~~ establish a controlled hunt for the species within the state park.

(b) An order issued by the director under this section must set forth the conditions of the hunt.

SECTION 2. IC 14-22-11-8, AS AMENDED BY P.L.14-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) This section does not apply to the following:

(1) A person who is:

(A) a resident of Indiana; and

(B) an individual born before April 1, 1943.

(2) A person who is less than ~~seventeen (17)~~ **eighteen (18)** years of age.

(3) A person who is legally blind.

(4) A person who is a resident patient of a state mental institution.

(5) A person who is:

(A) a resident of a health facility (as defined in IC 16-18-2-167) licensed in Indiana; and

(B) taking part in a supervised activity of the health facility.

(6) A person who:

(A) is a resident of Indiana; and

(B) has a developmental disability (as defined by IC 12-7-2-61).

(7) A person whose only participation in fishing is to assist an individual described in subdivision (3), (4), (5), or (6).

(8) A resident of Indiana who fishes during a free sport fishing day designated under IC 14-22-18.

(b) Every person must have a fishing license in the person's possession when fishing in:

(1) waters containing state owned fish;

(2) waters of the state; or

(3) boundary waters of the state.

(c) Every person must have a valid trout-salmon stamp in the person's possession to legally fish for or take trout or salmon in:

(1) waters containing state owned fish;

(2) waters of the state; or

(3) boundary waters of the state.

SECTION 3. IC 14-22-11-18, AS ADDED BY P.L.132-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. (a) The director may designate not more than four (4) days each year as free hunting days for youth hunters.

(b) During a free hunting day for youth hunters designated under subsection (a), a resident who is less than ~~sixteen (16)~~ **eighteen (18)** years of age may:

(1) hunt using hunting methods that are designated by the director and that are legal for that hunting season; and

(2) exercise the same privileges that a resident is entitled to under IC 14-22-12-1(24).

A youth hunter is not required to pay a fee or possess a hunting license.

(c) A youth hunter who hunts during a free hunting day for youth hunters under this section must:

(1) comply with the conditions and rules adopted by the director; and

(2) be accompanied by an individual who:

(A) is at least eighteen (18) years of age; and

(B) holds a valid hunting license under IC 14-22-12 or is not required to have a hunting license under this chapter.

(d) The individual under subsection (c)(2) who accompanies the youth hunter:

(1) must be in close enough proximity to monitor the youth hunter's activities and communicate with the youth hunter at all times; and

(2) may assist the youth hunter, including calling, but may not carry a firearm or bow and arrow.

SECTION 4. IC 14-22-12-1, AS AMENDED BY P.L.66-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The department may issue the following licenses and, except as provided in section 1.5 of this chapter and subject to subsection (b), shall charge the following minimum license fees to hunt, trap, or fish in Indiana:

(1) A resident yearly license to fish, eight dollars and seventy-five cents ($8.75).

(2) A resident yearly license to hunt, eight dollars and seventy-five cents ($8.75).
(3) A resident yearly license to hunt and fish, thirteen dollars and seventy-five cents ($13.75).
(4) A resident yearly license to trap, eight dollars and seventy-five cents ($8.75).
(5) A nonresident yearly license to fish, twenty-four dollars and seventy-five cents ($24.75).
(6) A nonresident yearly license to hunt, sixty dollars and seventy-five cents ($60.75).
(7) A nonresident yearly license to trap, one hundred seventeen dollars and seventy-five cents ($117.75). However, a license may not be issued to a resident of another state if that state does not give reciprocity rights to Indiana residents similar to those nonresident trapping privileges extended in Indiana.
(8) A resident or nonresident license to fish, including for trout and salmon, for one (1) day only, four dollars and seventy-five cents ($4.75).
(9) A nonresident license to fish, excluding for trout and salmon, for seven (7) days only, twelve dollars and seventy-five cents ($12.75).
(10) A nonresident license to hunt for five (5) consecutive days only, twenty-five dollars and seventy-five cents ($25.75).
(11) A resident or nonresident yearly stamp to fish for trout and salmon, six dollars and seventy-five cents ($6.75).
(12) A resident yearly license to take a deer with a shotgun, muzzle loading gun, rifle, or handgun, thirteen dollars and seventy-five cents ($13.75).
(13) A resident yearly license to take a deer with a muzzle loading gun, thirteen dollars and seventy-five cents ($13.75).
(14) A resident yearly license to take a deer with a bow and arrow, thirteen dollars and seventy-five cents ($13.75).
(15) A nonresident yearly license to take a deer with a shotgun, muzzle loading gun, rifle, or handgun, one hundred twenty dollars and seventy-five cents ($120.75).
(16) A nonresident yearly license to take a deer with a muzzle loading gun, one hundred twenty dollars and seventy-five cents ($120.75).

(17) A nonresident yearly license to take a deer with a bow and arrow, one hundred twenty dollars and seventy-five cents ($120.75).
(18) A resident license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, five dollars ($5).
(19) A nonresident license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, ten dollars ($10).
(20) A resident yearly license to take a turkey, fourteen dollars and seventy-five cents ($14.75).
(21) A nonresident yearly license to take a turkey, one hundred fourteen dollars and seventy-five cents ($114.75). However, if the state of residence of the nonresident applicant requires that before a resident of Indiana may take turkey in that state the resident of Indiana must also purchase another license in addition to a nonresident license to take turkey, the applicant must also purchase a nonresident yearly license to hunt under this section.
(22) A resident license to take an extra turkey by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, fourteen dollars and seventy-five cents ($14.75).
(23) A nonresident license to take an extra turkey by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, one hundred fourteen dollars and seventy-five cents ($114.75). However, if the state of residence of the nonresident applicant requires that before a resident of Indiana may take a turkey in that state the resident of Indiana must also purchase another license in addition to a nonresident license to take a turkey, the applicant must also purchase a nonresident yearly license to hunt under this section.
(24) A resident youth yearly consolidated license to hunt, **trap,** and fish, six dollars ($6). This license is subject to the following:

(A) An applicant must be less than eighteen (18) years of age.
(B) The license is in lieu of the resident yearly license to hunt, **trap,** and fish and all other yearly licenses, stamps, or permits to hunt, **trap,** and fish for a specific species or by a specific means.

(25) A resident senior yearly license to fish, three dollars ($3). This license is subject to the following:

(A) An applicant must be at least sixty-four (64) years of age and born after March 31, 1943.

(B) The license is in lieu of the resident yearly license to fish and all other yearly licenses, stamps, or permits to fish for a specific species or by a specific means.

(26) A resident senior "fish for life" license, seventeen dollars ($17). This license is subject to the following:

(A) An applicant must be at least sixty-four (64) years of age and must have been born after March 31, 1943.

(B) The license applies each year for the remainder of the license holder's life.

(C) The license is in lieu of the resident senior yearly license to fish and all other yearly licenses, stamps, or permits to fish for a specific species or by a specific means.

(b) The commission may set license fees to hunt, trap, or fish above the minimum fees established under subsection (a).

SECTION 5. IC 14-22-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. The department shall adopt rules under IC 4-22-2 regulating commercial fishing in the Ohio River. ~~that conform with the laws of Kentucky regulating commercial fishing in the Ohio River.~~

P.L.19-2009
[S.25. Approved April 20, 2009.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 36-8-8-8.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8.3. (a) This section applies to a fund member who,**

after June 30, 2009, completes service for which the 1977 fund gives credit.

(b) A fund member may purchase not more than two (2) years of service credit for the fund member's service on active duty in the armed services if the fund member meets the following conditions:

(1) The fund member has at least one (1) year of credited service in the fund.

(2) The fund member serves on active duty in the armed services of the United States for at least six (6) months.

(3) The fund member receives an honorable discharge from the armed services.

(4) Before the fund member retires, the fund member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The salary of a first class patrolman or firefighter at the time the fund member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the 1977 fund, that is based on the age of the fund member at the time the fund member actually makes a contribution for service credit and that is computed to result in a contribution amount that approximates the actuarial present value of the retirement benefit attributable to the service credit purchased.

(iii) The number of years of service credit the fund member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the 1977 fund, for the period from the fund member's initial membership in the 1977 fund to the date payment is made by the fund member.

(c) A fund member must have at least twenty (20) years of service before a fund member may receive a benefit based on a service credit purchased under this section. A fund member's years of service may not exceed thirty-two (32) years with the inclusion of the service credit purchased under this section.

(d) A fund member may not receive service credit under this section:

(1) for service credit received under IC 36-8-5-7; or

(2) if the military service for which the fund member requests credit also qualifies the fund member for a benefit in a military or another governmental retirement system.

(e) A fund member who:

(1) terminates service before satisfying the eligibility requirements necessary to receive a retirement benefit payment from the 1977 fund; or

(2) receives a retirement benefit for the same service from another retirement system, other than under the federal Social Security Act;

may withdraw the fund member's contributions made under this section plus accumulated interest after submitting to the fund a properly completed application for a refund.

(f) The following apply to the purchase of service credit under this section:

(1) The PERF board may allow a fund member to make periodic payments of the contributions required for the purchase of the service credit. The PERF board shall determine the length of the period during which the payments must be made.

(2) The PERF board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A fund member may not claim the service credit for purposes of determining eligibility or computing benefits unless the fund member has made all payments required for the purchase of the service credit.

(g) To the extent permitted by the Internal Revenue Code and applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

P.L.20-2009

[H.1089. Approved April 20, 2009.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-2-8-1, AS AMENDED BY P.L.132-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The following definitions apply in this section:

(1) "Abuse" means:

(A) conduct that causes bodily injury (as defined in IC 35-41-1-4) or damage to property; or

(B) a threat of conduct that would cause bodily injury (as defined in IC 35-41-1-4) or damage to property.

(2) "County law enforcement agency" includes:

(A) postsecondary educational institution police officers appointed under IC 21-17-5 or IC 21-39-4; and

(B) school corporation police officers appointed under IC 20-26-16.

(b) There is established in each county a county law enforcement continuing education program. The program is funded by amounts appropriated under IC 33-37-8-6.

(c) A county law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under IC 33-37-8-4 or IC 33-37-8-6 shall deposit each fee collected into the county law enforcement continuing education fund.

(d) Distribution of money in the county law enforcement continuing education fund shall be made to a county law enforcement agency without the necessity of first obtaining an appropriation from the county fiscal body.

(e) Money in excess of one hundred dollars ($100) that is unencumbered and remains in a county law enforcement continuing education fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of a county's fiscal year, be deposited by the county auditor in the law enforcement training fund established under IC 5-2-1-13(b).

(f) To make a claim under IC 33-37-8-6, a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency.

(g) A law enforcement agency shall submit a claim for fees under this section in the same county fiscal year in which the fees are collected under IC 33-37-4.

(h) A county law enforcement agency program shall provide to each law enforcement officer employed by the county and may provide to each law enforcement officer employed by a city or town law enforcement agency within the county continuing education concerning the following:

(1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.

(2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.

(3) Techniques for handling incidents of abuse that:

(A) minimize the likelihood of injury to the law enforcement officer; and

(B) promote the safety of a victim.

(4) Information about the nature and extent of abuse.

(5) Information about the legal rights of and remedies available to victims of abuse.

(6) How to document and collect evidence in an abuse case.

(7) The legal consequences of abuse.

(8) The impact on children of law enforcement intervention in abuse cases.

(9) Services and facilities available to victims of abuse and abusers.

(10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.

(11) Policies concerning arrest or release of suspects in abuse cases.

(12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.

(13) Landlord-tenant concerns in abuse cases.

(14) The taking of an abused child into protective custody.

(15) Assessment of a situation in which a child may be seriously endangered if the child is left in the child's home.

(16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).

(17) Response to a sudden, unexpected infant death.

(18) Performing cardiopulmonary resuscitation and the Heimlich maneuver.

(i) A county law enforcement agency may enter into an agreement with other law enforcement agencies to provide the continuing education required by this section and section 2(f) of this chapter.

SECTION 2. IC 5-2-8-2, AS AMENDED BY P.L.132-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The following definitions apply in this section:

(1) "Abuse" has the meaning set forth in section 1(a) of this chapter.

(2) "City or town law enforcement agency" includes:

(A) postsecondary educational institution police officers appointed under IC 21-17-5 or IC 21-39-4; and

(B) school corporation police officers appointed under IC 20-26-16.

(b) There is established in each city and in each town with a city or town court a local law enforcement continuing education program. The program is funded by amounts appropriated under IC 33-37-8-4 and fees collected under IC 9-29-4-2, IC 9-29-11-1, and IC 35-47-2-3.

(c) A city or town law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under IC 33-37-8-4 or IC 33-37-8-6 shall deposit each fee collected into the local law enforcement continuing education fund.

(d) Distribution of money in a local law enforcement continuing education fund shall be made to a city or town law enforcement agency without the necessity of first obtaining an appropriation from the fiscal body of the city or town.

(e) To make a claim under IC 33-37-8-4, a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency.

(f) A city or town law enforcement agency shall provide to each law enforcement officer employed by the city or town law enforcement agency continuing education concerning the following:

(1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.

(2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.

(3) Techniques for handling incidents of abuse that:

(A) minimize the likelihood of injury to the law enforcement officer; and

(B) promote the safety of a victim.

(4) Information about the nature and extent of abuse.

(5) Information about the legal rights of and remedies available to victims of abuse.

(6) How to document and collect evidence in an abuse case.

(7) The legal consequences of abuse.

(8) The impact on children of law enforcement intervention in abuse cases.

(9) Services and facilities available to victims of abuse and abusers.

(10) Verification of restraining orders, protective orders,

temporary injunctions, and permanent injunctions.

(11) Policies concerning arrest or release of suspects in abuse cases.

(12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.

(13) Landlord-tenant concerns in abuse cases.

(14) The taking of an abused child into protective custody.

(15) Assessment of a situation in which the child may be seriously endangered if the child is left in the child's home.

(16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).

(17) Response to a sudden, unexpected infant death.

(18) Performing cardiopulmonary resuscitation and the Heimlich maneuver.

(g) A city or town law enforcement agency may enter into an agreement with other county, city, or town law enforcement agencies to provide the continuing education required by this section and section 1(h) of this chapter.

P.L.21-2009

[H.1107. Approved April 20, 2009.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-38-3 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 3. Interstate Compact on Educational Opportunity for Military Children

Sec. 1. ARTICLE I. PURPOSE

It is the purpose of this compact to remove barriers to

educational success imposed on children of military families due to frequent moves and deployment of their parents by doing the following:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of educational records from the school corporations the children previously attended or variations in admissions requirements.

B. Facilitating the student placement process to ensure that children of military families are not placed at a disadvantage due to variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment.

C. Facilitating the qualifications and eligibility for enrollment and participation in educational programs and extracurricular academic, athletic, and social activities.

D. Facilitating the timely graduation of children of military families.

E. Providing for the adoption and enforcement of rules to implement this chapter.

F. Providing for the uniform collection and sharing of information among member states, schools, and military families.

G. Promoting coordination among this compact and other compacts affecting children of military families.

H. Promoting flexibility and cooperation among the educational system, students, and families to achieve educational success for the students.

Sec. 2. ARTICLE II. DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Active duty" means full-time duty status in the armed forces of the United States or the National Guard and Reserve on active duty orders under 10 U.S.C. 1209 and 10 U.S.C 1211.

B. "Children of military families" means school aged children who are enrolled in kindergarten through grade 12 and are members of the household of an active duty member.

C. "Compact commissioner" means the voting representative of each member state appointed under section 9 of this

chapter.

D. "Deployment" means the period beginning one (1) month before a service member departs from the member's home station on military orders and ending six (6) months after the service member returns to the member's home station.

E. "Educational records" means the official records, files, and data that are directly related to a student and maintained by a school or local education agency. The term includes general identifying data, records of attendance and academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. "Extracurricular activities" means voluntary activities sponsored by a school, a local education agency, or an organization approved by a local education agency. The term includes preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

G. "Interstate commission" refers to the interstate commission on Educational Opportunity for Military Children created by Article IX of this compact.

H. "Local education agency" means a public administrative agency authorized by the state to control and direct kindergarten through grade 12 public educational institutions.

I. "Member state" means a state that has enacted this compact.

J. "Military installation" means a base, a camp, a post, a station, a yard, a center, a homeport facility for a ship, or any other activity under the jurisdiction of the United States Department of Defense. The term includes a leased facility located within the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, or any other United States territory. The term does not include a facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. "Nonmember state" means a state that has not enacted this compact.

L. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. "Rule" means a written statement by the interstate commission adopted under Article XII of this compact that is of general applicability, that implements, interprets, or prescribes a policy of provision of the interstate compact, and that has the force and effect of statutory law on a member state. The term includes the amendment, repeal, or suspension of an existing rule.

N. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, or any other United States territory.

P. "Student" means a child of a military family for whom a local education agency receives public funding and who is formally enrolled in kindergarten through grade 12.

Q. "Transition" means the formal and physical process of transferring a student between schools or the period during which a student transfers from a school in the sending state to a school in the receiving states.

R. "Uniformed services" means the United States Army, Navy, Air Force, Marine Corps, or Coast Guard. The term includes the commission corp of the National Oceanic and Atmospheric Administration and the Public Health Services.

S. "Veteran" means an individual who served in and was discharged or released from the uniformed services under conditions other than dishonorable.

Sec. 3. ARTICLE III. APPLICABILITY

A. Except as otherwise provided paragraph B, this compact applies to the children of the following:

1. An active duty member of the uniformed services, including a member of the National Guard and Reserve on active duty orders under 10 U.S.C. 1209 and 10 U.S.C 1211.

2. A member or veteran of the uniformed services who is severely injured and medically discharged or retired for at

least one (1) year after medical discharge or retirement.

3. A member of the uniformed services who dies on active duty or as a result of injuries sustained on active duty, for one (1) year after the member's death.

B. This compact applies only to local education agencies as defined in this compact.

C. This compact does not apply to the children of the following:

1. Inactive members of the National Guard and military reserves.

2. Retired members of the uniformed services, except as provided in paragraph A.

3. Veterans of the uniformed services, except as provided in paragraph A.

4. Other United States Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

Sec. 4. ARTICLE IV. EDUCATIONAL RECORDS AND ENROLLMENT

A. If official educational records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the interstate commission. Upon receipt of the unofficial educational records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records, pending validation by the official records, as quickly as possible.

B. At the same time as the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official educational record from the school in the sending state. Upon receipt of this request, the school in the sending state shall process and furnish the official educational records to the school in the receiving state within ten (10) days of such time as is reasonably determined under the rules adopted by the interstate commission.

C. Member states shall give thirty (30) days after the date of enrollment, or within such time as is reasonably determined under the rules adopted by the interstate commission, for students to

obtain immunizations required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty (30) days or within such time as is reasonably determined under the rules adopted by the interstate commission.

D. Students may continue their enrollment at grade level in the receiving state commensurate with their grade level (including kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student who has satisfactorily completed the prerequisite grade level in the local education agency in the sending state is eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student who transfers after the start of the school year in the receiving state shall enter the school in the receiving state on the student's validated level from an accredited school in the sending state.

Sec. 5. ARTICLE V. PLACEMENT AND ATTENDANCE

A. When a student transfers before or during a school year, the receiving state school initially shall honor placement of the student in educational courses based on the student's enrollment in the sending state school, on educational assessments conducted at the school in the sending state if the courses are offered, or on both the enrollment and assessments. Course placement includes honors, international baccalaureate, advanced placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses are paramount when considering placement. The school in the receiving state may perform subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

B. The receiving state school initially shall honor placement of a student in educational programs based on current educational assessments conducted at the school in the sending state or by participation or placement in similar programs in the sending state. Similar programs include gifted and talented programs and English as a second language programs. A school in a receiving state may perform subsequent evaluations to ensure appropriate placement of a student.

C. In compliance with the federal requirements of the

Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on the student's current individualized education program.

D. In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C. 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C. 12131 through 12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 Plan or Title II Plan, to provide the student with equal access to education. A school in a receiving state may perform subsequent evaluations to ensure appropriate placement of a student.

E. Local education agency administrative officials have flexibility in waiving course or program prerequisites or other preconditions for placement in courses or programs offered under the jurisdiction of the local education agency.

F. A student whose parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with the parent or legal guardian before the leave or deployment.

Sec. 6. ARTICLE VI. ELIGIBILITY

A. Eligibility for enrollment

1. A special power of attorney, relative to the guardianship of a child of a military family, is sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

2. A local education agency is prohibited from charging local tuition to a transitioning child of a military family placed in the care of a noncustodial parent or another person standing in loco parentis who lives in a jurisdiction other than the jurisdiction of the custodial parent.

3. A transitioning child of a military family, placed in the care of a noncustodial parent or another person standing in loco parentis who lives in a jurisdiction other than the jurisdiction of the custodial parent, may attend the school in which the

child was enrolled while residing with the custodial parent.

B. States and local education agencies shall facilitate the opportunity for the inclusion of transitioning children of military families in extracurricular activities, regardless of application deadlines, to the extent the children are otherwise qualified.

Sec. 7. ARTICLE VII. GRADUATION

To facilitate the on time graduation of children of military families, states and local education agencies shall follow the following procedures:

A. Local education agency administrative officials shall waive specific courses required for graduation if a student has satisfactorily completed similar course work in another local education agency. If a local education agency does not grant a waiver to a student who would qualify to graduate from the sending school, the local education agency must provide reasonable justification for denial of the waiver and provide alternative means to acquire the required course work so the student may graduate on time.

B. A receiving state shall accept any of the following in place of testing requirements for graduation in the receiving state:

1. Exit or end of course exams required for graduation from the sending state.

2. National norm referenced achievement tests.

3. Alternative testing.

If a receiving state fails to accept an alternative listed in this paragraph for a student transferring during the student's senior year, paragraph C applies.

C. If a student who transfers at the beginning of the student's senior year is ineligible to graduate from the receiving local education agency after all alternatives under paragraph B have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency if the student meets the graduation requirements of the sending local education agency. If a sending or receiving state is not a member state, the state that is a member state shall use best efforts to facilitate the on time graduation of the student under paragraphs A and B.

Sec. 8. ARTICLE VIII. STATE COORDINATION

A. A member state shall create a state council or use an existing

body or board to coordinate the actions of government agencies, local education agencies, and military installations concerning the state's participation in and compliance with this compact and interstate commission activities. A state council created under this section must include at least the following members:

1. The state superintendent of education.

2. A superintendent of a school district with a high concentration of children of military families. If a member state does not contain a school district with a high concentration of children of military families, a superintendent of a school district to represent local education agencies.

3. A representative of a military installation.

4. A member of the legislative branch.

5. A member of the executive branch.

B. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The compact commissioner responsible for the administration and management of a member state's participation in this compact shall be appointed by the governor of the member state or as otherwise determined by the member state.

D. The compact commissioner and the military family education liaison appointed under this section are ex officio members of the state council unless either is already a voting member of the state council.

Sec. 9. ARTICLE IX. INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the interstate commission on Educational Opportunity for Military Children. The activities of the interstate commission are the formation of public policy and are a discretionary state function. The interstate commission:

A. Is a body corporate and joint agency of the member states and has all the responsibilities, powers, and duties set forth in this compact and such additional powers as may be conferred upon it by a subsequent concurrent action of the legislatures of the member states under the terms of this compact.

B. Consists of one (1) interstate commission voting

representative from each member state who is the member state's compact commissioner.

1. Each member state represented at a meeting of the interstate commission is entitled to one (1) vote.

2. A majority of the total member states constitutes a quorum for the transaction of business unless the bylaws of the interstate commission require a larger quorum.

3. A representative may not delegate a vote to another member state. If a compact commissioner is unable to attend a meeting of the interstate commission, the governor or the state council may delegate voting authority to another person from the compact commissioner's state for a specified meeting.

4. The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication.

C. Consists of ex officio, nonvoting representatives who are members of interested organizations, including members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the United States Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military families.

D. Shall meet at least one (1) time each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, must call additional meetings.

E. Shall establish an executive committee. Members of the executive committee include the officers of the interstate commission and other members of the interstate commission as determined by the bylaws. Members of the executive committee shall serve a one (1) year term. Members of the executive committee are entitled to one (1) vote each. The executive committee has the power to act on behalf of the interstate commission, except for rulemaking, during periods when the interstate commission is not in session. The executive committee shall oversee the daily activities of the administration of this compact, including enforcement and compliance with this compact,

its bylaws, and its rules, and other necessary duties. The United States Department of Defense is an ex officio nonvoting member of the executive committee.

F. Shall establish bylaws and rules that provide for conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

G. Shall give public notice of all meetings. All meetings are open to the public except as set forth in the rules or as otherwise provided in this compact. The interstate commission and its committees may close a meeting or part of a meeting if the interstate commission determines by a two-thirds (2/3) majority that an open meeting would be likely to:

1. relate solely to the interstate commission's internal personnel practices and procedures;

2. disclose matters specifically exempted from disclosure by federal or state law;

3. disclose trade secrets or privileged or confidential commercial or financial information;

4. involve accusing a person of a crime or formally censuring a person;

5. disclose information of a personal nature in a clearly unwarranted invasion of personal privacy;

6. disclose investigative records compiled for law enforcement purposes; or

7. specifically relate to the interstate commission's participation in a civil action or another legal proceedings.

H. Shall cause its legal counsel or designee to certify that a meeting may be closed and reference each relevant exemptible provision for any meeting or part of a meeting that is closed under this section. The interstate commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and provide a full and accurate summary of actions taken and the reasons for taking the actions, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting shall remain under

seal, subject to release by a majority vote of the interstate commission.

I. Shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through the interstate commission's rules. The rules must specify the data to be collected, the means of collection, and data exchange and reporting requirements. The methods of data collection, exchange, and reporting must, to the extent reasonably possible, conform to current technology and coordinate information functions with the appropriate custodian of records as identified in the interstate commission's bylaws and rules.

J. Shall create a process to permit military officials, education officials, and parents to inform the interstate commission of alleged violations of this compact or the rules of the interstate commissions, or when issues subject to the jurisdiction of this compact or the rules of the interstate commission are not addressed by a state or local education agency. This section may not be construed to create a private right of action against the interstate commission or any member state.

Sec. 10. ARTICLE X. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission has the following powers:

A. To provide for dispute resolution among member states.

B. To adopt rules and take all necessary actions to effect the goals, purposes, and obligations set forth in this compact. The rules have the force and effect of statutory law and are binding in the member states to the extent and in the manner provided in this compact.

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of this compact or the bylaws, rules, or actions of the interstate commission.

D. To enforce compliance with compact provisions, rules adopted by the interstate commission, and the bylaws, using all necessary and proper means, including the use of judicial process.

E. To establish and maintain offices located within one (1) or more member states.

F. To purchase and maintain insurance and bonds.

G. To borrow, accept, hire, or contract for personnel services.

H. To establish and appoint committees, including an executive

committee required by Article IX, Section E. The executive committee has the power to act on behalf of the interstate commission in carrying out the powers and duties of the interstate commission.

I. To elect or appoint officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications, and to establish the interstate commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

J. To accept donations and grants of money, equipment, supplies, materials, and services, and to receive, use, and dispose of the donations and grants.

K. To lease, purchase, accept contributions or donations of, or otherwise own, hold, improve, or use any property.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the interstate commission.

O. To report annually to the legislatures, governors, judiciary, and the state councils of the member states about the activities of the interstate commission during the preceding year. A report must include any recommendations adopted by the interstate commission. A report to the general assembly must be in an electronic format under IC 5-14-6.

P. To coordinate education, training, and public awareness for officials and parents regarding the compact and its implementation and operation.

Q. To establish uniform standards for the reporting, collecting, and exchanging of data.

R. To maintain corporate books and records in accordance with the bylaws.

S. To perform necessary and appropriate functions to achieve the purposes of this compact.

T. To provide for the uniform collection and sharing of information among member states, schools, and military families under this compact.

Sec. 11. ARTICLE XI. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The interstate commission shall, by a majority of members present and voting, within twelve (12) months after the first interstate commission meeting, adopt bylaws to govern its conduct and carry out the purposes of this compact, including the following:

1. Establishing the fiscal year of the interstate commission.

2. Establishing an executive committee and other necessary committees.

3. Providing for the establishment of committees and for governing any delegation of authority or function of the interstate commission.

4. Providing reasonable procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each meeting.

5. Establishing the titles and responsibilities of the officers and staff of the interstate commission.

6. Providing a mechanism for concluding the operations of the interstate commission and the return of surplus funds existing upon the termination of the compact after the payment and reserving of all the debts and obligations of the interstate commission.

7. Providing "start up" rules for initial administration of this compact.

B. The interstate commission shall, by a majority of members, elect annually from its members a chairperson, a vice chairperson, and a treasurer, each of whom has the authority and duties specified in the bylaws. The chairperson or vice chairperson, as applicable, shall preside at all meetings of the interstate commission. The elected officers shall serve without compensation or remuneration from the interstate commission. However, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred in the performance of their responsibilities as officers of the interstate commission.

C. Executive Committee, Officers, and Personnel

1. The executive committee has the authority and duties set forth in the bylaws, including:

a. managing the affairs of the interstate commission in a manner consistent with the bylaws and purposes of the

interstate commission;

b. overseeing an organizational structure within, and appropriate procedures for, the interstate commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and

c. planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations to advance the goals of the interstate commission.

2. The executive committee may, subject to the approval of the interstate commission, appoint or retain an executive director for a period, upon such terms and conditions, and for such compensation as the interstate commission may consider appropriate. The executive director shall serve as secretary to the interstate commission but is not a member of the interstate commission. The executive director shall hire and supervise other persons authorized by the interstate commission.

D. The interstate commission's executive director and interstate commission employees are immune from suit and liability, personally or in their official capacities, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such a person had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties, or responsibilities. However, a person is not protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.

1. The liability of the interstate commission's executive director, an employee, or a representative, acting within the scope of the person's employment or duties for acts, errors, or omissions occurring within the person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The interstate commission is an instrumentality of the states for purposes of such an action. This subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and

wanton misconduct of the person.

2. The interstate commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of a member state represented by an interstate commission representative, shall defend the interstate commission representative in a civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant reasonably believed occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the defendant.

3. To the extent not covered by the state involved, a member state, the interstate commission, and the representatives and employees of the interstate commission are held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against persons arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the persons reasonably believed occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the persons.

Sec. 12. ARTICLE XII. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The interstate commission shall adopt reasonable rules to effectively and efficiently achieve the purposes of this compact. However, if the interstate commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of or power granted under this compact, the action by the interstate commission is invalid and has no force or effect.

B. Rules shall be made under a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p.

1 (2000) as amended, as may be appropriate to the operations of the interstate commission.

C. Not later than thirty (30) days after a rule is adopted, a person may file a petition for judicial review of the rule. However, the filing of a petition does not stay or otherwise prevent the rule from becoming effective unless a court finds that the petitioner has a substantial likelihood of success. The court shall defer to the actions of the interstate commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the interstate commission's authority.

D. If a majority of the legislatures of the member states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, the rule has no further force and effect in any compacting state.

Sec. 13. ARTICLE XIII. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

A. Oversight

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. This compact and the rules adopted under this compact have standing as statutory law.

2. All courts shall take judicial notice of this compact and the rules adopted under this compact in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact that may affect the powers, responsibilities, or actions of the interstate commission.

3. The interstate commission is entitled to receive all service of process in any proceeding and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission renders a judgment or an order void as to the interstate commission, this compact, or adopted rules.

B. If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, the bylaws, or the adopted rules, the interstate commission shall do the following:

1. Provide written notice to the defaulting state and other member states of the nature of the default, the means of

curing the default, and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default.

2. Provide remedial training and specific technical assistance regarding the default.

3. If the defaulting state fails to cure the default, the defaulting state shall be withdrawn from this compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this compact are terminated from the effective date of the defaulting state's withdrawal. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

4. Suspension or termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or withdraw shall be given by the interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

5. The member state that has been suspended or withdrawn is responsible for all assessments, obligations, and liabilities incurred through the effective date of its suspension or termination, including obligations, the performance of which extends beyond the effective date of suspension or withdrawal.

6. The interstate commission shall not bear any costs relating to any member state that has been found to be in default or that has been suspended or withdrawn from this compact unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting member state.

7. The defaulting member state may appeal the action of the interstate commission by petitioning the United States District Court for the District of Columbia or the federal district where the interstate commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. The interstate commission shall attempt, upon the request of a member state, to resolve disputes that are subject to this compact and that may arise among member states and

between member and nonmember states.

2. The interstate commission shall adopt a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. The interstate commission may, by majority vote of the members, initiate legal action in the United State District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with this compact and its adopted rules and bylaws against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies set forth in this section are not the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

Sec. 14. ARTICLE XIV. FINANCING OF THE INTERSTATE COMMISSION

A. The interstate commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

B. The interstate commission may levy on, and collect an annual assessment from, each member state to cover the cost of the operations and activities of the interstate commission and its staff. The total amount of the assessment must be sufficient to cover the interstate commission's annual budget as approved each year. The total annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, which shall adopt a rule binding upon all member states.

C. The interstate commission may not incur obligations of any kind before securing the funds adequate to meet the obligations, nor shall the interstate commission pledge the credit of any of the

member states, except by and with the authority of the member state.

D. The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the interstate commission.

Sec. 15. ARTICLE XV. MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

A. Any state is eligible to become a member state.

B. This compact becomes effective and binding upon legislative enactment of the compact into law by at least ten (10) of the states. It becomes effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the interstate commission on a nonvoting basis before adoption of the compact by all states.

C. The interstate commission may propose amendments to this compact for enactment by the member states. An amendment shall not become effective and binding upon the interstate commission and the member states unless and until the amendment is enacted into law by unanimous consent of the member states.

Sec. 16. ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, this compact continues in force and remains binding upon each and every member state. However, a member state may withdraw from this compact by repealing the statute that enacted the compact into law.

2. Withdrawal from this compact shall be by repealing the statute that enacted this compact into law but does not take effect until one (1) year after the effective date of the repealing statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.

3. The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the

introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt of the written notification.

4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of its withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting this compact or upon a later date as determined by the interstate commission.

B. Dissolution of Compact

1. This compact dissolves effective upon the date of the withdrawal or default of the member state that reduces the membership in the compact to one (1) member state.

2. Upon the dissolution of this compact, this compact becomes void and is of no further force or effect, and the business and affairs of the interstate commission shall be concluded, and surplus funds shall be distributed, in accordance with the bylaws.

Sec. 17. ARTICLE XVII. SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact are severable, and if any phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of this compact are enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. This compact may not be construed to prohibit the applicability of other interstate compacts to which the states are members.

Sec. 18. ARTICLE XVIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws

1. This compact does not prevent the enforcement of any other law of a member state that is not inconsistent with this compact.

2. All member states' laws that conflict with this compact are

superseded to the extent of the conflict.

B. Binding Effect of the Compact

1. All lawful actions of the interstate commission, including all rules and bylaws adopted by the interstate commission, are binding upon the member states.

2. All agreements between the interstate commission and the member states are binding in accordance with their terms.

3. If a provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, the provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.

P.L.22-2009

[H.1116. Approved April 20, 2009.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 5-2-17-10, AS ADDED BY P.L.92-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) A law enforcement agency (if the law enforcement agency is not the state police department) that receives a report of a ~~high risk~~ missing person may notify the state police department of the ~~high risk~~ missing person and request the assistance of the state police department in locating the ~~high risk~~ missing person.

(b) The law enforcement agency that receives a report of a high risk missing person shall inform every appropriate law enforcement agency in Indiana of the high risk missing person. In addition, the law enforcement agency that receives a report of a ~~high risk~~ missing person may notify a law enforcement agency in another state if the state police department believes that the notification will assist in the location of the ~~high risk~~ missing person.

(c) The law enforcement agency that receives a report of a ~~high risk~~ missing person shall do the following:

(1) Enter information that relates to a missing person report for a ~~high risk~~ missing person into:

(A) the National Crime Information Center (NCIC) data base not more than two (2) hours after the information is received; and

(B) any other appropriate data base not more than one (1) day after the information is received.

(2) Ensure that a person who enters data relating to medical or dental records in a data base has the appropriate training to understand and correctly enter the information. The law enforcement agency that receives a report of a ~~high risk~~ missing person may consult with a coroner, a pathologist, or another medical professional to ensure the accuracy of the medical or dental information.

(d) A law enforcement agency that receives a report of a high risk missing person under this section shall immediately:

(1) instruct the agency's officers to be alert for the missing person, and a person who may have abducted the missing person, if applicable; and

(2) enter all collected information related to the missing person case into appropriate state or federal data bases.

P.L.23-2009
[H.1203. Approved April 20, 2009.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 15-16-10 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 10. Invasive Species Council

Sec. 1. As used in this chapter, "council" refers to the invasive species council established by section 3 of this chapter.

Sec. 2. As used in this chapter, "fund" refers to the invasive species council fund established by section 12 of this chapter.

Sec. 3. The invasive species council is established within the Purdue University School of Agriculture.

Sec. 4. (a) The council has the following duties:

(1) Recommend:

(A) priorities for projects;

(B) funding; and

(C) rules and laws;

concerning invasive species to the appropriate governmental agencies and legislative committees.

(2) Recommend a lead state agency to:

(A) develop an invasive species inventory for each invasive species taxon; and

(B) develop and maintain a data management system for invasive species in Indiana.

(3) Communicate with other states, federal agencies, and state and regional organizations to enhance consistency and effectiveness in:

(A) preventing the spread of;

(B) early detection of;

(C) response to; and

(D) management of;

invasive species.

(4) Coordinate invasive species education and outreach programs.

(5) Convene or support an invasive species meeting at least once per biennium to provide information on best practices and pertinent research findings.

(6) Assist governmental agencies in:

(A) reviewing current invasive species policies and procedures; and

(B) addressing any deficiencies or inconsistencies concerning invasive species policies and procedures.

(7) Assist state agencies in reviewing the agencies' performance measures for accountability concerning the agencies' invasive species actions.

(8) Receive reports from any governmental agency regarding actions taken on recommendations of the council.

(9) Apply for grants.

(10) Provide grants for education concerning or management of invasive species.

(b) The council does not have any regulatory authority over invasive species or the authority to hear appeals of grievances.

(c) The council may create advisory committees to provide information and recommendations to the council.

(d) Beginning July 1, 2011, the council shall issue a written report to the natural resources study committee (IC 2-5-5-1) in every odd-numbered year. The report must include a summary of:

(1) the council's activities;

(2) the performance of the council's duties; and

(3) efforts in the state to identify and manage invasive species.

The report may include recommendations of the council.

Sec. 5. (a) The council consists of the following eleven (11) members:

(1) The dean of the Purdue University College of Agriculture or the dean's designee, who shall act as secretary of the council.

(2) The director of the Indiana state department of

agriculture or the director's designee.

(3) The commissioner of the Indiana department of transportation or the commissioner's designee.

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

(5) An employee of the division of fish and wildlife who is designated by the director of the division of fish and wildlife to serve as the aquatic invasive species coordinator.

(6) An employee of the division of entomology and plant pathology who is designated by the director of the division of entomology and plant pathology to serve as the terrestrial invasive species coordinator.

(7) One (1) individual representing research on invasive species.

(8) Two (2) individuals who represent organizations that are primarily concerned with any of the following:

(A) The hardwood tree industry.

(B) The horticulture industry.

(C) The agriculture industry.

(D) The aquaculture industry.

(9) Two (2) individuals who represent organizations or local governmental agencies primarily concerned with any of the following:

(A) Land trusts.

(B) Biodiversity conservation.

(C) Aquatic conservation.

(D) Local parks and recreation.

(b) The governor shall appoint the members under subsection (a)(7) through (a)(9).

(c) The council shall annually elect a member to serve as chairperson of the council.

Sec. 6. (a) The term of a member of the council appointed under this chapter is three (3) years.

(b) The term of each member of the council continues until a successor has been appointed.

(c) The appointing authority who appointed a member of the council may remove the member for cause.

Sec. 7. (a) If there is a vacancy on the council, the appointing authority who appointed the member whose position is vacant shall appoint an individual to fill the vacancy. The appointing authority

shall appoint a member not later than sixty (60) days after the vacancy occurs.

(b) The member appointed under this section shall fill the vacancy for the remainder of the unexpired term.

Sec. 8. Members of the council shall serve without compensation. Subject to the availability of money in the fund, members who are not state or county employees are entitled to reimbursement for traveling expenses as provided in the Purdue University travel policies and procedures established by the Purdue University department of transportation and approved by the Purdue University vice president of business services.

Sec. 9. Six (6) members of the council constitute a quorum.

Sec. 10. (a) The council shall hold at least one (1) regular meeting each year at a date, place, and time to be set by the chairperson.

(b) The chairperson may call special meetings of the council.

Sec. 11. The Purdue University School of Agriculture shall provide administrative assistance to the council.

Sec. 12. (a) The invasive species council fund is established as a separate fund in the Purdue University treasury to carry out the purposes of this chapter. The fund shall be administered by the council.

(b) The fund consists of any of the following:

(1) Grants.

(2) Appropriations.

(3) Gifts and donations.

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

(d) The Purdue University treasurer shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments must be deposited in the fund.

(e) Money in the fund may be used for purposes set forth in this chapter and to meet the expenses of administering this chapter.

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

Sec. 13. This chapter expires July 1, 2015.

SECTION 2. [EFFECTIVE JULY 1, 2009] **(a) The initial terms of office of the appointed members of the invasive species council established by IC 15-16-10-5, as added by this act, are as follows:**

(1) One (1) member appointed under IC 15-16-10-5(a)(7) and one (1) member appointed under IC 15-16-10-5(a)(8), three (3) years.

(2) One (1) member appointed under IC 15-16-10-5(a)(8) and one (1) member appointed under IC 15-16-10-5(a)(9), two (2) years.

(3) One (1) member appointed under IC 15-16-10-5(a)(9), one (1) year.

The governor shall specify the term of each member described in subdivisions (1), (2), and (3) when making the initial appointments.

(b) The initial terms of the appointed members begin July 1, 2009.

(c) The first meeting of the council must convene not later than October 1, 2009.

(d) This SECTION expires July 1, 2012.

P.L.24-2009

[H.1204. Approved April 20, 2009.]

AN ACT to amend the Indiana Code concerning environmental law.

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

SECTION 1. IC 14-32-8-6, AS AMENDED BY P.L.241-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The clean water Indiana fund is established to carry out the purposes of this chapter. The fund shall be administered by the division of soil conservation subject to the direction of the board.

(b) The fund consists of:

(1) amounts deposited in the fund under IC 6-7-1-29.3;

(2) amounts appropriated by the general assembly; and

(3) donations, grants, and money received from any other source.

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

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund **or any other fund but remains in the fund to be used for the purposes of the fund.**

SECTION 2. **An emergency is declared for this act.**

P.L.25-2009
[H.1381. Approved April 20, 2009.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-26-2-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. **(a) Subject to subsection (b),** a permit issued under this chapter expires two (2) years after the permit is issued.

(b) The commission may adopt rules under IC 4-22-2 providing that a type of permit specified in the rules expires more than two (2) years after it is issued.

SECTION 2. IC 14-26-2-23, AS AMENDED BY P.L.6-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 23. (a) Unless a person obtains a permit from the department under this section and conducts the activities according to the terms of the permit, a person may not conduct the following activities:

(1) Over, along, or lakeward of the shoreline or water line of a public freshwater lake:

(A) excavate;

(B) place fill; or

(C) place, modify, or repair a temporary or permanent

structure.

(2) Construct a wall whose lowest point would be:

(A) below the elevation of the shoreline or water line; and

(B) within ten (10) feet landward of the shoreline or water line, as measured perpendicularly from the shoreline or water line;

of a public freshwater lake.

(3) Change the water level, area, or depth of a public freshwater lake or the location of the shoreline or water line.

(b) An application for a permit for an activity described in subsection (a) must be accompanied by the following:

(1) A nonrefundable fee of one hundred dollars ($100).

(2) A project plan that provides the department with sufficient information concerning the proposed excavation, fill, temporary structure, or permanent structure.

(3) A written acknowledgment from the landowner that any additional water area created under the project plan is part of the public freshwater lake and is dedicated to the general public use with the public rights described in section 5 of this chapter.

(c) The department may issue a permit after investigating the merits of the application. In determining the merits of the application, the department may consider any factor, including cumulative effects of the proposed activity upon the following:

(1) The shoreline, water line, or bed of the public freshwater lake.

(2) The fish, wildlife, or botanical resources.

(3) The public rights described in section 5 of this chapter.

(4) The management of watercraft operations under IC 14-15.

(5) The interests of a landowner having property rights abutting the public freshwater lake or rights to access the public freshwater lake.

(d) A contractor or agent of the landowner who engages in an activity described in subsection (a)(1), (a)(2), or (a)(3) must comply with the terms of a permit issued under this section.

(e) The commission shall adopt rules under IC 4-22-2 to do the following:

(1) Assist in the administration of this chapter.

(2) Provide objective standards for issuing permits under this section, including standards for the configuration of piers, boat stations, platforms, and similar structures. The standards:

(A) may provide for a common use if the standard is needed to accommodate the interests of landowners having property rights abutting the public freshwater lake or rights to access the public freshwater lake; and

(B) shall exempt any class of activities from licensing, including temporary structures, if the commission finds that the class is unlikely to pose more than a minimal potential for harm to the public rights described in section 5 of this chapter.

(3) Establish a process under IC 4-21.5 for the mediation of disputes among persons with competing interests or between a person and the department. A rule adopted under this subsection must provide that:

(A) if good faith mediation under the process fails to achieve a settlement, the department shall make a determination of the dispute; and

(B) a person affected by the determination of the department may seek administrative review by the commission.

(f) After:

(1) a final agency action in a mediation under subsection (e)(3) that makes a determination of a dispute among persons with competing riparian interests; and

(2) the completion of judicial review or the expiration of the opportunity for judicial review;

a party to the dispute may seek enforcement of the determination in a civil proceeding. The remedy provided under this subsection is supplemental to any other legal remedy of the party.

P.L.26-2009
[H.1432. Approved April 20, 2009.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 6-3.5-1.1-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.5. (a) The county auditor shall timely distribute the part of the certified distribution received under section 10 of this chapter that constitutes property tax replacement credits to each civil taxing unit and school corporation that is a recipient of property tax replacement credits as provided by sections 12, 13, and 14 of this chapter.**

(b) The county auditor shall timely distribute the part of a certified distribution received under section 10 of this chapter that constitutes certified shares to each civil taxing unit that is a recipient of certified shares as provided by section 15 of this chapter.

(c) A distribution is considered to be timely made if the distribution is made not later than ten (10) working days after the date the county treasurer receives the county's certified distribution under section 10 of this chapter.

SECTION 2. IC 6-3.5-6-18.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18.6. (a) The county auditor shall timely distribute the certified distribution received under section 17 of this chapter to each civil taxing unit that is a recipient of distributive shares as provided by sections 18 and 18.5 of this chapter.**

(b) A distribution is considered to be timely made if the distribution is made not later than ten (10) working days after the date the county treasurer receives the county's certified

distribution under section 17 of this chapter.

SECTION 3. IC 6-3.5-7-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16.5. (a) The county auditor shall timely distribute the certified distribution received under section 12 of this chapter to each city and town that is a recipient of a certified distribution.**

(b) A distribution is considered to be timely made if the distribution is made not later than ten (10) working days after the date the county treasurer receives the county's certified distribution under section 12 of this chapter.

SECTION 4. **An emergency is declared for this act.**

P.L.27-2009

[H.1473. Approved April 20, 2009.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-31-1-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 21. (a) This section applies to rental agreements entered into or renewed after June 30, 2009, for residential, agricultural, and commercial property.**

(b) If the lowest floor of a structure, including a basement, that is the subject of a rental agreement is at or below the one hundred (100) year frequency flood elevation, as determined by:

(1) the department of natural resources;

(2) the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps; or

(3) FEMA approved local flood plain maps;
the landlord shall clearly disclose in a landlord-tenant rental agreement that the structure is located in a flood plain.

P.L.28-2009
[H.1524. Approved April 20, 2009.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-18-2-105.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 105.5. "Eggs", for purposes of IC 16-42-11, has the meaning set forth in IC 16-42-11-1.1.**

SECTION 2. IC 16-18-2-319 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 319. "Retailer", for purposes of IC 16-42-11, has the meaning set forth in ~~IC 16-42-11-2.~~ **IC 16-42-11-1.1.**

SECTION 3. IC 16-18-2-374 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 374. (a) "Wholesaler", for purposes of IC 16-42-11, has the meaning set forth in ~~IC 16-42-11-3.~~ **IC 16-42-11-1.1.**

(b) "Wholesaler", for purposes of IC 16-42-19 and IC 16-42-21, has the meaning set forth in IC 16-42-19-10.

(c) "Wholesaler", for purposes of IC 16-41-32, has the meaning set forth in IC 16-41-32-13.

SECTION 4. IC 16-42-11-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.1. The following definitions apply throughout this chapter:**

(1) "Case" means thirty (30) dozen.

(2) "Eggs" means shell eggs represented as fresh or treated.

(3) "Farmers market" means a common facility where two (2) or more farmers or growers gather on a regular basis to sell farm products, which they produce, directly to the consumer.

(4) "Fresh eggs" means consumer grades of eggs as defined by the standards of quality and weights as set forth by the state egg board.

(5) "Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, regardless of whether the group is incorporated.

(6) "Retailer" means any person who sells eggs for human consumption and not for resale.

(7) "Treated eggs" means eggs that have been treated by a process such as pasteurization, irradiation, or other method of treatment that changes the interior quality of an egg in such a manner that United States Department of Agriculture quality standards do not apply.

(8) "Wholesaler" means any person engaged in buying eggs for human consumption for resale to retailers, hotels, restaurants, hospitals, nursing homes, schools, state or federal institutions, operators of multiple unit retail outlets engaged in the distribution of eggs to their own retail units, or producers who sell or deliver eggs to retailers, hotels, restaurants, hospitals, nursing homes, schools, or state or federal institutions.

SECTION 5. IC 16-42-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The state egg board is established. The board consists of nine (9) members appointed by the governor as follows:

(1) One (1) member from ~~a list of not less than three (3) persons submitted and recommended~~ **recommendations submitted** by the Indiana State Poultry Association, Inc.

(2) One (1) member from ~~a list of not less than three (3) persons submitted and recommended~~ **recommendations submitted** by the Indiana Farm Bureau, Inc.

(3) One (1) member from ~~a list of not less than three (3) persons submitted and recommended~~ **recommendations submitted** by the Indiana Retail ~~Grocers'~~ **Grocery and Convenience Store** Association, Inc.

(4) One (1) member from ~~a list of not less than three (3) persons submitted and recommended~~ **recommendations submitted** by the Indiana Retail Council, Inc.

(5) One (1) member from ~~a list of not less than three (3) persons submitted and recommended~~ **recommendations submitted** by the Egg Council of the Indiana State Poultry Association, Inc.

(6) One (1) member from ~~a list of not less than three (3) persons submitted and recommended~~ **recommendations submitted** by the ~~trustees~~ **dean of the college of agriculture** of Purdue University. ~~as a representative of the office of agricultural research programs.~~

(7) One (1) member at large to represent the interests of the consumer.

(8) One (1) member to represent those engaged in the wholesaling of eggs through the Federal-State Egg Grading Program in Indiana.

(9) One (1) member to represent the interests of the food service industry.

(b) All appointments are for terms of three (3) years. However, an appointment to fill an unexpired term shall be made by the governor for the remainder of that term only.

(c) The recommendations provided for in this section shall be submitted to the governor within ten (10) days before an appointment is to be made to the state egg board. All appointments by the governor under this chapter shall be made within twenty (20) days after submission to the governor of the recommendations for appointments. If the recommendations are not submitted to the governor within the specified time, the governor shall make the appointment without the recommendations. **If the governor does not make an appointment to fill an expired term for a member described in subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6) within twenty (20) days after receiving the recommendation, the current members of the state egg board may select an individual from the names submitted by an organization under subsection (a) to fill the position represented by that organization on the state egg board. The individual shall serve a three (3) year term beginning with the next official board meeting following the twenty (20) day deadline.**

(d) The members of the state egg board shall, before entering upon

their duties, take and subscribe to the oath of office provided for other state officers. The oath of office shall be filed in the office of the secretary of state. The secretary of state shall administer the oath as a part of the duties of the office of secretary of state.

(e) The state egg board shall elect from its own membership the following officers:

(1) President.

(2) A vice president who serves in the president's absence or disability.

(3) Recording secretary.

The officers serve for one (1) year or until their successors are elected and qualified.

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

(g) The state egg board shall provide a suitable office, equipment, supplies, and facilities for the conduct of the board's business.

SECTION 6. IC 16-42-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) The state egg board shall administer, enforce, and carry out this chapter.

(b) The state egg board shall do the following:

(1) Formulate and determine standards of quality and weights of eggs sold or offered for sale. ~~as fresh eggs.~~

(2) Regulate the sale of and commerce in eggs sold or offered for sale at retail or wholesale ~~as fresh eggs~~ and regulate the sale of eggs by wholesalers and retailers.

(3) Formulate and publish definitions, names, and grades of ~~fresh~~ eggs and specifications for the care and handling of eggs that may be offered for sale at retail and wholesale ~~as fresh eggs~~ under the terms of this chapter and for the care and handling of eggs that may be offered for sale by wholesalers and retailers as eggs fit for human consumption.

(4) Provide for and issue permits to wholesalers or retailers of ~~fresh~~ eggs and provide for the registration of wholesalers and

retailers of eggs.

(5) Adopt rules necessary for or incident to carrying out this chapter.

(6) Investigate and report violations of this chapter and violations of the rules of the state egg board to the proper authorities for prosecution.

(7) Revoke any registration or permit for a violation of this chapter or of the rules adopted by the state egg board.

(8) Hold four (4) regular meetings at quarterly intervals at the time and place the state egg board designates. The president of the state egg board may call special meetings of the state egg board whenever in the president's judgment it becomes necessary. The president shall call a special meeting of the state egg board upon written request of a majority of the members of the state egg board.

(9) The state egg board shall publish or cause to be published an annual report of the board's work. In addition, the state egg board may periodically publish or cause to be published and distributed other information concerning eggs.

SECTION 7. IC 16-42-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. A person may not sell, offer for sale, or advertise for sale at retail or wholesale ~~shell~~ eggs that do not meet the standards of quality and weight set forth by the state egg board.

SECTION 8. IC 16-42-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Every person selling eggs to a retailer shall furnish ~~written~~ proof of delivery at the time of delivery showing:

(1) the date;

(2) the grades; and

(3) the quantity of the eggs;

according to the standards prescribed by the state egg board.

(b) A copy of the proof of delivery shall be kept on file by retailers at their respective places of business for thirty (30) days and at all reasonable times shall be available and open for inspection by accredited inspectors or representatives of the state egg board.

SECTION 9. IC 16-42-11-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2009]: **Sec. 9.5. A farmer or bona fide egg producer who markets directly to the consumer at a location that is not the farmer's or producer's own premises and is recognized as a farmers market may be required to have a farmers market retail permit issued by the state egg board. The state egg board shall establish requirements and procedures for obtaining a farmers market retail permit by rule under IC 4-22-2.**

SECTION 10. IC 16-42-11-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) ~~As used in this section, "case" means thirty (30) dozen.~~ **Except as provided in section 10.2(d) of this chapter, this section applies to:**

(1) registrations and permits issued by; and

(2) fees due and payable to;

the state egg board before July 1, 2010.

(b) Every wholesaler or retailer selling ~~shell~~ eggs shall, before July 1 of each year, file with the state egg board a statement setting forth the fact that the wholesaler or retailer desires to sell ~~fresh shell~~ eggs. The statement shall designate the name of the wholesaler or retailer desiring to register ~~and~~ the location of the wholesaler's or retailer's principal office **and any location where eggs are stored or distributed if that location is different from the principal office**. The state egg board shall furnish blank forms for registration. The state egg board shall register the facts set forth in the statement in a permanent record. The state egg board shall furnish to each registered wholesaler a registration number upon payment of the registration fee and deposit.

(c) The state egg board shall require and collect from each wholesaler at the time of registration a fee based upon the average number of cases of eggs sold to retailers, hotels, restaurants, hospitals, nursing homes, schools, or to state or federal institutions each week during the preceding calendar year, as follows:

Average Number of Cases Sold	Registration Fee
0 - 100	$ 30
101 - 250	$ 60
251 - 500	$ 90
501 - 1,000	$ 120
1,001 and over	$ 150

(d) The state egg board shall require and collect from each

wholesaler at the time of registration a deposit equal to the product obtained by using a multiplier of six cents ($0.06) and a multiplicand that is the number of cases of eggs sold in that quarter of the immediately preceding five (5) calendar quarters in which the highest number of cases of eggs were sold by the wholesaler to retailers, hotels, restaurants, hospitals, nursing homes, schools, or to state or federal institutions. However, if the wholesaler does not have a five (5) quarter history, the state egg board shall fix the deposit at a reasonable amount.

(e) The state egg board shall require and collect from each retail store or unit of retailing a fee based upon the average number of cases of eggs sold each week during the preceding calendar year, as follows:

Average Number of Cases Sold	Registration Fee
1-5	$20
more than 5	$25

(f) All registered wholesalers must make application to the state egg board for a permit to report the case volume of ~~shell~~ eggs sold in Indiana and submit a fee of six cents ($0.06) for each thirty (30) dozen eggs or a fraction of that number of the volume reported. In applying for a permit, the ~~wholesaler~~ **applicant** must agree to do the following:

(1) Keep records the state egg board considers necessary to indicate accurately the case volume of ~~shell~~ eggs sold in Indiana.

(2) Grant the state egg board permission to examine those records and verify the statement of the number and grade of eggs reported.

(3) Report under oath to the state egg board, on forms furnished by the state egg board, the number of eggs reported during the period covered.

~~(g) The state egg board may grant the permit if the board determines that the action will lead to efficient enforcement of this chapter. The state egg board may revoke the permit at any time if it appears to the state egg board that the wholesaler is not complying with the terms of the agreement entered into at the time of the issuance. The report of eggs is due and the fees are payable quarterly on the last day of the month following the end of the quarter. If:~~

~~(1) the report is not filed and the fee paid by the tenth day following the due date;~~

~~(2) the report is false; or~~

~~(3) the requirements of this chapter have not been complied with; the state egg board may revoke the permit. If the fee is unpaid after the ten (10) day grace period, a penalty of ten percent (10%) in addition to the amount due shall be assessed.~~

SECTION 11. IC 16-42-11-10.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 10.2. (a) Except as provided in subsection (d), this section applies to:**

(1) registrations and permits issued by; and

(2) fees due and payable to;

the state egg board after June 30, 2010.

(b) The state egg board may establish requirements for issuing a permit or registration under this chapter by rule under IC 4-22-2.

(c) The state egg board may establish fees necessary to carry out this chapter by rule under IC 4-22-2.

(d) If a rule is not in effect by July 1, 2010, the fees and requirements for obtaining a registration or permit under section 10 of this chapter apply until the date the rule takes effect.

SECTION 12. IC 16-42-11-10.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 10.4. The state egg board may grant a permit if the board determines that the action will lead to efficient enforcement of this chapter. The state egg board may revoke a permit at any time if it appears to the state egg board that a wholesaler is not complying with the terms of the agreement entered into at the time of the issuance. The report of eggs is due and the fees are payable quarterly on the last day of the month following the end of the quarter. If:**

(1) the report is not filed and the fee paid by the tenth day following the due date;

(2) the report is false; or

(3) the requirements of this chapter have not been complied with;

the state egg board may revoke the permit. If the fee is unpaid after the ten (10) day grace period, a penalty of the greater of twenty dollars ($20) or ten percent (10%) of the amount due in addition to the amount due shall be assessed. If the state egg board

determines that an account review is necessary, out-of-state permit holders shall reimburse the state egg board for expenses incurred to conduct the account review.

SECTION 13. IC 16-42-11-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) A person may not sell as a wholesaler to a retailer, hotel, restaurant, hospital, nursing home, school, or state or federal institution ~~shell~~ eggs for human consumption that are not subject to being reported as provided in this chapter.

(b) A person operating multiple retail outlets may not distribute or deliver to retail units ~~shell~~ eggs for human consumption that are not subject to being reported as provided for in this chapter. A retail store or retail unit may not receive from a wholesaler ~~shell~~ eggs for human consumption that are not subject to being reported as provided for in this chapter.

SECTION 14. IC 16-42-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. The dean of **the college of** agriculture of Purdue University may, subject to the approval of the state egg board, employ an executive administrator, inspectors, clerks, and other assistants necessary to carry out this chapter under the direction and supervision of the state egg board. The inspectors shall inspect and examine eggs sold, offered for sale, or exposed for sale ~~as fresh eggs~~ and shall also inspect and examine eggs sold by wholesalers and retailers as fit for human consumption under this chapter at times and places and in the manner the state egg board directs.

SECTION 15. IC 16-42-11-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. The:

(1) members of the state egg board;

(2) dean of **the college of** agriculture of Purdue University; and

(3) employees of the state egg board;

are not liable in their individual capacity, except to the state, for an act done or omitted in connection with the performance of their respective duties under this chapter.

SECTION 16. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 16-18-2-50; IC 16-18-2-141; IC 16-42-11-1; IC 16-42-11-2; IC 16-42-11-3.

P.L.29-2009
[H.1592. Approved April 20, 2009.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-18-2-223.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 223.7. "Medically contraindicated", for purposes of IC 16-28-14 ~~has the meaning set forth in IC 16-28-14-1.~~ **and IC 16-28-14.5, means that a vaccine would be detrimental to an individual's health because of a medical condition of the individual.**

SECTION 2. IC 16-28-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 14.5. Health Facility Employee Immunizations

Sec. 1. This chapter applies only to the following:

(1) Health facilities that are licensed under IC 16-28 as comprehensive care facilities.

(2) Employees of health facilities described in subdivision (1) who have direct contact with a patient or resident of the health facility.

Sec. 2. (a) Subject to obtaining an employee's consent, a health facility shall annually administer or make available to be administered immunizations against the influenza virus to the employee of the health facility.

(b) A health facility shall conduct the immunizations required under subsection (a) in accordance with the recommendations established by the Advisory Committee on Immunization Practices of the United States Centers for Disease Control and Prevention that are in effect at the time the health facility conducts the immunizations.

Sec. 3. A health facility shall annually administer or make

available to be administered the immunizations required under this chapter to each employee of the health facility who is employed by the health facility during the period beginning October 1 and ending February 1 of the following year.

Sec. 4. A health facility is not required to provide or make available to the health facility's employees annual immunizations against the influenza virus if the department determines that the necessary vaccine is not in adequate supply.

Sec. 5. Notwithstanding any other provision of this chapter, a health facility shall not require an employee to receive an immunization under this chapter if:

(1) the health facility:

(A) has written documentation from the employee's physician or other health care provider indicating the date and place that the individual received an immunization required under this chapter; and(B) determines that no additional immunization is required;

(2) the immunization is medically contraindicated for the employee;

(3) receiving the immunization is against the employee's religious beliefs; or

(4) the employee refuses to permit the immunization after being fully informed of the health risks.

Sec. 6. The state department may adopt rules under IC 4-22-2 to administer this chapter.

SECTION 3. IC 16-28-14-1 IS REPEALED [EFFECTIVE JULY 1, 2009].

P.L.30-2009
[H.1625. Approved April 20, 2009.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 2-3.5-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The PERF board shall establish alternative investment programs within the fund, based on the following requirements:

(1) The PERF board shall maintain at least one (1) alternative investment program that is an indexed stock fund, ~~and~~ one (1) alternative investment program that is a bond fund, **and one (1) alternative investment program that is a stable value fund.**

(2) The programs should represent a variety of investment objectives.

(3) The programs may not permit a member to withdraw money from the member's account, except as provided in section 6 of this chapter.

(4) All administrative costs of each alternative program shall be paid from the earnings on that program.

(5) A valuation of each member's account must be completed as of the last day of each quarter.

(b) A member shall direct the allocation of the amount credited to the member among the available alternative investment funds, subject to the following conditions:

(1) A member may make a selection or change an existing selection under rules established by the PERF board. The PERF board shall allow a member to make a selection or change any existing selection at least once each quarter.

(2) The PERF board shall implement the member's selection beginning the first day of the next calendar quarter that begins at least thirty (30) days after the selection is received by the PERF board. This date is the effective date of the member's selection.

(3) A member may select any combination of the available investment funds, in ten percent (10%) increments.

(4) A member's selection remains in effect until a new selection is made.

(5) On the effective date of a member's selection, the board shall reallocate the member's existing balance or balances in accordance with the member's direction, based on the market value on the effective date.

(6) If a member does not make an investment selection of the alternative investment programs, the member's account shall be invested in the PERF board's general investment fund.

(7) All contributions to the member's account shall be allocated as of the last day of the quarter in which the contributions are received in accordance with the member's most recent effective direction. The PERF board shall not reallocate the member's account at any other time.

(c) When a member transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program, the amount credited to the member shall be valued at the market value of the member's investment, as of the day before the effective date of the member's selection. When a member retires, becomes disabled, dies, or withdraws from the fund, the amount credited to the member shall be the market value of the member's investment as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or withdrawal, plus contributions received after that date.

(d) The PERF board shall determine the value of each alternative program in the defined contribution fund, as of the last day of each calendar quarter, as follows:

(1) The market value shall exclude the employer contributions and employee contributions received during the quarter ending on the current allocation date.

(2) The market value as of the immediately preceding quarter end date shall include the employer contributions and employee contributions received during that preceding quarter.

(3) The market value as of the immediately preceding quarter end date shall exclude benefits paid from the fund during the quarter ending on the current quarter end date.

P.L.31-2009
[S.27. Approved April 21, 2009.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-20-13-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. As used in this chapter, "fund" refers to the Senator David C. Ford educational technology fund established under section 6 of this chapter.**

SECTION 2. IC 20-20-13-6, AS AMENDED BY P.L.3-2008, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The ~~educational technology program and~~ **Senator David C. Ford educational technology** fund is established to ~~provide and~~ extend educational technologies to elementary and secondary schools. **The fund may be used** for:

(1) the 4R's technology grant program to assist school corporations (on behalf of public schools) in purchasing technology equipment:

(A) for kindergarten and grade 1 students, to learn reading, writing, and arithmetic using technology;

(B) for students in all grades, to understand that technology is a tool for learning; and

(C) for students in kindergarten through grade 3 who have been identified as needing remediation, to offer daily remediation opportunities using technology to prevent those students from failing to make appropriate progress at the particular grade level;

(2) providing educational technologies, including computers in the homes of students;

(3) conducting educational technology training for teachers; and

(4) other innovative educational technology programs.

(b) The department may also use money in the fund under contracts entered into with the office of technology established by IC 4-13.1-2-1 to study the feasibility of establishing an information telecommunications gateway that provides access to information on employment opportunities, career development, and instructional services from data bases operated by the state among the following:

(1) Elementary and secondary schools.

(2) Postsecondary educational institutions.

(3) Career and technical educational centers and institutions that are not postsecondary educational institutions.

(4) Libraries.

(5) Any other agencies offering education and training programs.

(c) The fund consists of:

(1) state appropriations;

(2) private donations to the fund;(3) money directed to the fund from the corporation for educational technology under IC 20-20-15; or

(4) any combination of the amounts described in subdivisions (1) through (3).

(d) The ~~program and~~ fund shall be administered by the department.

(e) Unexpended money appropriated to or otherwise available in the fund ~~for the department's use in implementing the program under this chapter~~ at the end of a state fiscal year does not revert to the state general fund but remains available to the department for use under this chapter.

(f) Subject to section 7 of this chapter, a school corporation may use money from the school corporation's capital projects fund as permitted under IC 20-40-8 for educational technology equipment.

P.L.32-2009
[S.188. Approved April 22, 2009.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 36-8-8-12, AS AMENDED BY P.L.99-2007, SECTION 219, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) Benefits paid under this section are subject to sections 2.5 and 2.6 of this chapter.

(b) If an active fund member has a covered impairment, as determined under sections 12.3 through 13.1 of this chapter, the member is entitled to receive the benefit prescribed by section 13.3 or 13.5 of this chapter. A member who has had a covered impairment and returns to active duty with the department shall not be treated as a new applicant seeking to become a member of the 1977 fund.

(c) If a retired fund member who has not yet reached the member's fifty-second birthday is found by the PERF board to be permanently or temporarily unable to perform all suitable work for which the member is or may be capable of becoming qualified, the member is entitled to receive during the disability the retirement benefit payments payable at fifty-two (52) years of age. During a reasonable period in which a fund member with a disability is becoming qualified for suitable work, the member may continue to receive disability benefit payments. However, benefits payable for disability under this subsection are reduced by amounts for which the fund member is eligible from:

(1) a plan or policy of insurance providing benefits for loss of time because of disability;

(2) a plan, fund, or other arrangement to which the fund member's employer has contributed or for which the fund member's employer has made payroll deductions, including a group life policy providing installment payments for disability, a group annuity contract, or a pension or retirement annuity plan other

than the fund established by this chapter;

(3) the federal Social Security Act (42 U.S.C. 401 et seq.), the Railroad Retirement Act (45 U.S.C. 231 et seq.), the United States Department of Veterans Affairs, or another federal, state, local, or other governmental agency;

(4) worker's compensation payable under IC 22-3; and

(5) a salary or wage, including overtime and bonus pay and extra or additional remuneration of any kind, the fund member receives or is entitled to receive from the member's employer.

For the purposes of this subsection, a retired fund member is considered eligible for benefits from subdivisions (1) through (5) whether or not the member has made application for the benefits.

(d) Notwithstanding any other law, a plan, policy of insurance, fund, or other arrangement:

(1) delivered, issued for delivery, amended, or renewed after April 9, 1979; and

(2) described in subsection (c)(1) or (c)(2);

may not provide for a reduction or alteration of benefits as a result of benefits for which a fund member may be eligible from the 1977 fund under subsection (c).

(e) Time spent receiving disability benefits, **not to exceed twenty (20) years,** is considered active service for the purpose of determining retirement benefits. ~~until the fund member has a total of twenty (20) years of service.~~ **A fund member's retirement benefit shall be based on:**

(1) the member's years of active service; plus

(2) if applicable, the period, not to exceed twenty (20) years, during which the member received disability benefits.

(f) A fund member who is receiving disability benefits:

(1) under section 13.3(d) of this chapter; or

(2) based on a determination under this chapter that the fund member has a Class 3 impairment;

shall be transferred from disability to regular retirement status when the member becomes fifty-five (55) years of age.

(g) A fund member who is receiving disability benefits:

(1) under section 13.3(c) of this chapter; or

(2) based on a determination under this chapter that the fund member has a Class 1 or Class 2 impairment;

is entitled to receive a disability benefit for the remainder of the fund member's life **in the amount determined under the applicable sections of this chapter.**

SECTION 2. IC 36-8-8-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13.5. (a) This section applies only to a fund member who:

(1) is hired for the first time after December 31, 1989;

(2) chooses coverage by this section and section 12.5 of this chapter under section 12.4 of this chapter; or

(3) is described in section 12.3(c)(2) of this chapter.

(b) A fund member who is determined to have a Class 1 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to forty-five percent (45%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

(c) A fund member who is determined to have a Class 2 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to twenty-two percent (22%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment plus one-half percent (0.5%) of that salary for each year of service, up to a maximum of thirty (30) years of service.

(d) For applicants hired before March 2, 1992, a fund member who is determined to have a Class 3 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to the product of the member's years of service (not to exceed thirty (30) years of service) multiplied by one percent (1%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

(e) For applicants hired after March 1, 1992, or described in section 12.3(c)(2) of this chapter, a fund member who is determined to have a Class 3 impairment and for whom it is determined that there is no

suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to the following benefits instead of benefits provided under subsection (d):

(1) If the fund member did not have a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund, the fund member is entitled to a monthly base benefit equal to the product of the member's years of service, not to exceed thirty (30) years of service, multiplied by one percent (1%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

(2) Except as provided in subdivision (5), a fund member is entitled to receive the benefits set forth in subdivision (1) if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund;

(B) the fund member has a Class 3 impairment that is not related in any manner to the Class 3 excludable condition described in clause (A); and

(C) the Class 3 impairment described in clause (B) occurs after the fund member has completed four (4) years of service with the employer after the date the fund member entered or reentered the fund.

(3) Except as provided in subdivision (5), a fund member is not entitled to a monthly base benefit for a Class 3 impairment if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund; and

(B) the Class 3 impairment occurs before the fund member has completed four (4) years of service with the employer after the date the fund member entered or reentered the fund.

(4) A fund member is not entitled to a monthly base benefit for a Class 3 impairment if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund; and

(B) the Class 3 impairment is related in any manner to the

Class 3 excludable condition.

(5) If, during the first four (4) years of service with the employer:

(A) a fund member with a Class 3 excludable condition is determined to have a Class 3 impairment; and

(B) the Class 3 impairment is attributable to an accidental injury that is not related in any manner to the fund member's Class 3 excludable condition;

the member is entitled to receive the benefits provided in subdivision (1) with respect to the accidental injury. For purposes of this subdivision, the local board shall make the initial determination of whether an impairment is attributable to an accidental injury. The local board shall forward the initial determination to the director of the PERF board for a final determination by the PERF board or the PERF board's designee.

(f) If a fund member is entitled to a monthly base benefit under subsection (b), (c), (d), or (e), the fund member is also entitled to a monthly amount that is no less than ten percent (10%) and no greater than forty-five percent (45%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment. The additional monthly amount shall be determined by the PERF medical authority based on the degree of impairment.

(g) Benefits for a Class 1 impairment **as determined under this section** are payable ~~until~~ **for the remainder of** the fund ~~member becomes fifty-two (52) years of age.~~ **member's life.**

(h) Benefits for a Class 2 ~~and a Class 3~~ impairment are payable:

(1) for a period equal to the years of service of the member, if the member's total disability benefit is less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment and the member has fewer than four (4) years of service; or

(2) ~~until the member becomes fifty-two (52) years of age~~ **for the remainder of the fund member's life** if the **fund** member's benefit is:

(A) equal to or greater than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or

(B) less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local

board's determination of impairment if the member has at least four (4) years of service.

(i) Benefits for a Class 3 impairment are payable:

(1) for a period equal to the years of service of the member, if the member's total disability benefit is less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment and the member has fewer than four (4) years of service; or

(2) until the member becomes fifty-two (52) years of age if the member's benefit is:

(A) equal to or greater than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or

(B) less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment if the member has at least four (4) years of service.

~~(h)~~ **(j)** Upon becoming fifty-two (52) years of age, a fund member with a ~~Class 1 or~~ Class 2 impairment **determined under subsection (h)(1)** is entitled to receive the retirement benefit payable to a fund member with:

(1) twenty (20) years of service; or

(2) the total years of service **(including both active service and the period, not to exceed twenty (20) years, during which the member received disability benefits)** and salary, as of the year the member becomes fifty-two (52) years of age, that the fund member would have earned if the fund member had remained in active service until becoming fifty-two (52) years of age;

whichever is greater.

~~(i)~~ **(k)** Upon becoming fifty-two (52) years of age, a fund member who is receiving or has received a Class 3 impairment benefit that is:

(1) equal to or greater than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or

(2) less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's

determination of impairment if the member has at least four (4) years of service;

is entitled to receive the retirement benefit payable to a fund member with twenty (20) years of service.

~~(j)~~ **(l)** Notwithstanding section 12.3 of this chapter and any other provision of this section, a member who:

(1) has had a covered impairment;

(2) recovers and returns to active service with the department; and

(3) within two (2) years after returning to active service has an impairment that, except for section 12.3(b)(3) of this chapter, would be a covered impairment;

is entitled to the benefit under this subsection if the impairment described in subdivision (3) results from the same condition or conditions (without an intervening circumstance) that caused the covered impairment described in subdivision (1). The member is entitled to receive the monthly disability benefit amount paid to the member at the time of the member's return to active service plus any adjustments under section 15 of this chapter that would have been applicable during the member's period of reemployment.

SECTION 3. IC 36-8-8-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 23. (a) This section applies to a fund member who:**

(1) after June 30, 2009, receives a benefit based on a determination that the member has a Class 1 or Class 2 impairment, regardless of whether the determination was made before, on, or after June 30, 2009; and

(2) before July 1, 2009, has not had the member's disability benefit recalculated under section 13.5 of this chapter.

(b) Upon becoming fifty-two (52) years of age, a fund member receiving a Class 1 impairment benefit or Class 2 impairment benefit under section 13.5(h)(2) of this chapter is entitled to receive a monthly supplemental benefit determined in STEP THREE of the following formula:

STEP ONE: Determine the greater of:

(A) the monthly retirement benefit payable to a fund member with twenty (20) years of service; or

(B) the monthly retirement benefit payable to a fund member with the total years of service (including both

active service and the period, not to exceed twenty (20) years, during which the member received disability benefits) and salary, as of the year the fund member becomes fifty-two (52) years of age, that the fund member would have earned if the fund member had remained in active service until becoming fifty-two (52) years of age.

STEP TWO: Subtract from the amount determined under STEP ONE the amount of any monthly benefit determined under section 13.5 of this chapter that the fund member is entitled to receive for the remainder of the fund member's life.

STEP THREE: Determine the greater of the following:

(A) The remainder determined under STEP TWO.

(B) Zero (0).

(c) A monthly supplemental benefit determined under this section is payable for the remainder of the fund member's life.

SECTION 4. [EFFECTIVE JULY 1, 2009] **IC 36-8-8-12 and IC 36-8-8-13.5, both as amended by this act, apply to a member of the 1977 police officers' and firefighters' pension and disability fund who:**

(1) after June 30, 2009, receives a benefit based on a determination that the member has a Class 1 or Class 2 impairment, regardless of whether the determination was made before, on, or after June 30, 2009; and

(2) before July 1, 2009, has not had the member's disability benefit recalculated under IC 36-8-8-13.5 (as the section read before amendment by this act).

P.L.33-2009
[S.533. Approved April 22, 2009.]

AN ACT to amend the Indiana Code concerning labor and safety.

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

SECTION 1. IC 22-8-1.1-35.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 35.6. (a) A safety order, penalty assessment, or notice of failure to correct violation which has become final, either through lack of any contest under section 28.1 of this chapter, or after final action by the board, or after judicial review, shall be enforced by the commissioner **under this section or section 35.7 of this chapter. The remedies provided in this chapter are cumulative and are in addition to any other remedy available to the commissioner. The commissioner's decision to pursue one (1) of the remedies does not preclude the subsequent or corresponding use of one (1) or more of the other remedies available to the commissioner.**

(b) If an employer fails to comply, the commissioner ~~shall~~ **may** refer the matter to the attorney general, who shall promptly institute proceedings under IC 4-21.5-6 to enforce the safety order, penalty assessment, or notice of failure to correct violation.

SECTION 2. IC 22-8-1.1-35.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 35.7. (a) If an employer fails to pay a penalty assessed under this chapter within ten (10) calendar days of the date that the assessment is final under section 35.6 of this chapter, the commissioner or the commissioner's representative may file with the circuit court clerk of any county in which the employer owns any interest in property, real or personal, tangible or intangible, a warrant for the amount of the assessment and interest, if applicable. The commissioner or the commissioner's representative may also send the warrant to the**

sheriff of any county in which the employer owns real or personal property and direct the sheriff to file the warrant with the circuit court clerk.

(b) When the circuit court clerk receives the warrant from the commissioner, the commissioner's representative, or the sheriff, the clerk shall record the warrant by making an entry in the judgment debtor's column of the judgment record listing the following:

(1) The name of the employer stated in the warrant.

(2) The amount of the warrant.

(3) The date the warrant was filed with the clerk.

(c) When the entry is made, the total amount of the warrant becomes a judgment against the employer. The judgment creates a lien in favor of the state that attaches to all the employer's interest in any real or personal property in the county.

(d) At least thirty (30) calendar days before the date on which the commissioner intends to file a warrant as provided by subsection (a) in order to impose a lien on real or personal property, the commissioner or the commissioner's representative must send a written notice:

(1) to the owner of the real or personal property that would be subject to the lien; or

(2) if the owner of record cannot be identified, to the tenant or other person having control of the real or personal property;

of the date on which the commissioner or the commissioner's representative intends to file the warrant in order to impose a lien on the real or personal property. The commissioner or the commissioner's representative shall provide the circuit court clerk of the county in which the real or personal property that would be subject to the lien is located with a copy of the written notice described in this subsection.

(e) A judgment obtained under subsection (c) is valid for ten (10) years from the date the judgement is filed.

(f) A judgment obtained under subsection (c) shall be released by the commissioner:

(1) after the judgment, including all accrued interest to the date of payment, has been fully satisfied; or

(2) if the commissioner determines that the assessment or the issuance of the warrant was in error.

(g) If the commissioner determines that the filing of a warrant was in error, the commissioner or the commissioner's representative shall mail a release of the judgment to the employer and the circuit court clerk of each county where the warrant was filed. The commissioner or the commissioner's representative shall mail the release as soon as possible but not later than seven (7) calendar days after:

(1) the determination by the commissioner that the filing of the warrant was in error; and

(2) the receipt of information by the commissioner or the commissioner's representative that the judgment has been recorded under subsection (b).

(h) A release issued under subsection (g) must state that the filing of the warrant was in error.

(i) After a warrant becomes a judgment under subsection (b), the commissioner may levy upon the property of the employer that is held by a financial institution (as defined in IC 5-13-4-10) by sending a claim to the financial institution. Upon receipt of a claim under this subsection, the financial institution shall surrender to the commissioner or the commissioner's representative the employer's property. If the employer's property exceeds the amount owed to the state by the employer, the financial institution shall surrender the employer's property in a amount equal to the amount owed. After receiving the commissioner's notice of levy, the financial institution is required to place a sixty (60) day hold on or restriction on the withdrawal of funds the employer has on deposit or subsequently deposits, in an amount not to exceed the amount owed.

SECTION 3. [EFFECTIVE JULY 1, 2009] **(a) As used in this SECTION, "commission" refers to the pension management oversight commission established by IC 2-5-12-1.**

(b) The general assembly urges the legislative council to assign to the commission the study of whether an individual who has been terminated from employment must file a wage claim with the department of labor before filing a civil lawsuit seeking recovery of unpaid wages under IC 22-2-5-2.

(c) If the commission is assigned the topic described in subsection (b), the commission shall issue a final report to the legislative council containing the commission's findings and

recommendations concerning the topic, including any recommended legislation, not later than November 1, 2009.

(d) This SECTION expires June 30, 2010.

P.L.34-2009

[H.1012. Approved April 22, 2009.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 36-8-8-12, AS AMENDED BY P.L.99-2007, SECTION 219, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) Benefits paid under this section are subject to sections 2.5 and 2.6 of this chapter.

(b) If an active fund member has a covered impairment, as determined under sections 12.3 through 13.1 of this chapter, the member is entitled to receive the benefit prescribed by section 13.3 or 13.5 of this chapter. A member who has had a covered impairment and returns to active duty with the department shall not be treated as a new applicant seeking to become a member of the 1977 fund.

(c) If a retired fund member who has not yet reached the member's fifty-second birthday is found by the PERF board to be permanently or temporarily unable to perform all suitable work for which the member is or may be capable of becoming qualified, the member is entitled to receive during the disability the retirement benefit payments payable at fifty-two (52) years of age. During a reasonable period in which a fund member with a disability is becoming qualified for suitable work, the member may continue to receive disability benefit payments. However, benefits payable for disability under this subsection are reduced by amounts for which the fund member is eligible from:

(1) a plan or policy of insurance providing benefits for loss of time because of disability;

(2) a plan, fund, or other arrangement to which the fund member's employer has contributed or for which the fund member's employer has made payroll deductions, including a group life policy providing installment payments for disability, a group annuity contract, or a pension or retirement annuity plan other than the fund established by this chapter;

(3) the federal Social Security Act (42 U.S.C. 401 et seq.), the Railroad Retirement Act (45 U.S.C. 231 et seq.), the United States Department of Veterans Affairs, or another federal, state, local, or other governmental agency;

(4) worker's compensation payable under IC 22-3; and

(5) a salary or wage, including overtime and bonus pay and extra or additional remuneration of any kind, the fund member receives or is entitled to receive from the member's employer.

For the purposes of this subsection, a retired fund member is considered eligible for benefits from subdivisions (1) through (5) whether or not the member has made application for the benefits.

(d) Notwithstanding any other law, a plan, policy of insurance, fund, or other arrangement:

(1) delivered, issued for delivery, amended, or renewed after April 9, 1979; and

(2) described in subsection (c)(1) or (c)(2);

may not provide for a reduction or alteration of benefits as a result of benefits for which a fund member may be eligible from the 1977 fund under subsection (c).

(e) Time spent receiving disability benefits, **not to exceed twenty (20) years,** is considered active service for the purpose of determining retirement benefits. ~~until the fund member has a total of twenty (20) years of service.~~ **A fund member's retirement benefit shall be based on:**

(1) the member's years of active service; plus

(2) if applicable, the period, not to exceed twenty (20) years, during which the member received disability benefits.

(f) A fund member who is receiving disability benefits:

(1) under section 13.3(d) of this chapter; or

(2) based on a determination under this chapter that the fund member has a Class 3 impairment;

shall be transferred from disability to regular retirement status when the

member becomes fifty-five (55) years of age.

(g) A fund member who is receiving disability benefits:

(1) under section 13.3(c) of this chapter; or

(2) based on a determination under this chapter that the fund member has a Class 1 or Class 2 impairment;

is entitled to receive a disability benefit for the remainder of the fund member's life **in the amount determined under the applicable sections of this chapter.**

SECTION 2. IC 36-8-8-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13.5. (a) This section applies only to a fund member who:

(1) is hired for the first time after December 31, 1989;

(2) chooses coverage by this section and section 12.5 of this chapter under section 12.4 of this chapter; or

(3) is described in section 12.3(c)(2) of this chapter.

(b) A fund member who is determined to have a Class 1 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to forty-five percent (45%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

(c) A fund member who is determined to have a Class 2 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to twenty-two percent (22%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment plus one-half percent (0.5%) of that salary for each year of service, up to a maximum of thirty (30) years of service.

(d) For applicants hired before March 2, 1992, a fund member who is determined to have a Class 3 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to the product of the member's years of service (not to exceed thirty (30) years of service) multiplied by one

percent (1%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

(e) For applicants hired after March 1, 1992, or described in section 12.3(c)(2) of this chapter, a fund member who is determined to have a Class 3 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to the following benefits instead of benefits provided under subsection (d):

(1) If the fund member did not have a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund, the fund member is entitled to a monthly base benefit equal to the product of the member's years of service, not to exceed thirty (30) years of service, multiplied by one percent (1%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

(2) Except as provided in subdivision (5), a fund member is entitled to receive the benefits set forth in subdivision (1) if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund;

(B) the fund member has a Class 3 impairment that is not related in any manner to the Class 3 excludable condition described in clause (A); and

(C) the Class 3 impairment described in clause (B) occurs after the fund member has completed four (4) years of service with the employer after the date the fund member entered or reentered the fund.

(3) Except as provided in subdivision (5), a fund member is not entitled to a monthly base benefit for a Class 3 impairment if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund; and

(B) the Class 3 impairment occurs before the fund member has completed four (4) years of service with the employer after the date the fund member entered or reentered the fund.

(4) A fund member is not entitled to a monthly base benefit for a

Class 3 impairment if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund; and

(B) the Class 3 impairment is related in any manner to the Class 3 excludable condition.

(5) If, during the first four (4) years of service with the employer:

(A) a fund member with a Class 3 excludable condition is determined to have a Class 3 impairment; and

(B) the Class 3 impairment is attributable to an accidental injury that is not related in any manner to the fund member's Class 3 excludable condition;

the member is entitled to receive the benefits provided in subdivision (1) with respect to the accidental injury. For purposes of this subdivision, the local board shall make the initial determination of whether an impairment is attributable to an accidental injury. The local board shall forward the initial determination to the director of the PERF board for a final determination by the PERF board or the PERF board's designee.

(f) If a fund member is entitled to a monthly base benefit under subsection (b), (c), (d), or (e), the fund member is also entitled to a monthly amount that is no less than ten percent (10%) and no greater than forty-five percent (45%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment. The additional monthly amount shall be determined by the PERF medical authority based on the degree of impairment.

(g) Benefits for a Class 1 impairment **as determined under this section** are payable ~~until~~ **for the remainder of** the fund ~~member becomes fifty-two (52) years of age.~~ **member's life.**

(h) Benefits for a Class 2 ~~and a Class 3~~ impairment are payable:

(1) for a period equal to the years of service of the member, if the member's total disability benefit is less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment and the member has fewer than four (4) years of service; or

(2) ~~until the member becomes fifty-two (52) years of age~~ **for the remainder of the fund member's life** if the **fund** member's benefit is:

(A) equal to or greater than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or

(B) less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment if the member has at least four (4) years of service.

(i) Benefits for a Class 3 impairment are payable:

(1) for a period equal to the years of service of the member, if the member's total disability benefit is less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment and the member has fewer than four (4) years of service; or

(2) until the member becomes fifty-two (52) years of age if the member's benefit is:

(A) equal to or greater than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or

(B) less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment if the member has at least four (4) years of service.

~~(h)~~ **(j)** Upon becoming fifty-two (52) years of age, a fund member with a ~~Class 1 or~~ Class 2 impairment **determined under subsection (h)(1)** is entitled to receive the retirement benefit payable to a fund member with:

(1) twenty (20) years of service; or

(2) the total years of service **(including both active service and the period, not to exceed twenty (20) years, during which the member received disability benefits)** and salary, as of the year the member becomes fifty-two (52) years of age, that the fund member would have earned if the fund member had remained in active service until becoming fifty-two (52) years of age;

whichever is greater.

~~(i)~~ **(k)** Upon becoming fifty-two (52) years of age, a fund member who is receiving or has received a Class 3 impairment benefit that is:

(1) equal to or greater than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or

(2) less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment if the member has at least four (4) years of service;

is entitled to receive the retirement benefit payable to a fund member with twenty (20) years of service.

~~(j)~~ **(l)** Notwithstanding section 12.3 of this chapter and any other provision of this section, a member who:

(1) has had a covered impairment;

(2) recovers and returns to active service with the department; and

(3) within two (2) years after returning to active service has an impairment that, except for section 12.3(b)(3) of this chapter, would be a covered impairment;

is entitled to the benefit under this subsection if the impairment described in subdivision (3) results from the same condition or conditions (without an intervening circumstance) that caused the covered impairment described in subdivision (1). The member is entitled to receive the monthly disability benefit amount paid to the member at the time of the member's return to active service plus any adjustments under section 15 of this chapter that would have been applicable during the member's period of reemployment.

SECTION 3. IC 36-8-8-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 23. (a) This section applies to a fund member who:**

(1) after June 30, 2009, receives a benefit based on a determination that the member has a Class 1 or Class 2 impairment, regardless of whether the determination was made before, on, or after June 30, 2009; and

(2) before July 1, 2009, has not had the member's disability benefit recalculated under section 13.5 of this chapter.

(b) Upon becoming fifty-two (52) years of age, a fund member receiving a Class 1 impairment benefit or Class 2 impairment benefit under section 13.5(h)(2) of this chapter is entitled to receive a monthly supplemental benefit determined in STEP THREE of the following formula:

STEP ONE: Determine the greater of:

(A) the monthly retirement benefit payable to a fund member with twenty (20) years of service; or

(B) the monthly retirement benefit payable to a fund member with the total years of service (including both active service and the period, not to exceed twenty (20) years, during which the member received disability benefits) and salary, as of the year the fund member becomes fifty-two (52) years of age, that the fund member would have earned if the fund member had remained in active service until becoming fifty-two (52) years of age.

STEP TWO: Subtract from the amount determined under STEP ONE the amount of any monthly benefit determined under section 13.5 of this chapter that the fund member is entitled to receive for the remainder of the fund member's life.

STEP THREE: Determine the greater of the following:

(A) The remainder determined under STEP TWO.

(B) Zero (0).

(c) A monthly supplemental benefit determined under this section is payable for the remainder of the fund member's life.

SECTION 4. [EFFECTIVE JULY 1, 2009] **IC 36-8-8-12 and IC 36-8-8-13.5, both as amended by this act, apply to a member of the 1977 police officers' and firefighters' pension and disability fund who:**

(1) after June 30, 2009, receives a benefit based on a determination that the member has a Class 1 or Class 2 impairment, regardless of whether the determination was made before, on, or after June 30, 2009; and

(2) before July 1, 2009, has not had the member's disability benefit recalculated under IC 36-8-8-13.5 (as the section read before amendment by this act).

P.L.35-2009
[H.1434. Approved April 22, 2009.]

AN ACT to amend the Indiana Code concerning economic development.

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

SECTION 1. IC 5-28-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 11.5. New Business Recruitment Grants for Local Economic Development Organizations

Sec. 1. As used in this chapter, "economically disadvantaged area" means a county that has an unemployment rate exceeding the state unemployment rate by at least two percent (2%).

Sec. 2. As used in this chapter, "local economic development organization" (referred to as "organization") includes the following:

(1) An urban enterprise association established under IC 5-28-15 (or IC 4-4-6.1 before its repeal).

(2) An economic development commission established under IC 36-7-12.

(3) A nonprofit corporation established under state law whose primary purpose is the promotion of industrial or business development in Indiana, the retention or expansion of Indiana businesses, or the development of entrepreneurial activities in Indiana.

(4) A regional planning commission established under IC 36-7-7.

(5) A nonprofit educational organization whose primary purpose is educating and developing local leadership for economic development initiatives.

(6) Other similar organizations whose purposes include

economic development and that are approved by the corporation.

Sec. 3. As used in this chapter, "program" refers to the new business recruitment grant program established by section 4 of this chapter.

Sec. 4. (a) The new business recruitment grant program is established.

(b) The program is administered by the corporation.

Sec. 5. (a) The purpose of the program is to assist the local economic development organizations that serve economically disadvantaged areas in the recruitment of new businesses.

(b) The corporation must find that an applicant for a grant under this chapter serves an economically disadvantaged area before approving the grant application.

(c) The corporation may provide a grant under the program to an organization to assist the organization in recruiting new business enterprises to the county or counties served by the organization. The grant may not be used by the organization to pay expenses for which the organization has received a grant under IC 5-28-11.

(d) A grant under this chapter may not be used by the organization to provide direct financial assistance to a business or specific development project.

Sec. 6. A grant under this chapter may not exceed:

(1) fifty thousand dollars ($50,000), in the case of a grant to an organization that serves only one (1) county; or

(2) seventy-five thousand dollars ($75,000), in the case of a grant to an organization that serves at least two (2) counties.

Sec. 7. The corporation may adopt policies and guidelines governing application criteria and procedures for organizations applying for grants under this chapter.

Sec. 8. Money appropriated for the program may be used for the costs of administering this chapter.

Sec. 9. (a) The local economic development organization recruitment fund is established within the state treasury as a dedicated fund. Money in the fund must be spent by the corporation exclusively for grants and other purposes described in this chapter.

(b) The fund consists of:

(1) appropriations from the general assembly;

(2) interest deposited into the fund under subsection (d); and

(3) any money available for the purposes of this chapter from Indiana's apportionment of general state assistance grants provided to the states under the federal American Recovery and Reinvestment Act of 2009 or another federal economic stimulus law enacted in 2009.

(c) The corporation shall administer the fund. The following may be paid from money in the fund:

(1) Grants made under this chapter.

(2) Expenses of administering the fund.

(3) The corporation's nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

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

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

P.L.36-2009

[S.98. Approved April 30, 2009.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-7-2-3.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.3. "Advisory committee", for purposes of IC 12-15-35-51, has the meaning set forth in IC 12-15-35-51.**

SECTION 2. IC 12-15-35-51 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2009]: **Sec. 51. (a) As used in this section, "advisory committee" refers to the mental health Medicaid quality advisory committee established by subsection (b).**

(b) The mental health Medicaid quality advisory committee is established. The advisory committee consists of the following members:

(1) The director of the office or the director's designee, who shall serve as chairperson of the advisory committee.

(2) The director of the division of mental health and addiction or the director's designee.

(3) A representative of a statewide mental health advocacy organization.

(4) A representative of a statewide mental health provider organization.

(5) A representative from a managed care organization that participates in the state's Medicaid program.

(6) A member with expertise in psychiatric research representing an academic institution.

(7) A pharmacist licensed under IC 25-26.

(8) The commissioner of the department of correction or the commissioner's designee.

The governor shall make the appointments for a term of four (4) years under subdivisions (3) through (7) and fill any vacancy on the advisory committee.

(c) The office shall staff the advisory committee. The expenses of the advisory committee shall be paid by the office.

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

(e) Each member of the advisory committee who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of

administration and approved by the budget agency.

(f) The affirmative votes of a majority of the voting members appointed to the advisory committee are required by the advisory committee to take action on any measure.

(g) The advisory committee shall advise the office and make recommendations concerning the implementation of IC 12-15-35.5-7(c) and consider the following:

(1) Peer reviewed medical literature.

(2) Observational studies.

(3) Health economic studies.

(4) Input from physicians and patients.

(5) Any other information determined by the advisory committee to be appropriate.

(h) The office shall report recommendations made by the advisory committee to the drug utilization review board established by section 19 of this chapter.

(i) The office shall report the following information to the select joint commission on Medicaid oversight established by IC 2-5-26-3:

(1) The advisory committee's advice and recommendations made under this section.

(2) The number of restrictions implemented under IC 12-15-35.5-7(c) and the outcome of each restriction.

(3) The transition of individuals who are aged, blind, or disabled to the risk based managed care program. This information shall also be reported to the health finance commission established by IC 2-5-23-3.

(4) Any decision by the office to change the health care delivery system in which Medicaid is provided to recipients.

(j) Notwithstanding subsection (b), the initial members appointed to the advisory committee under this section are appointed for the following terms:

(1) Individuals appointed under subsection (b)(3) and (b)(4) are appointed for a term of four (4) years.

(2) An individual appointed under subsection (b)(5) is appointed for a term of three (3) years.

(3) An individual appointed under subsection (b)(6) is appointed for a term of two (2) years.

(4) An individual appointed under subsection (b)(7) is appointed for a term of one (1) year.

This subsection expires December 31, 2013.

SECTION 3. IC 12-15-35.5-7, AS AMENDED BY P.L.8-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Subject to subsections (b) and (c), the office may place limits on quantities dispensed or the frequency of refills for any covered drug for the purpose of:

(1) preventing fraud, abuse, or waste;

(2) preventing overutilization, inappropriate utilization, or inappropriate prescription practices that are contrary to:

(A) clinical quality and patient safety; and

(B) accepted clinical practice for the diagnosis and treatment of mental illness; or

(3) implementing a disease management program.

(b) Before implementing a limit described in subsection (a), the office shall:

(1) consider quality of care and the best interests of Medicaid recipients;

(2) seek the advice of the drug utilization review board, established by IC 12-15-35-19, at a public meeting of the board; and

(3) publish a provider bulletin that complies with the requirements of IC 12-15-13-6.

(c) Subject to subsection (d), the board may establish and the office may implement a restriction on a drug described in section 3(b) of this chapter if:

(1) the board determines that data provided by the office indicates that a situation described in IC 12-15-35-28(a)(8)(A) through IC 12-15-35-28(a)(8)(K) requires an intervention to:

(A) prevent fraud, abuse, or waste;

(B) prevent overutilization, inappropriate utilization, or inappropriate prescription practices that are contrary to:

(i) clinical quality and patient safety; and

(ii) accepted clinical practice for the diagnosis and treatment of mental illness; or

(C) implement a disease management program; and

(2) the board approves and the office implements an educational intervention program for providers to address the situation.

(d) A restriction established under subsection (c) for any drug

described in section 3(b) of this chapter:

(1) must comply with the procedures described in IC 12-15-35-35;

(2) may include requiring a recipient to be assigned to one (1) practitioner and one (1) pharmacy provider for purposes of receiving mental health medications;

(3) may not lessen the quality of care; and

(4) must be in the best interest of Medicaid recipients.

(e) Implementation of a restriction established under subsection (c) must provide for the dispensing of a temporary supply of the drug for a prescription not to exceed seven (7) business days, if additional time is required to review the request for override of the restriction. This subsection does not apply if the federal Food and Drug Administration has issued a boxed warning under 21 CFR 201.57(e) that applies to the drug and is applicable to the patient.

(f) Before implementing a restriction established under subsection (c), the office shall:

(1) seek the advice of the ~~mental health quality advisory committee until June 30, 2009,~~ **mental health Medicaid quality advisory committee established by IC 12-15-35-51;** and

(2) publish a provider bulletin that complies with the requirements of IC 12-15-13-6.

(g) Subsections (c) through (f):

(1) apply only to drugs described in section 3(b) of this chapter; and

(2) do not apply to a restriction on a drug described in section 3(b) of this chapter that was approved by the board and implemented by the office before April 1, 2003.

P.L.37-2009
[S.164. Approved April 30, 2009.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-13-2-151.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 151.5. "Relevant market area", for purposes of IC 9-23-3, means the following:

(1) With respect to a

~~(A) proposed new motor vehicle dealer in a county having a population of more than one hundred thousand (100,000), or (B)~~ new motor vehicle dealer who plans to relocate the dealer's place of business in a county having a population of more than one hundred thousand (100,000),

the area within a radius of six (6) miles of the intended site of the ~~proposed or~~ relocated dealer. The six (6) mile distance shall be determined by measuring the distance between the nearest surveyed boundary of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the ~~proposed or~~ relocated new motor vehicle dealer's place of business.

(2) With respect to a:

(A) proposed new motor vehicle ~~dealer in a county having a population that is not more than one hundred thousand (100,000),~~ **dealer;** or

(B) new motor vehicle dealer who plans to relocate the dealer's place of business in a county having a population that is not more than one hundred thousand (100,000);

the area within a radius of ten (10) miles of the intended site of the proposed or relocated ~~dealer, or the county line, whichever is closer to the intended site.~~ **dealer.** The ten (10) mile distance shall be determined by measuring the distance between the

nearest surveyed boundary line of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's principal place of business.

SECTION 2. **An emergency is declared for this act.**

P.L.38-2009
[S.174. Approved April 30, 2009.]

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

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

SECTION 1. IC 26-2-10 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 10. Repossessing Motor Vehicles or Watercraft

Sec. 1. As used in this chapter, "motor vehicle" means a vehicle that is self-propelled.

Sec. 2. As used in this chapter, "motor vehicle repossession agent" means a person who physically repossesses a motor vehicle or watercraft on behalf of another person or on the person's own behalf.

Sec. 3. As used in this chapter, "repossess" or "repossesses" means to take possession of personal property used as collateral under IC 26-1-9.1-609.

Sec. 4. As used in this chapter, "sheriff's department of the county" includes a consolidated law enforcement department established in IC 36-3-1-5.1.

Sec. 5. As used in this chapter, "watercraft" has the meaning set forth in IC 9-13-2-198.5.

Sec. 6. (a) A motor vehicle repossession agent who repossesses

or intends to repossess a motor vehicle or watercraft must provide the following information, if available, to the sheriff's department of the county having jurisdiction in the location where the motor vehicle repossession agent believes that the motor vehicle or watercraft will be found:

(1) The identity of the repossession company.

(2) A description of the motor vehicle or watercraft.

(3) The name and address of the person believed to be currently in possession of the motor vehicle or watercraft (if the repossession has not yet occurred), or believed to have been in possession of the motor vehicle (if the repossession has already occurred).

(4) The address where the motor vehicle repossession agent believes that the motor vehicle or watercraft will be found (if the repossession has not yet occurred), or the address where the motor vehicle was found when it was repossessed.

(b) A motor vehicle repossession agent must provide the information described in subsection (a):

(1) before the repossession occurs; or

(2) not later than two (2) hours after the repossession.

Sec. 7. A motor vehicle repossession agent who violates section 6 of this chapter commits a Class C infraction.

P.L.39-2009

[S.228. Approved April 30, 2009.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-21-12-11, AS AMENDED BY P.L.107-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) A person who violates section 5, 6, ~~or~~ 7, **or**

19 of this chapter commits a Class C infraction.

(b) A person who knowingly or intentionally violates section 12, 13, 14, 15, 16, or 17 of this chapter commits a Class C misdemeanor.

(c) A person described in section 18(b), 18(c), or 18(d) of this chapter commits a Class B infraction.

SECTION 2. IC 9-21-12-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 19. (a) A person who operates a school bus or a special purpose bus shall visually inspect each seat within the interior of the school bus or special purpose bus at the end of a trip during which students or passengers are transported to determine that no student or passenger has remained on the school bus or special purpose bus.**

(b) The visual inspection required under subsection (a) must be conducted:

(1) at the conclusion of each trip during which students or passengers are transported; and

(2) before the operator exits the school bus or special purpose bus.

(c) A student or passenger is considered to have been left on a school bus or special purpose bus if:

(1) the operator has reached the end of a trip during which students or passengers are transported and exited the school bus or special purpose bus; and

(2) the student or passenger remains inside the school bus or special purpose bus.

(d) A school bus or special purpose bus owner shall report all instances of a student or passenger being left on the school bus or special purpose bus to the superintendent or the superintendent's designee immediately after the incident occurred.

(e) The superintendent or the superintendent's designee shall report all instances of a student or passenger being left on the school bus or special purpose bus to the department of education not later than five (5) working days after the incident occurred.

P.L.40-2009
[S.236. Approved April 30, 2009.]

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

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

SECTION 1. IC 35-42-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. A person who knowingly or intentionally terminates a human pregnancy with an intention other than to produce a live birth or to remove a dead fetus commits feticide, a ~~Class C~~ **Class B** felony. This section does not apply to an abortion performed in compliance with:

(1) IC 16-34; or

(2) IC 35-1-58.5 (before its repeal).

SECTION 2. IC 35-50-2-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 16. (a) The state may seek, on a page separate from the rest of the charging instrument, to have a person who allegedly committed or attempted to commit murder under IC 35-42-1-1(1) or IC 35-42-1-1(2) sentenced to an additional fixed term of imprisonment if the state can show beyond a reasonable doubt that the person, while committing or attempting to commit murder under IC 35-42-1-1(1) or IC 35-42-1-1(2), caused the termination of a human pregnancy.**

(b) If the person is convicted of the murder or attempted murder in a jury trial, the jury shall reconvene to hear evidence in the enhancement hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall hear evidence in the enhancement hearing.

(c) If the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person, while committing or

attempting to commit murder under IC 35-42-1-1(1) or IC 35-42-1-1(2), caused the termination of a human pregnancy, the court shall sentence the person to an additional fixed term of imprisonment of not less than six (6) or more than twenty (20) years.

(d) A sentence imposed under this section runs consecutively to the underlying sentence.

(e) For purposes of this section, prosecution of the murder or attempted murder under IC 35-42-1-1(1) or IC 35-42-1-1(2) and the enhancement of the penalty for that crime does not require proof that:

(1) the person committing or attempting to commit the murder had knowledge or should have had knowledge that the victim was pregnant; or

(2) the defendant intended to cause the termination of a human pregnancy.

SECTION 3. [EFFECTIVE JULY 1, 2009] **IC 35-42-1-6, as amended by this act, and IC 35-50-2-16, as added by this act, apply only to a crime committed after June 30, 2009.**

P.L.41-2009

[S.263. Approved April 30, 2009.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 11-10-5-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5. (a) Notwithstanding IC 22-2-5-2, the correctional institution and:**

(1) an employee if there is no representative described under subdivision (2) or (3) for that employee;

(2) the exclusive representative of its certificated employees with respect to those employees; or

(3) a labor organization representing its noncertificated employees with respect to those employees;

may agree in writing to a wage payment arrangement.

(b) A wage payment arrangement under subsection (a) may provide that compensation earned during a school year may be paid:

(1) using equal installments or any other method; and

(2) over:

(A) all or part of that school year; or

(B) any other period that begins not earlier than the first day of that school year and ends not later than thirteen (13) months after the wage payment arrangement period begins.

Such an arrangement may provide that compensation earned in a calendar year is paid in the next calendar year, so long as all the compensation is paid within the thirteen (13) month period beginning with the first day of the school year.

(c) A wage payment arrangement under subsection (a) must be structured in such a manner so that it is not considered:

(1) a nonqualified deferred compensation plan for purposes of Section 409A of the Internal Revenue Code; or

(2) deferred compensation for purposes of Section 457(f) of the Internal Revenue Code.

(d) Absent an agreement under subsection (a), the correctional institution remains subject to IC 22-2-5-1.

(e) Wage payments required under a wage payment arrangement entered into under subsection (a) are enforceable under IC 22-2-5-2.

(f) If an employee leaves employment for any reason, either permanently or temporarily, the amount due the employee under IC 22-2-5-1 and IC 22-2-9-2 is the total amount of the wages earned and unpaid.

(g) Employment with the correctional institution may not be conditioned upon the acceptance of a wage payment arrangement under subsection (a).

(h) An employee may revoke a wage payment arrangement under subsection (a) at the beginning of each school year.

SECTION 2. IC 12-24-3-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5. (a) Notwithstanding IC 22-2-5-2, the state institution and:**

(1) an employee if there is no representative described under subdivision (2) or (3) for that employee;

(2) the exclusive representative of its certificated employees with respect to those employees; or

(3) a labor organization representing its noncertificated employees with respect to those employees;

may agree in writing to a wage payment arrangement.

(b) A wage payment arrangement under subsection (a) may provide that compensation earned during a school year may be paid:

(1) using equal installments or any other method; and

(2) over:

(A) all or part of that school year; or

(B) any other period that begins not earlier than the first day of that school year and ends not later than thirteen (13) months after the wage payment arrangement period begins.

Such an arrangement may provide that compensation earned in a calendar year is paid in the next calendar year, so long as all the compensation is paid within the thirteen (13) month period beginning with the first day of the school year.

(c) A wage payment arrangement under subsection (a) must be structured in such a manner so that it is not considered:

(1) a nonqualified deferred compensation plan for purposes of Section 409A of the Internal Revenue Code; or

(2) deferred compensation for purposes of Section 457(f) of the Internal Revenue Code.

(d) Absent an agreement under subsection (a), the state institution remains subject to IC 22-2-5-1.

(e) Wage payments required under a wage payment arrangement entered into under subsection (a) are enforceable under IC 22-2-5-2.

(f) If an employee leaves employment for any reason, either permanently or temporarily, the amount due the employee under IC 22-2-5-1 and IC 22-2-9-2 is the total amount of the wages earned

and unpaid.

(g) Employment with the state institution may not be conditioned upon the acceptance of a wage payment arrangement under subsection (a).

(h) An employee may revoke a wage payment arrangement under subsection (a) at the beginning of each school year.

SECTION 3. IC 16-33-4-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 23. (a) Notwithstanding IC 22-2-5-2, the home and:**

(1) an employee if there is no representative described under subdivision (2) or (3) for that employee;

(2) the exclusive representative of its certificated employees with respect to those employees; or

(3) a labor organization representing its noncertificated employees with respect to those employees;

may agree in writing to a wage payment arrangement.

(b) A wage payment arrangement under subsection (a) may provide that compensation earned during a school year may be paid:

(1) using equal installments or any other method; and

(2) over:

(A) all or part of that school year; or

(B) any other period that begins not earlier than the first day of that school year and ends not later than thirteen (13) months after the wage payment arrangement period begins.

Such an arrangement may provide that compensation earned in a calendar year is paid in the next calendar year, so long as all the compensation is paid within the thirteen (13) month period beginning with the first day of the school year.

(c) A wage payment arrangement under subsection (a) must be structured in such a manner so that it is not considered:

(1) a nonqualified deferred compensation plan for purposes of Section 409A of the Internal Revenue Code; or

(2) deferred compensation for purposes of Section 457(f) of the Internal Revenue Code.

(d) Absent an agreement under subsection (a), the home remains subject to IC 22-2-5-1.

(e) Wage payments required under a wage payment

arrangement entered into under subsection (a) are enforceable under IC 22-2-5-2.

(f) If an employee leaves employment for any reason, either permanently or temporarily, the amount due the employee under IC 22-2-5-1 and IC 22-2-9-2 is the total amount of the wages earned and unpaid.

(g) Employment with the home may not be conditioned upon the acceptance of a wage payment arrangement under subsection (a).

(h) An employee may revoke a wage payment arrangement under subsection (a) at the beginning of each school year.

SECTION 4. IC 20-21-4-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4. (a) Notwithstanding IC 22-2-5-2, the school and:**

(1) an employee if there is no representative described under subdivision (2) or (3) for that employee;

(2) the exclusive representative of its certificated employees with respect to those employees; or

(3) a labor organization representing its noncertificated employees with respect to those employees;

may agree in writing to a wage payment arrangement.

(b) A wage payment arrangement under subsection (a) may provide that compensation earned during a school year may be paid:

(1) using equal installments or any other method; and

(2) over:

(A) all or part of that school year; or

(B) any other period that begins not earlier than the first day of that school year and ends not later than thirteen (13) months after the wage payment arrangement period begins.

Such an arrangement may provide that compensation earned in a calendar year is paid in the next calendar year, so long as all the compensation is paid within the thirteen (13) month period beginning with the first day of the school year.

(c) A wage payment arrangement under subsection (a) must be structured in such a manner so that it is not considered:

(1) a nonqualified deferred compensation plan for purposes of Section 409A of the Internal Revenue Code; or

(2) deferred compensation for purposes of Section 457(f) of

the Internal Revenue Code.

(d) Absent an agreement under subsection (a), the school remains subject to IC 22-2-5-1.

(e) Wage payments required under a wage payment arrangement entered into under subsection (a) are enforceable under IC 22-2-5-2.

(f) If an employee leaves employment for any reason, either permanently or temporarily, the amount due the employee under IC 22-2-5-1 and IC 22-2-9-2 is the total amount of the wages earned and unpaid.

(g) Employment with the school may not be conditioned upon the acceptance of a wage payment arrangement under subsection (a).

(h) An employee may revoke a wage payment arrangement under subsection (a) at the beginning of each school year.

SECTION 5. IC 20-22-4-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4. (a) Notwithstanding IC 22-2-5-2, the school and:**

(1) an employee if there is no representative described under subdivision (2) or (3) for that employee;

(2) the exclusive representative of its certificated employees with respect to those employees; or

(3) a labor organization representing its noncertificated employees with respect to those employees;

may agree in writing to a wage payment arrangement.

(b) A wage payment arrangement under subsection (a) may provide that compensation earned during a school year may be paid:

(1) using equal installments or any other method; and

(2) over:

(A) all or part of that school year; or

(B) any other period that begins not earlier than the first day of that school year and ends not later than thirteen (13) months after the wage payment arrangement period begins.

Such an arrangement may provide that compensation earned in a calendar year is paid in the next calendar year, so long as all the compensation is paid within the thirteen (13) month period beginning with the first day of the school year.

(c) A wage payment arrangement under subsection (a) must be structured in such a manner so that it is not considered:

(1) a nonqualified deferred compensation plan for purposes of Section 409A of the Internal Revenue Code; or

(2) deferred compensation for purposes of Section 457(f) of the Internal Revenue Code.

(d) Absent an agreement under subsection (a), the school remains subject to IC 22-2-5-1.

(e) Wage payments required under a wage payment arrangement entered into under subsection (a) are enforceable under IC 22-2-5-2.

(f) If an employee leaves employment for any reason, either permanently or temporarily, the amount due the employee under IC 22-2-5-1 and IC 22-2-9-2 is the total amount of the wages earned and unpaid.

(g) Employment with the school may not be conditioned upon the acceptance of a wage payment arrangement under subsection (a).

(h) An employee may revoke a wage payment arrangement under subsection (a) at the beginning of each school year.

SECTION 6. IC 20-26-5-32.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 32.2. (a) Notwithstanding IC 22-2-5-1, a school corporation and:**

(1) an employee if there is no representative described under subdivision (2) or (3) for that employee;

(2) the exclusive representative of its certificated employees with respect to those employees; or

(3) a labor organization representing its noncertificated employees with respect to those employees;

may agree in writing to a wage payment arrangement.

(b) A wage payment arrangement under subsection (a) may provide that compensation earned during a school year may be paid:

(1) using equal installments or any other method; and

(2) over:

(A) all or part of that school year; or

(B) any other period that begins not earlier than the first day of that school year and ends not later than thirteen

(13) months after the wage payment arrangement period begins.

Such an arrangement may provide that compensation earned in a calendar year is paid in the next calendar year, so long as all the compensation is paid within the thirteen (13) month period beginning with the first day of the school year.

(c) A wage payment arrangement under subsection (a) must be structured in such a manner so that it is not considered:

(1) a nonqualified deferred compensation plan for purposes of Section 409A of the Internal Revenue Code; or

(2) deferred compensation for purposes of Section 457(f) of the Internal Revenue Code.

(d) Absent an agreement under subsection (a), a school corporation remains subject to IC 22-2-5-1.

(e) Wage payments required under a wage payment arrangement entered into under subsection (a) are enforceable under IC 22-2-5-2.

(f) If an employee leaves employment for any reason, either permanently or temporarily, the amount due the employee under IC 22-2-5-1 and IC 22-2-9-2 is the total amount of wages earned and unpaid.

(g) Employment with a school corporation may not be conditioned upon the acceptance of a wage payment arrangement under subsection (a).

(h) An employee may revoke a wage payment arrangement under subsection (a) at the beginning of each school year.

P.L.42-2009
[S.303. Approved April 30, 2009.]

AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

SECTION 1. IC 31-9-2-89, AS AMENDED BY P.L.138-2007, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 89. (a) "Person", for purposes of **IC 31-19-19 and** the juvenile law, means:

(1) a human being;
(2) a corporation;
(3) a limited liability company;
(4) a partnership;
(5) an unincorporated association; or
(6) a governmental entity.

(b) "Person", for purposes of section 44.5 of this chapter, means an adult or a minor.

(c) "Person", for purposes of IC 31-27, means an individual who is at least twenty-one (21) years of age, a corporation, a partnership, a voluntary association, or other entity.

(d) "Person", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-13.

SECTION 2. IC 31-19-19-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. (a) This section does not apply to a confidential intermediary appointed under IC 31-19-24.**

(b) Except as provided in subsection (c) or (d), a person that is required to store, maintain, or release adoption records or other adoption information under IC 31-19-12-5, IC 31-19-17, IC 31-19-18, this chapter, or IC 31-19-20 through IC 31-19-25 shall

store and maintain the adoption records or other adoption information for at least ninety-nine (99) years after the date the adoption was filed. Unless otherwise provided by law, the adoption records or other adoption information may be stored and maintained in an electronic or other format, including microfiche, microfilm, or a digital format.

(c) A person who transfers adoption records or other adoption information to the state registrar or a transferee agency in accordance with IC 31-19-12-5 is not required to comply with the storage or maintenance requirements of subsection (b).

(d) A person, including a court, who obtains custody of or jurisdiction over adoption records or other adoption information following the dissolution, sale, transfer, closure, relocation, or death of a person shall transfer the records or other information to the state registrar or a transferee agency in accordance with IC 31-19-12-5, unless the person wishes to store and maintain the records in accordance with subsection (b).

SECTION 3. IC 31-19-27-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.5. The department shall consider a child who is two (2) years of age or older a hard to place child for determining eligibility for state adoption subsidies.**

P.L.43-2009
[S.307. Approved April 30, 2009.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 5-2-1-9, AS AMENDED BY HEA 1198-2009, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The board shall adopt in accordance with

IC 4-22-2 all necessary rules to carry out the provisions of this chapter. The rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, law enforcement training centers, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with:

(A) persons with mental illness, addictive disorders, mental retardation, and developmental disabilities; **and**

(B) missing endangered adults (as defined in IC 12-7-2-131.3);

to be provided by persons approved by the secretary of family and social services and the board.

(10) Minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice training programs for law enforcement officers. The course must cover the following topics:

(A) Examination of the human and sexual trafficking laws (IC 35-42-3.5).

(B) Identification of human and sexual trafficking.

(C) Communicating with traumatized persons.

(D) Therapeutically appropriate investigative techniques.

(E) Collaboration with federal law enforcement officials.

(F) Rights of and protections afforded to victims.

(G) Providing documentation that satisfies the Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B) requirements established under federal law.

(H) The availability of community resources to assist human and sexual trafficking victims.

(b) Except as provided in subsection (l), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), (l), (r), and (s), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy or at a law enforcement training center under section 10.5 or 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) This subsection does not apply to:

(1) a gaming agent employed as a law enforcement officer by the Indiana gaming commission; or

(2) an:

(A) attorney; or

(B) investigator;

designated by the securities commissioner as a police officer of the state under IC 23-19-6-1(i).

Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

(1) law enforcement officers;

(2) police reserve officers (as described in IC 36-8-3-20); and

(3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, the lawful use of force, and the operation of an emergency vehicle. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of at least forty (40) hours of course work. The board may prepare the classroom part of the pre-basic course using available technology in conjunction with live instruction. The board shall provide the course material, the instructors,

and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including postsecondary educational institutions.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes the mandatory inservice training requirements established by rules adopted by the board. Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the board, and training concerning human and sexual trafficking. The board may approve courses offered by other public or private training entities, including postsecondary educational institutions, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to either of the following:

(1) An emergency situation.

(2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

(1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.

(2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having not more than one (1) marshal and two (2) deputies.

(4) The limitation imposed by subdivision (3) does not apply to an

officer who has successfully completed the mandated basic training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(i) The board shall adopt rules under IC 4-22-2 to establish an executive training program. The executive training program must include training in the following areas:

(1) Liability.

(2) Media relations.

(3) Accounting and administration.

(4) Discipline.

(5) Department policy making.

(6) Lawful use of force.

(7) Department programs.

(8) Emergency vehicle operation.

(9) Cultural diversity.

(j) A police chief shall apply for admission to the executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the executive training program within six (6) months of the date the police chief initially takes office. However, if space in the executive training program is not available at a time that will allow completion of the executive training program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available executive training program that is offered after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not continue to serve as the police chief until completion of the executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

(1) the police chief of any city;

(2) the police chief of any town having a metropolitan police department; and

(3) the chief of a consolidated law enforcement department established under IC 36-3-1-5.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the executive training

program.

(l) A fire investigator in the division of fire and building safety appointed after December 31, 1993, is required to comply with the basic training standards established under this chapter.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

(n) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) has not been employed as a law enforcement officer for at least two (2) years and less than six (6) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement; and

(3) completed at any time a basic training course certified by the board before the officer is hired under subdivision (1).

(o) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) has not been employed as a law enforcement officer for at least six (6) years and less than ten (10) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement;

(3) is hired under subdivision (1) in an upper level policymaking position; and

(4) completed at any time a basic training course certified by the board before the officer is hired under subdivision (1).

A refresher course established under this subsection may not exceed one hundred twenty (120) hours of course work. All credit hours received for successfully completing the police chief executive training program under subsection (i) shall be applied toward the refresher course credit hour requirements.

(p) Subject to subsection (q), an officer to whom subsection (n) or (o) applies must successfully complete the refresher course described

in subsection (n) or (o) not later than six (6) months after the officer's date of hire, or the officer loses the officer's powers of:

(1) arrest;

(2) search; and

(3) seizure.

(q) A law enforcement officer who has worked as a law enforcement officer for less than twenty-five (25) years before being hired under subsection (n)(1) or (o)(1) is not eligible to attend the refresher course described in subsection (n) or (o) and must repeat the full basic training course to regain law enforcement powers. However, a law enforcement officer who has worked as a law enforcement officer for at least twenty-five (25) years before being hired under subsection (n)(1) or (o)(1) and who otherwise satisfies the requirements of subsection (n) or (o) is not required to repeat the full basic training course to regain law enforcement power but shall attend the refresher course described in subsection (n) or (o) and the pre-basic training course established under subsection (f).

(r) This subsection applies only to a gaming agent employed as a law enforcement officer by the Indiana gaming commission. A gaming agent appointed after June 30, 2005, may exercise the police powers described in subsection (d) if:

(1) the agent successfully completes the pre-basic course established in subsection (f); and

(2) the agent successfully completes any other training courses established by the Indiana gaming commission in conjunction with the board.

(s) This subsection applies only to a securities enforcement officer designated as a law enforcement officer by the securities commissioner. A securities enforcement officer may exercise the police powers described in subsection (d) if:

(1) the securities enforcement officer successfully completes the pre-basic course established in subsection (f); and

(2) the securities enforcement officer successfully completes any other training courses established by the securities commissioner in conjunction with the board.

(t) As used in this section, "upper level policymaking position" refers to the following:

(1) If the authorized size of the department or town marshal

system is not more than ten (10) members, the term refers to the position held by the police chief or town marshal.

(2) If the authorized size of the department or town marshal system is more than ten (10) members but less than fifty-one (51) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next rank and pay grade immediately below the police chief or town marshal.

(3) If the authorized size of the department or town marshal system is more than fifty (50) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next two (2) ranks and pay grades immediately below the police chief or town marshal.

SECTION 2. IC 10-13-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. As used in this chapter, "clearinghouse" refers to the Indiana clearinghouse for information on missing children **and missing endangered adults** established by section 5 of this chapter.

SECTION 3. IC 10-13-5-4.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4.3. As used in this chapter, "missing endangered adult" means an adult who is a high risk missing person under the definition in IC 5-2-17-1.**

SECTION 4. IC 10-13-5-4.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4.6. As used in this chapter, "silver alert program" means a program under which the clearinghouse transmits information about missing endangered adults to broadcasters who:**

(1) have agreed to participate in the program; and

(2) immediately and repeatedly broadcast the information to the general public.

SECTION 5. IC 10-13-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. The Indiana clearinghouse for information on missing children **and missing endangered adults** is established within the department.

SECTION 6. IC 10-13-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The superintendent shall designate staff responsible for the operation of the clearinghouse.

(b) The staff's duties include the following:

(1) Creation and operation of an intrastate network of communication designed for the speedy collection and processing of information concerning missing children **and missing endangered adults.**

(2) Creation and operation of a central data storage, retrieval, and information distribution system designed for the exchange of information on missing children **and missing endangered adults** within and outside Indiana. The system must be capable of interacting with:

(A) the Indiana data and communication system under IC 10-13-3-35; and

(B) the National Crime Information Center.

(3) Development of appropriate forms for the reporting of missing children **and missing endangered adults** that may be used by law enforcement agencies and private citizens to provide useful information about a missing child **or a missing endangered adult** to the clearinghouse.

(4) Cooperation with the following agencies concerning the location of missing children **and missing endangered adults:**

(A) State and local public and private nonprofit agencies involved with the location and recovery of missing persons.

(B) Agencies of the federal government.

(C) State and local law enforcement agencies within and outside Indiana.

(5) Coordinating efforts to locate missing children **and missing endangered adults** with the agencies listed in subdivision (4).

(6) Operation of the toll free telephone line created under section 7(a) of this chapter.

(7) Publishing and updating, on a quarterly basis, a directory of missing children **and missing endangered adults.**

(8) Compiling statistics on missing children **and missing endangered adult** cases handled by the clearinghouse, including the number of cases resolved each year.

SECTION 7. IC 10-13-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) The clearinghouse shall do the following:

(1) Collect, process, and maintain identification and investigative information to aid in finding missing children **and missing endangered adults.**

(2) Establish a statewide, toll free telephone line for ~~reports~~ **the reporting:**

(A) of missing children and **missing endangered adults; and**

(B) of sightings of missing children **and missing endangered adults.**

(3) Prescribe a uniform reporting form concerning missing children **and missing endangered adults** for use by law enforcement agencies within Indiana.

(4) Assist in training law enforcement and other professionals on issues relating to missing children **and missing endangered adults.**

(5) Operate a resource center of information regarding the prevention of:

(A) the abduction of children; and

(B) the sexual exploitation of children.

(6) Distribute the quarterly directory prepared under section 6(b)(7) of this chapter to schools and hospitals.

(7) Distribute the quarterly directory described in subdivision (6) to child care centers and child care homes that make an annual contribution of four dollars ($4) to the clearinghouse. The contributions must be used to help defray the cost of publishing the quarterly directory.

(b) For a missing child who was born in Indiana, the clearinghouse shall notify the vital statistics division of the state department of health:

(1) within fifteen (15) days after receiving a report under IC 31-36-1-3 (or IC 31-6-13-4 before its repeal) of a missing child less than thirteen (13) years of age; and

(2) promptly after the clearinghouse is notified that a missing child has been found.

(c) Upon receiving notification under subsection (b) that a child is missing or has been found, the vital statistics division of the state department of health shall notify the local health department or the

health and hospital corporation that has jurisdiction over the area where the child was born.

(d) Information collected, processed, or maintained by the clearinghouse under subsection (a) is confidential and is not subject to IC 5-14-3, but may be disclosed by the clearinghouse for purposes of locating missing children **and missing endangered adults.**

SECTION 8. IC 10-13-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) The clearinghouse ~~may~~ **shall** operate an Amber alert program **and the silver alert program.**

(b) Upon the establishment of an Amber alert program **and the silver alert program,** the clearinghouse may enter into an agreement with one (1) or more broadcasters to operate the Amber alert program **and the silver alert program** under this chapter.

(c) The superintendent shall designate staff responsible for the operation of the Amber alert program **and the silver alert program.**

(d) The department shall adopt guidelines governing the clearinghouse's operation of the Amber alert program **and the silver alert program.** The department's guidelines may require that staff, upon receiving a report that a child has been abducted **or an endangered adult is missing,** immediately send by facsimile (fax) transmission or other means of communication a description of the abducted child **or missing endangered adult** to one (1) or more broadcasters participating in the Amber alert program **or the silver alert program. The guidelines must include criteria that the clearinghouse shall use in determining whether to issue a silver alert and the geographic area or region in which to issue the silver alert.**

(e) A broadcaster participating in the Amber alert program **or the silver alert program** shall immediately broadcast:

(1) a description of the abducted child **or missing endangered adult;** and

(2) other information that will assist in locating the abducted child **or missing endangered adult;**

to the general public in accordance with the Amber alert plan agreement **or the silver alert plan agreement** between the clearinghouse and the broadcaster.

(f) The department shall adopt guidelines governing the voluntary

Amber alert program agreement **and the voluntary silver alert program agreement** between the clearinghouse and a broadcaster. The voluntary ~~agreement~~ **agreements** between the clearinghouse and the broadcaster may include the following provisions:

(1) Upon receiving a notification as part of the Amber alert program **or the silver alert program,** the broadcaster shall broadcast the information contained on the notice on an intermittent basis for a period of time as provided in the ~~agreement~~ **agreements** between the clearinghouse and the broadcaster.

(2) The broadcaster shall treat the Amber alert notification **or the silver alert notification** as an emergency.

(3) The broadcaster shall ensure that the facsimile (fax) transmission machine or other communications device used to receive an Amber alert notification **or a silver alert notification** is:

(A) generally available to receive an Amber alert notification **or a silver alert notification;** and

(B) located such that the broadcaster will immediately become aware of an incoming Amber alert notification **or silver alert notification.**

SECTION 9. IC 10-13-5-8.1, AS ADDED BY P.L.66-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.1. (a) In addition to an agreement with a broadcaster under section 8 of this chapter, the clearinghouse may enter into an agreement with one (1) or more electronic billboard operators to display Amber alerts **or silver alerts** under this section. An agreement under this section may include a limitation on the days and times that the electronic billboard operator is required to have staff present to receive an Amber alert **or a silver alert** notification.

(b) The department's guidelines adopted under section 8 of this chapter may require staff, upon receiving a report that a child has been abducted **or an endangered adult is missing,** to immediately send by facsimile (fax) transmission or other means of communication a description of the abducted child **or missing endangered adult** to one (1) or more electronic billboard operators participating in the Amber alert program **or silver alert program** if the Amber alert **or silver alert** occurs during a period when the electronic billboard operator has

agreed to have staff present to receive an Amber alert notification **or a silver alert notification.**

(c) An electronic billboard operator participating in the Amber alert program **or silver alert program** shall immediately display:

(1) a description of the abducted child **or missing endangered adult;** and

(2) other information that will assist in locating the abducted child **or missing endangered adult;**

to the general public in accordance with the Amber alert plan agreement **or silver alert plan agreement** between the clearinghouse and the electronic billboard operator.

(d) The department shall adopt guidelines governing the voluntary Amber alert program **and the voluntary silver alert program** ~~agreement~~ **agreements** between the clearinghouse and an electronic billboard operator. The voluntary ~~agreement~~ **agreements** between the clearinghouse and the electronic billboard operator may include the following provisions:

(1) Upon receiving a notification as part of the Amber alert program **or the silver alert program,** the electronic billboard operator shall display the information contained in the notice on an intermittent basis for a period of time as provided in the ~~agreement~~ **agreements** between the clearinghouse and the electronic billboard operator.

(2) The electronic billboard operator shall treat the Amber alert notification **or the silver alert notification** as an emergency.

(3) The electronic billboard operator shall ensure that the facsimile (fax) transmission machine or other communications device used to receive an Amber alert notification **or a silver alert notification** is:

(A) generally available to receive an Amber alert notification **or a silver alert notification;** and

(B) located such that the electronic billboard operator will immediately become aware of an incoming Amber alert notification **or a silver alert notification** received during days and times when staff is present to receive an Amber alert notification **or a silver alert notification.**

SECTION 10. IC 10-13-5-8.5, AS AMENDED BY P.L.66-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]: Sec. 8.5. (a) A broadcaster or electronic billboard operator that has agreed to participate in the Amber alert program **or silver alert program** and that:

(1) receives an Amber alert notification **or a silver alert notification** from the department; and

(2) broadcasts or displays:

(A) a description of the abducted child **or missing endangered adult** contained in the notification; and

(B) other information contained in the notification that will assist in locating the child **or missing endangered adult;**

is immune from civil liability based on the broadcast or display of the information received from the department.

(b) If:

(1) a person enters into an agreement with the department to establish or maintain an Amber alert web site **or a silver alert web site;** and

(2) the agreement provides that only the department has the ability to place information on the web site;

the person is immune from civil liability for the information placed on the web site by the department. However, this subsection does not affect the applicability of IC 34-13-3 to the department.

SECTION 11. IC 10-13-5-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 12. This chapter does not authorize the use of the federal emergency alert system unless otherwise authorized by federal law.**

SECTION 12. IC 12-10-18-3, AS ADDED BY P.L.140-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) Upon completion of the report described by section 1 of this chapter, if the law enforcement agency has reason to believe that public notification may assist in locating the missing endangered adult, the law enforcement agency may immediately forward the contents of the report to:

(1) all law enforcement agencies that have jurisdiction in the location where the missing endangered adult lives and all law enforcement agencies that have jurisdiction in the location where the missing endangered adult was last seen;

(2) all law enforcement agencies to which the person who made

the notification concerning the missing endangered adult requests the report be sent, if the law enforcement agency determines that the request is reasonable in light of the information received;

(3) all law enforcement agencies that request a copy of the report;

(4) one (1) or more broadcasters that broadcast in an area where the missing endangered adult may be located;

(5) the Indiana data and communication system (IDACS); ~~and~~

(6) the National Crime Information Center's Missing Person File, if appropriate; **and**

(7) the Indiana clearinghouse for information on children and missing endangered adults established by IC 10-13-5-5, to disseminate information concerning the missing endangered adult to be broadcast as part of the silver alert program.

(b) Upon completion of the report described by section 1 of this chapter, a law enforcement agency may forward a copy of the contents of the report to one (1) or more newspapers distributed in an area where the missing endangered adult may be located.

(c) After forwarding the contents of the report to a broadcaster or newspaper under this section, the law enforcement agency may request that the broadcaster or newspaper:

(1) notify the public that there is an endangered adult medical alert; and

(2) broadcast or publish:

(A) a description of the missing endangered adult; and

(B) any other relevant information that would assist in locating the missing endangered adult.

(d) A broadcaster or newspaper that receives a request concerning a missing endangered adult under subsection (c) may, at the discretion of the broadcaster or newspaper:

(1) notify the public that there is an endangered adult medical alert; and

(2) broadcast or publish:

(A) a description of the missing endangered adult; and

(B) any other relevant information that would assist in locating the missing endangered adult.

SECTION 13. IC 12-17.2-2-1.5, AS AMENDED BY P.L.145-2006, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) The division shall require all child care

centers or child care homes to submit a report containing the names and birth dates of all children who are enrolled in the child care center or child care home within three (3) months from the date the child care center or child care home accepts its first child, upon receiving the consent of the child's parent, guardian, or custodian as required under subsection (b). The division shall require all child care centers and child care homes that receive written consent as described under subsection (b) to submit a monthly report of the name and birth date of each additional child who has been enrolled in or withdrawn from the child care center or child care home during the preceding thirty (30) days.

(b) The division shall require all child care centers or child care homes to request whether the child's parent, guardian, or custodian desires the center or home to include the child's name and birth date in the reports described under subsection (a) before enrolling the child in the center or home. No child's name or birth date may be included on the report required under subsection (a) without the signed consent of the child's parent, guardian, or custodian. The consent form must be in the following form:

"I give my permission for _____ (name of day care center or home) to report the name and birth date of my child or children to the division of family resources pursuant to IC 12-17.2-2-1.5.

Name of child _____

Birth date _____

Signature of parent, guardian, or custodian

_____

Date _____".

(c) The division shall submit a monthly report of the information provided under subsection (a) to the Indiana clearinghouse **for information** on missing children **and missing endangered adults** established under IC 10-13-5.

(d) The division shall require that a person who transports children who are in the care of the child care center on a public highway (as defined in IC 9-25-2-4) within or outside Indiana in a vehicle designed and constructed for the accommodation of more than ten (10) passengers must comply with the same requirements set forth in IC 20-27-9-12 for a public elementary or secondary school or a

preschool operated by a school corporation.

SECTION 14. IC 12-17.2-4-18.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18.5. (a) Upon receiving a report under IC 31-36-1-4, a child care center shall thoroughly inspect the report. If the child care center finds that a child on the report required under IC 31-36-1-4 is enrolled at the child care center, the child care center shall immediately notify the Indiana clearinghouse for information on missing children **and missing endangered adults.**

(b) Upon receiving a report under IC 31-36-1-4, a child care center shall attach a notice to the child's enrollment records stating that the child has been reported missing. The child care center shall remove the notice when the center is notified under IC 31-36-2-6 that the child has been found.

(c) If a request for the enrollment records of a missing child is received, the child care center shall:

(1) obtain:

(A) the name, address, and telephone number of the person making the request; and

(B) the reason that the person is requesting the school records; and

(2) immediately notify the Indiana clearinghouse for information on missing children **and missing endangered adults.**

(d) The child care center may not issue a copy of the enrollment records of a child reported missing without authorization from the Indiana clearinghouse for information on missing children **and missing endangered adults** and may not inform the person making the request that a notice that the child has been reported missing has been attached to the child's records.

SECTION 15. IC 12-17.2-5-18.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18.6. (a) Upon receiving a report under IC 31-36-1-4, a child care home shall thoroughly inspect the report. If the child care home finds that a child on the report required under IC 31-36-1-4 is enrolled at the child care home, the child care home shall immediately notify the Indiana clearinghouse for information on missing children **and missing endangered adults.**

(b) Upon receiving a report under IC 31-36-1-4, a child care home

shall attach a notice to the child's enrollment records stating that the child has been reported missing. The child care home shall remove the notice when the center is notified under IC 31-36-2-6 that the child has been found.

(c) If a request for the enrollment records of a missing child is received, the child care home shall:

(1) obtain:

(A) the name, address, and telephone number of the person making the request; and

(B) the reason that the person is requesting the school records; and

(2) immediately notify the Indiana clearinghouse for information on missing children **and missing endangered adults.**

(d) The child care home may not issue a copy of the enrollment records of a child reported missing without authorization from the Indiana clearinghouse for information on missing children **and missing endangered adults** and may not inform the person making the request that a notice that the child has been reported missing has been attached to the child's records.

SECTION 16. IC 16-37-1-8, AS AMENDED BY P.L.123-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) Except as provided in subsection (c), a local health officer shall provide a certification of birth, death, or stillbirth registration upon request by any person only if:

(1) the health officer is satisfied that the applicant has a direct interest in the matter;

(2) the health officer determines that the certificate is necessary for the determination of personal or property rights or for compliance with state or federal law; and

(3) the applicant for a birth certificate presents at least one (1) form of identification.

However, the local health officer must issue a certificate of an applicant's own birth registration.

(b) A local health officer's decision whether or not to issue a certified copy of a birth certificate is subject to review by a court.

(c) A local health officer may not issue a copy of a birth certificate of a missing child to which a notice has been attached under IC 10-13-5-11 without the authorization of the Indiana clearinghouse

for information on missing children **and missing endangered adults.**

(d) Upon determination that a person may be provided a certification of death under subsection (a), the local health officer shall provide to the person a certification of death that excludes information concerning the cause of death if the person requests the exclusion of this information.

SECTION 17. IC 20-26-13-10, AS AMENDED BY P.L.45-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. Except as provided in section 11 of this chapter, the four (4) year graduation rate for a cohort in a high school is the percentage determined under STEP FIVE of the following formula:

STEP ONE: Determine the grade 9 enrollment at the beginning of the reporting year three (3) years before the reporting year for which the graduation rate is being determined.

STEP TWO: Add:

(A) the number determined under STEP ONE; and

(B) the number of students who:

(i) have enrolled in the high school after the date on which the number determined under STEP ONE was determined; and

(ii) have the same expected graduation year as the cohort.

STEP THREE: Subtract from the sum determined under STEP TWO the number of students who have left the cohort for any of the following reasons:

(A) Transfer to another public or nonpublic school.

(B) Removal by the student's parents under IC 20-33-2-28 to provide instruction equivalent to that given in the public schools.

(C) Withdrawal because of a long term medical condition or death.

(D) Detention by a law enforcement agency or the department of correction.

(E) Placement by a court order or the department of child services.

(F) Enrollment in a virtual school.

(G) Leaving school, if the student attended school in Indiana for less than one (1) school year and the location of the student

cannot be determined.

(H) Leaving school, if the location of the student cannot be determined and the student has been reported to the Indiana clearinghouse for information on missing children **and missing endangered adults.**

(I) Withdrawing from school before graduation, if the student is a high ability student (as defined in IC 20-36-1-3) who is a full-time student at an accredited institution of higher education during the semester in which the cohort graduates.

STEP FOUR: Determine the total number of students determined under STEP TWO who have graduated during the current reporting year or a previous reporting year.

STEP FIVE: Divide:

(A) the number determined under STEP FOUR; by

(B) the remainder determined under STEP THREE.

SECTION 18. IC 20-33-2-10, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) Each public school shall and each private school may require a student who initially enrolls in the school to provide:

(1) the name and address of the school the student last attended; and

(2) a certified copy of the student's birth certificate or other reliable proof of the student's date of birth.

(b) Not more than fourteen (14) days after initial enrollment in a school, the school shall request the student's records from the school the student last attended.

(c) If the document described in subsection (a)(2):

(1) is not provided to the school not more than thirty (30) days after the student's enrollment; or

(2) appears to be inaccurate or fraudulent;

the school shall notify the Indiana clearinghouse for information on missing children **and missing endangered adults** established under IC 10-13-5-5 and determine if the student has been reported missing.

(d) A school in Indiana receiving a request for records shall send the records promptly to the requesting school. However, if a request is received for records to which a notice has been attached under IC 31-36-1-5 (or IC 31-6-13-6 before its repeal), the school:

(1) shall immediately notify the Indiana clearinghouse for information on missing children **and missing endangered adults;**

(2) may not send the school records without the authorization of the clearinghouse; and

(3) may not inform the requesting school that a notice under IC 31-36-1-5 (or IC 31-6-13-6 before its repeal) has been attached to the records.

SECTION 19. IC 31-34-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. If a child in need of services is a missing child and is taken into custody under a court order, the person taking the child into custody shall do the following:

(1) Take the child to a place designated in the order.

(2) Give notice to the following that the child has been taken into custody:

(A) The child's legal custodian.

(B) The clearinghouse for information on missing children **and missing endangered adults** established by IC 10-13-5.

SECTION 20. IC 31-34-2.5-2, AS AMENDED BY P.L.234-2005, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Immediately after an emergency medical services provider takes custody of a child under section 1 of this chapter, the provider shall notify the department of child services that the provider has taken custody of the child.

(b) The department of child services shall:

(1) assume the care, control, and custody of the child immediately after receiving notice under subsection (a); and

(2) not later than forty-eight (48) hours after the department of child services has taken custody of the child, contact the Indiana clearinghouse for information on missing children **and missing endangered adults** established by IC 10-13-5-5 to determine if the child has been reported missing.

SECTION 21. IC 31-36-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. Upon completion of the report required by section 1 of this chapter, the law enforcement agency shall immediately forward the contents of the report to:

(1) all law enforcement agencies that have jurisdiction of the location in which the missing child lives and all law enforcement

agencies that have jurisdiction of the location in which the missing child was last seen;

(2) all law enforcement agencies to which the person who provided notification requests the report be sent, if the law enforcement agency determines that the request is reasonable in light of the information contained in the report;

(3) all law enforcement agencies that request a copy of the report;

(4) the Indiana clearinghouse for information on missing children **and missing endangered adults** established by IC 10-13-5;

(5) the Indiana data and communication system (IDACS); and

(6) the National Crime Information Center's Missing Person File.

SECTION 22. IC 31-36-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Upon receiving a report under section 4 of this chapter, a school shall attach a notice to the child's school records stating that the child has been reported missing. The school shall remove the notice when the school is notified under IC 31-36-2-6 that the child has been found.

(b) If a request for the school records of a missing child is received, the school shall:

(1) obtain:

(A) the name, address, and telephone number of the person making the request; and

(B) the reason that the person is requesting the school records; and

(2) immediately notify the Indiana clearinghouse for information on missing children **and missing endangered adults.**

(c) The school may not issue a copy of school records without authorization from the Indiana clearinghouse for information on missing children **and missing endangered adults** and may not inform the person making the request that a notice that the child has been reported missing has been attached to the child's records.

SECTION 23. IC 31-36-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. A law enforcement agency involved in the investigation of a missing child shall do the following:

(1) Update the initial report filed by the agency that received notification of the missing child upon the discovery of new information concerning the investigation.

(2) Forward the updated report to the agencies and organizations listed in IC 31-36-1-3.

(3) Search the National Crime Information Center's Wanted Person File for reports of arrest warrants issued for persons who allegedly abducted or unlawfully retained children and compare these reports to the missing child's National Crime Information Center's Missing Person File.

(4) Notify all law enforcement agencies involved in the investigation, the Indiana clearinghouse for information on missing children **and missing endangered adults,** and the National Crime Information Center when the missing child is located.

SECTION 24. IC 34-30-2-35.7, AS AMENDED BY P.L.66-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 35.7. IC 10-13-5-8.5 (Concerning a broadcaster who broadcasts or an electronic billboard operator who displays an Amber alert notification **or a silver alert notification** and a person who establishes or maintains an Amber alert web site **or a silver alert web site** under an agreement with the state police department).

SECTION 25. [EFFECTIVE JULY 1, 2009] **(a) As used in this SECTION, "commission" refers to the health finance commission established by IC 2-5-23-3.**

(b) The commission shall study during the 2009 interim whether Indiana should require an endangered adult (as defined in IC 12-10-3-2(a)) to wear an electronic device to assist with locating the endangered adult if the endangered adult is lost or missing.

(c) This SECTION expires December 31, 2009.

P.L.44-2009
[S.344. Approved April 30, 2009.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 3-7-15-2, AS AMENDED BY P.L.146-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The general assembly finds that the following offices in Indiana provide public assistance within the scope of NVRA:

(1) Each ~~local~~ **county** office established under IC 12-19-1-1 that administers:

(A) the Temporary Assistance for Needy Families program (TANF) under IC 12-14; or

(B) the Medicaid program under IC 12-15.

(2) Each office of the division of family resources that administers the food stamp program under federal law.

(3) Each office of the state department of health that administers the Special Supplemental Nutrition Program for the Women, Infants and Children Program (WIC) under IC 16-35-1.5.

SECTION 2. IC 6-8.1-7-1, AS AMENDED BY P.L.131-2008, SECTION 29, AND AS AMENDED BY P.L.146-2008, SECTION 359, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating

to any of the listed taxes, including required information derived from a federal return, except to:

(1) members and employees of the department;

(2) the governor;

(3) the attorney general or any other legal representative of the state in any action in respect to the amount of tax due under the provisions of the law relating to any of the listed taxes; or

(4) any authorized officers of the United States;

when it is agreed that the information is to be confidential and to be used solely for official purposes.

(b) The information described in subsection (a) may be revealed upon the receipt of a certified request of any designated officer of the state tax department of any other state, district, territory, or possession of the United States when:

(1) the state, district, territory, or possession permits the exchange of like information with the taxing officials of the state; and

(2) it is agreed that the information is to be confidential and to be used solely for tax collection purposes.

(c) The information described in subsection (a) relating to a person on public welfare or a person who has made application for public welfare may be revealed to the director of the division of family resources, and to any director of a ~~*county local*~~ **county** office of ~~*family and children*~~ *the division of family resources* located in Indiana, upon receipt of a written request from either director for the information. The information shall be treated as confidential by the directors. In addition, the information described in subsection (a) relating to a person who has been designated as an absent parent by the state Title IV-D agency shall be made available to the state Title IV-D agency upon request. The information shall be subject to the information safeguarding provisions of the state and federal Title IV-D programs.

(d) The name, address, Social Security number, and place of employment relating to any individual who is delinquent in paying educational loans owed to a postsecondary educational institution may be revealed to that institution if it provides proof to the department that the individual is delinquent in paying for educational loans. This information shall be provided free of charge to approved postsecondary educational institutions (as defined by IC 21-7-13-6(a)). The department shall establish fees that all other institutions must pay to the

department to obtain information under this subsection. However, these fees may not exceed the department's administrative costs in providing the information to the institution.

(e) The information described in subsection (a) relating to reports submitted under IC 6-6-1.1-502 concerning the number of gallons of gasoline sold by a distributor and IC 6-6-2.5 concerning the number of gallons of special fuel sold by a supplier and the number of gallons of special fuel exported by a licensed exporter or imported by a licensed transporter may be released by the commissioner upon receipt of a written request for the information.

(f) The information described in subsection (a) may be revealed upon the receipt of a written request from the administrative head of a state agency of Indiana when:

(1) the state agency shows an official need for the information; and

(2) the administrative head of the state agency agrees that any information released will be kept confidential and will be used solely for official purposes.

(g) The information described in subsection (a) may be revealed upon the receipt of a written request from the chief law enforcement officer of a state or local law enforcement agency in Indiana when it is agreed that the information is to be confidential and to be used solely for official purposes.

~~(g)~~ *(h)* The name and address of retail merchants, including township, as specified in IC 6-2.5-8-1(j) may be released solely for tax collection purposes to township assessors and county assessors.

~~(h)~~ *(i)* The department shall notify the appropriate innkeepers' tax board, bureau, or commission that a taxpayer is delinquent in remitting innkeepers' taxes under IC 6-9.

~~(i)~~ *(j)* All information relating to the delinquency or evasion of the motor vehicle excise tax may be disclosed to the bureau of motor vehicles in Indiana and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.

~~(j)~~ *(k)* All information relating to the delinquency or evasion of commercial vehicle excise taxes payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state, if the information is disclosed for the

purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

~~(k)~~ *(l)* All information relating to the delinquency or evasion of commercial vehicle excise taxes payable under the International Registration Plan may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(m) All information relating to the delinquency or evasion of the excise taxes imposed on recreational vehicles and truck campers that are payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.1.

~~(l)~~ *(n)* This section does not apply to:

(1) the beer excise tax (IC 7.1-4-2);
(2) the liquor excise tax (IC 7.1-4-3);
(3) the wine excise tax (IC 7.1-4-4);
(4) the hard cider excise tax (IC 7.1-4-4.5);
(5) the malt excise tax (IC 7.1-4-5);
(6) the motor vehicle excise tax (IC 6-6-5);
(7) the commercial vehicle excise tax (IC 6-6-5.5); and
(8) the fees under IC 13-23.

~~(m)~~ *(o)* The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and addiction and the alcohol and tobacco commission solely for the purpose of the list prepared under IC 6-2.5-6-14.2.

SECTION 3. IC 7.1-5-10-13, AS AMENDED BY P.L.146-2008, SECTION 360, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. A permittee who holds a permit to sell at retail shall not cash a check issued by the ~~local~~ **county** office of the division of family resources or by a charitable organization if any part of the proceeds of the check are to be used to purchase an alcoholic beverage.

SECTION 4. IC 10-13-3-27, AS AMENDED BY P.L.146-2008, SECTION 368, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) Except as provided in subsection (b), on request, a law enforcement agency shall release a limited criminal history to or allow inspection of a limited criminal

history by noncriminal justice organizations or individuals only if the subject of the request:

(1) has applied for employment with a noncriminal justice organization or individual;

(2) has applied for a license and has provided criminal history data as required by law to be provided in connection with the license;

(3) is a candidate for public office or a public official;

(4) is in the process of being apprehended by a law enforcement agency;

(5) is placed under arrest for the alleged commission of a crime;

(6) has charged that the subject's rights have been abused repeatedly by criminal justice agencies;

(7) is the subject of a judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;

(8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;

(9) is currently residing in a location designated by the department of child services (established by IC 31-25-1-1) or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location;

(10) has volunteered services at a public school (as defined in IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12) that involve contact with, care of, or supervision over a student enrolled in the school;

(11) is being investigated for welfare fraud by an investigator of the division of family resources or a ~~local~~ **county** office of the division of family resources;

(12) is being sought by the parent locator service of the child support bureau of the department of child services;

(13) is or was required to register as a sex or violent offender under IC 11-8-8; or

(14) has been convicted of any of the following:

(A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(B) Criminal deviate conduct (IC 35-42-4-2), if the victim is

less than eighteen (18) years of age.

(C) Child molesting (IC 35-42-4-3).

(D) Child exploitation (IC 35-42-4-4(b)).

(E) Possession of child pornography (IC 35-42-4-4(c)).

(F) Vicarious sexual gratification (IC 35-42-4-5).

(G) Child solicitation (IC 35-42-4-6).

(H) Child seduction (IC 35-42-4-7).

(I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).

(J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

(1) Federally chartered or insured banking institutions.

(2) Officials of state and local government for any of the following purposes:

(A) Employment with a state or local governmental entity.

(B) Licensing.

(3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who knowingly or intentionally uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

SECTION 5. IC 11-10-7-5, AS AMENDED BY P.L.146-2008, SECTION 369, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The earnings of an offender employed under this chapter shall be surrendered to the department. This amount shall be distributed in the following order:

(1) Not less than twenty percent (20%) of the offender's gross earnings to be given to the offender or retained by the department. If retained by the department, the amount, with accrued interest if interest on the amount is earned, must be returned to the offender not later than at the time of the offender's release on parole or discharge.

(2) State and federal income taxes and Social Security deductions.

(3) The expenses of room and board, as fixed by the department and the budget agency, in facilities operated by the department, or, if the offender is housed in a facility not operated by the department, the amount paid by the department to the operator of the facility or other appropriate authority for room and board and other incidentals as established by agreement between the department and the appropriate authority.

(4) The support of the offender's dependents, when directed by the offender or ordered by the court to pay this support. If the offender's dependents are receiving welfare assistance, the appropriate ~~local~~ **county** office of the division of family resources or welfare department in another state shall be notified of these disbursements.

(5) Ten percent (10%) of the offender's gross earnings, to be deposited in the violent crime victims compensation fund established by IC 5-2-6.1-40.

(b) Any remaining amount shall be given to the offender or retained by the department in accord with subsection (a)(1).

(c) The department may, when special circumstances warrant or for just cause, waive the collection of room and board charges by or on behalf of a facility operated by the department or, if the offender is housed in a facility not operated by the department, authorize payment of room and board charges from other available funds.

SECTION 6. IC 11-10-8-6, AS AMENDED BY P.L.146-2008, SECTION 370, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The earnings of an offender employed in a work release program under this chapter, less payroll deductions required by law and court ordered deductions for satisfaction of a judgment against the offender, shall be surrendered to the department or its designated representative. The remaining earnings shall be distributed in the following order:

(1) State and federal income taxes and Social Security deductions not otherwise withheld.

(2) The cost of membership in an employee organization.

(3) Ten percent (10%) of the offender's gross earnings, to be deposited in the violent crime victims compensation fund established by IC 5-2-6.1-40.

(4) Not less than fifteen percent (15%) of the offender's gross earnings, if that amount of the gross is available after the above deductions, to be given to the offender or retained by the department. If retained by the department, the amount, with accrued interest, must be returned to the offender not later than at the time of the offender's release on parole or discharge.

(5) The expense of room and board, as fixed by the department and the budget agency, in facilities operated by the department, or, if the offender is housed in a facility not operated by the department, the amount paid by the department to the operator of the facility or other appropriate authority for room and board and other incidentals as established by agreement between the department and the appropriate authority.

(6) Transportation cost to and from work, and other work related incidental expenses.

(7) Court ordered costs or fines imposed as a result of conviction of an offense under Indiana law, unless the costs or fines are being paid through other means.

(b) After the amounts prescribed in subsection (a) are deducted, the department may, out of the remaining amount:

(1) when directed by the offender or ordered by the court, pay for the support of the offender's dependents (if the offender's dependents are receiving welfare assistance, the appropriate ~~local~~ **county** office of the division of family resources or welfare department in another state shall be notified of these disbursements); and

(2) with the consent of the offender, pay to the offender's victims or others any unpaid obligations of the offender.

(c) Any remaining amount shall be given to the offender or retained by the department in accord with subsection (a)(4).

(d) The department may, when special circumstances warrant or for just cause, waive the collection of room and board charges by or on behalf of a facility operated by the department or, if the offender is housed in a facility not operated by the department, authorize payment of room and board charges from other available funds.

SECTION 7. IC 11-12-2-2, AS AMENDED BY P.L.146-2008, SECTION 371, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) To qualify for financial

aid under this chapter, a county must establish a community corrections advisory board by resolution of the county executive or, in a county having a consolidated city, by the city-county council. A community corrections advisory board consists of:

(1) the county sheriff or the sheriff's designee;

(2) the prosecuting attorney or the prosecuting attorney's designee;

(3) the director of the ~~local~~ **county** office of the division of family resources or the director's designee;

(4) the executive of the most populous municipality in the county or the executive's designee;

(5) two (2) judges having criminal jurisdiction, if available, appointed by the circuit court judge or the judges' designees;

(6) one (1) judge having juvenile jurisdiction, appointed by the circuit court judge;

(7) one (1) public defender or the public defender's designee, if available, or one (1) attorney with a substantial criminal defense practice appointed by the county executive or, in a county having a consolidated city, by the city-county council;

(8) one (1) victim, or victim advocate if available, appointed by the county executive or, in a county having a consolidated city, by the city-county council;

(9) one (1) ex-offender, if available, appointed by the county executive or, in a county having a consolidated city, by the city-county council; and

(10) the following members appointed by the county executive or, in a county having a consolidated city, by the city-county council:

(A) One (1) member of the county fiscal body or the member's designee.

(B) One (1) probation officer.

(C) One (1) educational administrator.

(D) One (1) representative of a private correctional agency, if such an agency exists in the county.

(E) One (1) mental health administrator, or, if there is none available in the county, one (1) psychiatrist, psychologist, or physician.

(F) Four (4) lay persons, at least one (1) of whom must be a member of a minority race if a racial minority resides in the

county and a member of that minority is willing to serve.

(b) Designees of officials designated under subsection (a)(1) through (a)(7) and (a)(10)(A) serve at the pleasure of the designating official.

(c) Members of the advisory board appointed by the county executive or, in a county having a consolidated city, by the city-county council, shall be appointed for a term of four (4) years. The criminal defense attorney, the ex-offender, and the victim or victim advocate shall be appointed for a term of four (4) years. Other members serve only while holding the office or position held at the time of appointment. The circuit court judge may fill the position of the judge having juvenile court jurisdiction by self appointment if the circuit court judge is otherwise qualified. A vacancy occurring before the expiration of the term of office shall be filled in the same manner as original appointments for the unexpired term. Members may be reappointed.

(d) Two (2) or more counties, by resolution of their county executives or, in a county having a consolidated city, by the city-county council, may combine to apply for financial aid under this chapter. If counties so combine, the counties may establish one (1) community corrections advisory board to serve these counties. This board must contain the representation prescribed in subsection (a), but the members may come from the participating counties as determined by agreement of the county executives or, in a county having a consolidated city, by the city-county council.

(e) The members of the community corrections advisory board shall, within thirty (30) days after the last initial appointment is made, meet and elect one (1) member as chairman and another as vice chairman and appoint a secretary-treasurer who need not be a member. A majority of the members of a community corrections advisory board may provide for a number of members that is:

(1) less than a majority of the members; and

(2) at least six (6);

to constitute a quorum for purposes of transacting business. The affirmative votes of at least five (5) members, but not less than a majority of the members present, are required for the board to take action. A vacancy in the membership does not impair the right of a quorum to transact business.

(f) The county executive and county fiscal body shall provide necessary assistance and appropriations to the community corrections advisory board established for that county. Appropriations required under this subsection are limited to amounts received from the following sources:

(1) Department grants.

(2) User fees.

(3) Other funds as contained within an approved plan.

Additional funds may be appropriated as determined by the county executive and county fiscal body.

SECTION 8. IC 11-12-5-3, AS AMENDED BY P.L.146-2008, SECTION 373, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Any earnings of a person employed under this chapter, less payroll deductions required by law and court ordered deductions for satisfaction of a judgment against that person, shall be collected by the county sheriff, probation department, ~~local~~ **county** office of the division of family resources, or other agency designated by the sentencing or committing court. Unless otherwise ordered by the court, the remaining earnings shall be distributed in the following order:

(1) To pay state and federal income taxes and Social Security deductions not otherwise withheld.

(2) To pay the cost of membership in an employee organization.

(3) Not less than fifteen percent (15%) of the person's gross earnings, if that amount of the gross is available after the above deductions, to be given to that person or retained for the person, with accrued interest, until the person's release or discharge.

(4) To pay for the person's room and board provided by the county.

(5) To pay transportation costs to and from work, and other work related incidental expenses.

(6) To pay court ordered costs, fines, or restitution.

(b) After the amounts prescribed in subsection (a) are deducted, the remaining amount may be used to:

(1) when directed by the person or ordered by the court, pay for the support of the person's dependents (if the person's dependents are receiving welfare assistance, the appropriate ~~local~~ **county** office of the division of family resources or welfare department in

another state shall be notified of such disbursements); and

(2) with the consent of the person, pay to the person's victims or others any unpaid obligations of that person.

(c) Any remaining amount shall be given to the person or retained for the person according to subsection (a)(3).

(d) The collection of room and board under subsection (a)(4) may be waived.

SECTION 9. IC 12-7-2-45, AS AMENDED BY P.L.146-2008, SECTION 376, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 45. "County office" refers to a ~~local~~ **county** office of the division of family resources.

SECTION 10. IC 12-7-2-46, AS AMENDED BY P.L.146-2008, SECTION 377, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 46. "County director" refers to a director of a ~~local~~ **county** office of the division of family resources.

SECTION 11. IC 12-15-1.5-8, AS AMENDED BY P.L.146-2008, SECTION 386, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The codirectors of the election division shall provide the division of family resources with a list of the current addresses and telephone numbers of the offices of the circuit court clerk or board of registration in each county. The division of family resources shall promptly forward the list and each revision of the list to each ~~local~~ **county** office.

(b) The codirectors shall provide the division of family resources with pre-addressed packets for county offices to transmit applications under section 6(1) or 6(2) of this chapter.

SECTION 12. IC 12-15-9-0.6, AS AMENDED BY P.L.145-2006, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.6. (a) The office's claim against assets that are not included in the individual's probate estate may be enforced as set out in IC 32-17-13.

(b) Enforcement of a claim against assets that are not included in an individual's probate estate must be commenced not more than nine (9) months after the decedent's death. This limit does not apply to any assets that were not reported to the ~~local~~ **county** office of the division of family resources.

SECTION 13. IC 12-19-1-1, AS AMENDED BY P.L.146-2008, SECTION 392, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 1. The division shall establish ~~local~~ **county** offices of family resources in each county. ~~or district designated by the division.~~

SECTION 14. IC 12-19-1-2, AS AMENDED BY P.L.146-2008, SECTION 393, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The director of the division shall appoint a ~~local~~ **county** director for each ~~local~~ **county** office.

(b) A ~~local~~ **county** director must be a citizen of the United States.

SECTION 15. IC 12-19-1-3, AS AMENDED BY P.L.146-2008, SECTION 394, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The ~~local~~ **county** director is the executive and administrative officer of the ~~local~~ **county** office.

SECTION 16. IC 12-19-1-4, AS AMENDED BY P.L.146-2008, SECTION 395, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A ~~local~~ **county** director is entitled to receive as compensation for the ~~local~~ **county** director's services an amount determined by the division that is within:

(1) the lawfully established appropriations; and

(2) the salary ranges of the pay plan adopted by the state personnel department and approved by the budget committee.

(b) Compensation paid to a ~~local~~ **county** director shall be paid in the same manner that compensation is paid to other state employees.

SECTION 17. IC 12-19-1-5, AS AMENDED BY P.L.146-2008, SECTION 396, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) In addition to the compensation paid under this article, a ~~local~~ **county** director may receive for each mile necessarily traveled in the discharge of the ~~local~~ **county** director's duties the same amount per mile that other state employees receive.

(b) A ~~local~~ **county** director is also entitled to a per diem for lodging and meal expenses if the ~~local~~ **county** director's official duties require the ~~local~~ **county** director to travel outside of the county where the ~~local~~ **county** director's permanent office is located. The per diem for a ~~local~~ **county** director's lodging and meals shall be paid at the rate set by law for other state employees.

SECTION 18. IC 12-19-1-7, AS AMENDED BY P.L.146-2008, SECTION 397, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The ~~local~~ **county** director shall appoint from eligible lists established by the state personnel department the number of assistants necessary to administer the welfare activities within the county ~~or district~~ that are administered by the division under IC 12-13 through IC 12-19 or by an administrative rule, with the approval of the director of the division.

(b) The division, for personnel performing activities described in subsection (a), shall determine the compensation of the assistants within the salary ranges of the pay plan adopted by the state personnel department and approved by the budget agency, with the advice of the budget committee, and within lawfully established appropriations.

SECTION 19. IC 12-19-1-8, AS AMENDED BY P.L.146-2008, SECTION 398, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. The costs of personal services in the administration of a ~~local~~ **county** office's duties described in section 7(a) of this chapter shall be paid by the division.

SECTION 20. IC 12-19-1-9, AS AMENDED BY P.L.146-2008, SECTION 399, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The division shall provide the necessary facilities to house the ~~local~~ **county** office.

(b) The division shall pay for the costs of the facilities, supplies, and equipment needed by each ~~local~~ **county** office.

SECTION 21. IC 12-19-1-10, AS AMENDED BY P.L.146-2008, SECTION 400, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. Subject to the rules adopted by the director of the division, a ~~local~~ **county** office shall administer the following:

(1) Assistance to dependent children in the homes of the dependent children.

(2) Assistance and services to elderly persons.

(3) Assistance to persons with disabilities.

(4) Care and treatment of the following persons, other than persons for whom the department of child services is providing services under IC 31 for the following:

(A) Dependent children.

(B) Children with disabilities.

(5) Any other welfare activities that are delegated to the ~~local~~ **county** office by the division, including services concerning

assistance to the blind.

SECTION 22. IC 12-19-1-13, AS AMENDED BY P.L.146-2008, SECTION 401, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) A ~~local~~ **county** office may sue and be sued under the name of "The Office of Family Resources of _____" ~~(Insert:~~ County". ~~or "District", as appropriate).~~

(b) The ~~local~~ **county** office has all other rights and powers and shall perform all other duties necessary to administer this chapter.

(c) A suit brought against a ~~local~~ **county** office may be filed in any circuit or superior court with jurisdiction in the area served by the ~~local~~ **county** office.

(d) A notice or summons in a suit brought against the ~~local~~ **county** office must be served on the ~~local~~ **county** director. It is not required to name the individual employees of the ~~local~~ **county** office as either plaintiff or defendant.

SECTION 23. IC 12-19-1-15, AS AMENDED BY P.L.146-2008, SECTION 402, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The division may receive and administer a gift, devise, or bequest of personal property, including the income from real property, that is to or for the benefit of an individual receiving payments or services through a ~~local~~ **county** office.

(b) The division shall establish a special fund or an account in a trust fund for the money received under this section. The expenses of administering the fund or account shall be paid from money in the fund or account. The money may not be commingled with money received from taxation.

(c) The treasurer of state shall invest the money in the fund or account not currently needed to meet the obligations of the fund or account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund or account.

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

(e) Subject to the approval of the judge or the court of the county having probate jurisdiction, money in the fund or account may be expended by the division in any manner consistent with the purposes

of the fund or account created under this section and with the intention of the donor.

SECTION 24. IC 12-19-1-16, AS AMENDED BY P.L.146-2008, SECTION 403, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) This section does not apply to money appropriated by the general assembly, including any federal grant.

(b) The family resources trust clearance fund is established to administer money available to or for the benefit of an individual receiving payments or services through a ~~local~~ **county** office. The fund shall be administered by the division. Separate accounts in the fund shall be established, as appropriate, to carry out the purposes of the donors of the money deposited in the fund.

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

(d) Money in the fund may not be commingled with any other fund or with money received from taxation. The money may be expended by the ~~local~~ **county** office in any manner consistent with the following:

(1) The purpose of the fund or with the intention of the donor of the money.

(2) Indiana law.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

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

SECTION 25. IC 12-19-1-18, AS AMENDED BY P.L.146-2008, SECTION 404, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) After petition to and with the approval of the judge of a circuit court of the county where an applicant for or recipient of public assistance resides (or, if a superior court has probate jurisdiction in the county, the superior court that has probate jurisdiction where the recipient of public assistance resides), a ~~local~~ **county** office may take the actions described in subsection (b) if:

(1) an applicant for public assistance is physically or mentally incapable of completing an application for assistance; or

(2) a recipient of public assistance:

(A) is incapable of managing the recipient's affairs; or

(B) refuses to:

(i) take care of the recipient's money properly; or

(ii) comply with the director of the division's rules and policies.

(b) If the conditions of subsection (a) are satisfied, the ~~local~~ **county** office may designate a responsible person to do the following:

(1) Act for the applicant or recipient.

(2) Receive on behalf of the recipient the assistance the recipient is eligible to receive under any of the following:

(A) This chapter.

(B) IC 12-10-6.

(C) IC 12-14-1 through IC 12-14-9.5.

(D) IC 12-14-13 through IC 12-14-19.

(E) IC 12-15.

(F) IC 16-35-2.

(c) A fee for services provided under this section may be paid to the responsible person in an amount not to exceed ten dollars ($10) each month. The fee may be allowed:

(1) in the monthly assistance award; or

(2) by vendor payment if the fee would cause the amount of assistance to be increased beyond the maximum amount permitted by statute.

SECTION 26. IC 12-19-1-19, AS AMENDED BY P.L.146-2008, SECTION 405, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) A responsible person approved under section 18 of this chapter preferably must be a relative or friend of good moral character whose interest is limited to the well-being of the applicant or recipient. However, the responsible person may not be any of the following:

(1) An employee of the ~~local~~ **county** office.

(2) The superintendent of a county home.

(3) A person directly or indirectly financially connected with a health facility or an institution giving care to the recipient.

(4) A person directly or indirectly connected with the operation of a health facility or an institution giving care to the recipient.

(b) Costs may not be charged by a person or public official in

proceedings concerning the appointment of a responsible person under section 18 of this chapter.

SECTION 27. IC 12-19-2-2, AS AMENDED BY P.L.146-2008, SECTION 409, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The following are not personally liable, except to the state, for an official act done or omitted in connection with the performance of duties under this article:

(1) The director of the division.

(2) Officers and employees of the division.

(3) Officers and employees of a ~~local~~ **county** office.

SECTION 28. IC 12-19-2-3, AS AMENDED BY P.L.146-2008, SECTION 410, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. An officer or employee of:

(1) the division; or

(2) a ~~local~~ **county** office;

may administer oaths and affirmations required to carry out the purposes of this article or of any other statute imposing duties on the ~~local~~ **county** office.

SECTION 29. IC 12-19-2-5, AS AMENDED BY P.L.146-2008, SECTION 411, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. A person who is related to a ~~local~~ **county** director in the following manner is not eligible for a position in the ~~local~~ **county** office:

(1) Husband or wife.

(2) Father or mother.

(3) Son or daughter.

(4) Son-in-law or daughter-in-law.

(5) Brother or sister.

(6) Niece or nephew.

(7) Uncle or aunt.

SECTION 30. IC 12-19-2-6, AS AMENDED BY P.L.146-2008, SECTION 412, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. A person prohibited under section 5 of this chapter from employment with a ~~local~~ **county** office may not receive compensation for services performed for the ~~local~~ **county** office from appropriations made by the state or by the county.

SECTION 31. IC 16-33-3-10, AS AMENDED BY P.L.146-2008, SECTION 436, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 10. Whenever the circuit court having jurisdiction finds, upon application by the ~~local~~ **county** office of the division of family resources, that the parent or guardian of a client placed in the center is unable to meet the costs that the parent or guardian is required to pay for the services of the center, the court shall order payment of the costs from the county general fund.

SECTION 32. IC 16-34-2-1.1, AS AMENDED BY P.L.146-2008, SECTION 444, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.1. (a) An abortion shall not be performed except with the voluntary and informed consent of the pregnant woman upon whom the abortion is to be performed. Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if the following conditions are met:

(1) At least eighteen (18) hours before the abortion and in the presence of the pregnant woman, the physician who is to perform the abortion, the referring physician or a physician assistant (as defined in IC 25-27.5-2-10), an advanced practice nurse (as defined in IC 25-23-1-1(b)), or a midwife (as defined in IC 34-18-2-19) to whom the responsibility has been delegated by the physician who is to perform the abortion or the referring physician has orally informed the pregnant woman of the following:

(A) The name of the physician performing the abortion.

(B) The nature of the proposed procedure or treatment.

(C) The risks of and alternatives to the procedure or treatment.

(D) The probable gestational age of the fetus, including an offer to provide:

(i) a picture or drawing of a fetus;

(ii) the dimensions of a fetus; and

(iii) relevant information on the potential survival of an unborn fetus;

at this stage of development.

(E) The medical risks associated with carrying the fetus to term.

(F) The availability of fetal ultrasound imaging and auscultation of fetal heart tone services to enable the pregnant woman to view the image and hear the heartbeat of the fetus and how to obtain access to these services.

(2) At least eighteen (18) hours before the abortion, the pregnant woman will be orally informed of the following:

(A) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care from the ~~local~~ **county** office of the division of family resources.

(B) That the father of the unborn fetus is legally required to assist in the support of the child. In the case of rape, the information required under this clause may be omitted.

(C) That adoption alternatives are available and that adoptive parents may legally pay the costs of prenatal care, childbirth, and neonatal care.

(3) The pregnant woman certifies in writing, before the abortion is performed, that the information required by subdivisions (1) and (2) has been provided.

(b) Before an abortion is performed, the pregnant woman may, upon the pregnant woman's request, view the fetal ultrasound imaging and hear the auscultation of the fetal heart tone if the fetal heart tone is audible.

SECTION 33. IC 20-21-2-8, AS AMENDED BY P.L.146-2008, SECTION 457, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. Upon the presentation of satisfactory evidence showing that:

(1) there is a school age individual with a visual disability residing in a county;

(2) the individual is entitled to the facilities of the school;

(3) the individual's parent wishes the individual to participate in the school's educational program but is unable to pay the expenses of maintaining the individual at the school; and

(4) the individual is entitled to placement in the school under section 6 of this chapter;

a court with jurisdiction shall, upon application by the ~~local~~ **county** office of the division of family resources, order the individual to be sent to the school at the expense of the county. The expenses include the expenses described in section 10 of this chapter and shall be paid from the county general fund.

SECTION 34. IC 20-22-2-8, AS AMENDED BY P.L.146-2008, SECTION 458, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. Upon the presentation of

satisfactory evidence showing that:

(1) there is a school age individual with a hearing disability residing in a county;

(2) the individual is entitled to the facilities of the school;

(3) the individual's parent wishes the individual to participate in the school's educational program but is unable to pay the expenses of maintaining the individual at the school; and

(4) the individual is entitled to placement in the school under section 6 of this chapter;

a court with jurisdiction shall, upon application by the ~~local~~ **county** office of the division of family resources, order the individual to be sent to the school at the expense of the county. The expenses include the expenses described in section 10 of this chapter and shall be paid from the county general fund.

SECTION 35. IC 34-30-2-46, AS AMENDED BY P.L.146-2008, SECTION 679, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 46. IC 12-19-2-2 (Concerning the officers and other employees of the division of family resources, including the ~~local~~ **county** offices of the division of family resources).

SECTION 36. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 12-7-2-124.6; IC 12-7-2-124.8.

SECTION 37. **An emergency is declared for this act.**

P.L.45-2009

[S.356. Approved April 30, 2009.]

AN ACT to amend the Indiana Code concerning labor and safety.

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

SECTION 1. IC 22-2-13-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.5. As used in this chapter, "child" means a**

biological child, adopted child, foster child, or stepchild.

SECTION 2. IC 22-2-13-5, AS ADDED BY P.L.151-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. As used in this chapter, "grandparent" means a biological grandparent, **an adoptive grandparent, a foster grandparent, or a stepgrandparent.**

SECTION 3. IC 22-2-13-9, AS ADDED BY P.L.151-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. As used in this chapter, "parent" means:

(1) a biological father or mother;

(2) an adoptive father or mother; ~~or~~

(3) a court appointed guardian or custodian;

(4) a foster parent; or

(5) a stepparent.

SECTION 4. IC 22-2-13-10, AS ADDED BY P.L.151-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. As used in this chapter, "sibling" means:

(1) a **biological** brother or sister; ~~by blood, half-blood, or adoption.~~

(2) an adoptive brother or sister;

(3) a foster brother or sister; or

(4) a stepbrother or stepsister.

SECTION 5. IC 22-2-13-11, AS ADDED BY P.L.151-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) An employee who:

(1) has been employed by an employer for at least twelve (12) months;

(2) has worked at least one thousand five hundred (1,500) hours during the twelve (12) month period immediately preceding the day the leave begins; and

(3) is the spouse, parent, grandparent, **child,** or sibling of a person who is ordered to active duty;

is entitled to an unpaid leave of absence as provided in subsection (b).

(b) An employee may take a leave of absence during one (1) or more of the following periods:

(1) During the thirty (30) days before active duty orders are in effect.

(2) During a period in which the person ordered to active duty is

on leave while active duty orders are in effect.(3) During the thirty (30) days after the active duty orders are terminated.

(c) The leave of absence allowed each **calendar** year under subsection (a) may not exceed a total of ten (10) working days.

(d) An eligible employee may elect, or an employer may require the employee, to substitute any earned paid vacation leave, personal leave, or other paid leave, except for paid medical or sick leave, available to the employee for leave provided under this chapter for any part of the ten (10) day period of such leave.

P.L.46-2009
[S.437. Approved April 30, 2009.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 27-8-32 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 32. Coverage for Chemotherapy

Sec. 1. This chapter applies to a policy of accident and sickness insurance that provides coverage for both of the following:

(1) Orally administered cancer chemotherapy.

(2) Cancer chemotherapy that is administered intravenously or by injection.

Sec. 2. As used in this chapter, "cancer chemotherapy" means medication that is prescribed by a physician to kill or slow the growth of cancer cells.

Sec. 3. As used in this chapter, "insured" means an individual who is entitled to coverage under a policy of accident and sickness insurance.

Sec. 4. As used in this chapter, "policy of accident and sickness

insurance" has the meaning set forth in IC 27-8-5-1.

Sec. 5. Coverage for orally administered cancer chemotherapy under a policy of accident and sickness insurance must not be subject to dollar limits, copayments, deductibles, or coinsurance provisions that are less favorable to an insured than the dollar limits, copayments, deductibles, or coinsurance provisions that apply to coverage for cancer chemotherapy that is administered intravenously or by injection under the policy of accident and sickness insurance.

SECTION 2. IC 27-13-7-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 20. (a) This section applies to an individual contract or a group contract that provides coverage for both of the following:**

(1) Orally administered cancer chemotherapy.

(2) Cancer chemotherapy that is administered intravenously or by injection.

(b) As used in this section, "cancer chemotherapy" means medication that is prescribed by a physician to kill or slow the growth of cancer cells.

(c) Coverage for orally administered cancer chemotherapy under an individual contract or a group contract must not be subject to dollar limits, copayments, deductibles, or coinsurance provisions that are less favorable to an enrollee than the dollar limits, copayments, deductibles, or coinsurance provisions that apply to coverage for cancer chemotherapy that is administered intravenously or by injection under the individual contract or group contract.

SECTION 3. [EFFECTIVE JULY 1, 2009] **(a) IC 27-8-32, as added by this act, applies to a policy of accident and sickness insurance that is issued, delivered, amended, or renewed after December 31, 2009.**

(b) IC 27-13-7-20, as added by this act, applies to an individual contract or a group contract that is entered into, delivered, amended, or renewed after December 31, 2009.

(c) This SECTION expires December 31, 2014.

P.L.47-2009
[S.438. Approved April 30, 2009.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-10-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. The community and home options to institutional care for the elderly and disabled program is established. The division shall administer the program and shall do the following:

(1) Adopt rules under IC 4-22-2 for the coordination of the program.

(2) Administer state and federal money for the program.

(3) Develop and implement a process for the management and operation of the program locally through the area agencies on aging based upon criteria developed by the division.

(4) Approve the selection of community and home care services providers based upon criteria developed by the division.

(5) Review and approve community and home care services plans developed by services providers.

(6) Provide training and technical assistance for the staff providers.

(7) Select or contract with agencies throughout Indiana to provide community and home care services.

(8) Assist the office in applying for Medicaid waivers from the United States Department of Health and Human Services to fund community and home care services needed by eligible individuals under this chapter.

(9) Have self-directed care options and services available for an eligible individual who chooses self-directed care services.

SECTION 2. IC 12-15-1-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2009]: **Sec. 20. (a) The office shall implement a policy that allows the amount of Medicaid funds necessary to provide services to follow an individual who is transferring from institutional care to Medicaid home and community based care.**

(b) The amount may not exceed the amount that would have been spent on the individual if the individual had stayed in institutional care.

SECTION 3. IC 12-15-5-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 9. The office shall have self-directed care options and services available for an eligible individual who:**

(1) is a Medicaid waiver recipient; and

(2) chooses self-directed care services.

SECTION 4. IC 12-15-5-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 10. (a) An individual who receives Medicaid services through a Medicaid waiver shall receive the following:**

(1) The development of a care plan addressing the individual's needs.

(2) Advocacy on behalf of the individual's interests.

(3) The monitoring of the quality of community and home care services provided to the individual.

(4) Information and referral services concerning community and home care services if the individual is eligible for these services.

(b) The use by or on behalf of an individual receiving Medicaid waiver services of any of the following services or devices does not make the individual ineligible for services under a Medicaid waiver:

(1) Skilled nursing assistance.

(2) Supervised community and home care services, including skilled nursing supervision.

(3) Adaptive medical equipment and devices.

(4) Adaptive nonmedical equipment and devices.

P.L.48-2009
[S.465. Approved April 30, 2009.]

AN ACT to amend the Indiana Code concerning labor and safety.

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

SECTION 1. IC 22-2-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. **(a)** Every employer subject to the provisions of this chapter or to any rule or order issued under this chapter shall **each pay period** furnish to each employee a statement ~~of~~ **that includes at least the following information:**

(1) The hours worked by the employee. ~~and~~

(2) The wages paid to ~~him~~ **the employee.**

(3) A listing **of the** deductions made. ~~each pay period, and~~

(b) ~~The~~ **An** employer shall furnish **to** the commissioner upon demand a sworn statement of the ~~same. Such~~ **information furnished to an employee under subsection (a).** Records **relating to the information furnished** shall be open to inspection by the commissioner, ~~his~~ **the commissioner's** deputy, or any authorized agent of the department at any reasonable time.

(c) Every employer subject to the provisions of this chapter or to any rule or order issued under this chapter shall ~~keep a copy of them posted~~ **post** in a conspicuous place in the area where employees are employed **a single page poster providing employees notice of the following information:**

(1) The current Indiana minimum wage.

(2) An employee's basic rights under Indiana's minimum wage law.

(3) Contact information to inform an employee how to obtain additional information from or to direct questions or complaints to the Indiana department of labor.

(d) The commissioner shall furnish copies of this chapter and the rules and orders to employers without charge **upon request.**

SECTION 2. IC 22-8-1.1-35.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 35.1. (a) The board in the discharge of its functions may inspect the premises involved in the dispute.

(b) The board shall select an administrative law judge under IC 4-21.5-3-9. However, if the board selects any individual who is not a member of the board, that individual must be an attorney. Any attorney so appointed shall ~~be compensated the same as members of the board.~~ **receive reasonable compensation as determined by the commissioner.**

P.L.49-2009
[S.480. Approved April 30, 2009.]

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

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

SECTION 1. IC 35-45-20 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 20. Dispensing Contact Lenses Without a Prescription

Sec. 1. As used in this chapter, "prescription" means a written or electronically transmitted contact lens prescription or order that:

(1) is issued by an optometrist licensed under IC 25-24 or a physician licensed under IC 25-22.5; and

(2) was issued within the previous year.

Sec. 2. A person who dispenses a contact lens, including a contact lens without corrective power, to an individual who does not have a prescription for the contact lens being dispensed commits a Class A infraction.

P.L.50-2009
[H.1135. Approved April 30, 2009.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 10-17-12-0.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.7. The purpose of the fund established in section 8 of this chapter is to provide short term financial assistance to families of qualified service members for hardships that result from the qualified service members' active duty service.**

SECTION 2. IC 10-17-12-1, AS ADDED BY P.L.58-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "active duty" means full-time service in **the:**

(1) ~~a reserve component of the~~ armed forces; or

(2) ~~the~~ National Guard;

for a period that exceeds thirty (30) consecutive days. ~~in a calendar year.~~

SECTION 3. IC 10-17-12-2, AS ADDED BY P.L.58-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "armed forces" includes the **active or** reserve components of the following:

(1) The United States Army.

(2) The United States Navy.

(3) The United States Marine Corps.

(4) The United States Air Force.

(5) The United States Coast Guard.

SECTION 4. IC 10-17-12-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. As used in this chapter,**

"dependent" has the meaning set forth in 37 U.S.C. 401, as in effect on January 1, 2009.

SECTION 5. IC 10-17-12-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. As used in this chapter, "qualified service member" means an individual who is:**

(1) an Indiana resident;

(2) a member of:

(A) the armed forces; or

(B) the National Guard; and

(3) serving on active duty:

(A) after September 11, 2001; and

(B) during a time of national conflict or war.

SECTION 6. IC 10-17-12-8, AS AMENDED BY P.L.3-2008, SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The military family relief fund is established to provide assistance with food, housing, utilities, medical services, basic transportation, child care, **education, employment or workforce,** and other essential family support expenses that have become difficult to afford for ~~families~~ **qualified service members or dependents** of ~~Indiana residents who are:~~

~~(1) members of:~~

~~(A) a reserve component of the armed forces; or~~

~~(B) the national guard; and~~

~~(2) called to active duty after September 11, 2001.~~

qualified service members.

(b) **Except as provided in section 9 of this chapter,** the board shall expend the money in the fund exclusively to provide grants for assistance as described in subsection (a).

(c) A qualified service member or the qualified service member's dependent may be eligible to receive assistance from the fund for up to one (1) year after the earlier of the following:

(1) The date the qualified service member's active duty service ends.

(2) The date, as established by presidential proclamation or by law, of the cessation of the national conflict or war with respect to which the qualified service member is eligible to receive assistance under section 7.5(3)(B) of this chapter.

~~(c)~~ **(d)** The board shall administer the fund.

SECTION 7. IC 10-17-12-9, AS AMENDED BY P.L.144-2007, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The fund consists of the following:

(1) Appropriations made by the general assembly.

(2) Donations to the fund.

(3) Interest. ~~as provided in subsection (b).~~

(4) Money transferred to the fund from other funds.

(5) Annual supplemental fees collected under IC 9-29-5-38.5.

(6) Money from any other source authorized or appropriated for the fund.

(b) The ~~treasurer of state~~ **board** shall ~~invest~~ **transfer** the money in the fund not currently needed to **provide assistance or** meet the obligations of the fund ~~in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.~~ **to the veterans' affairs trust fund established by IC 10-17-13-3.**

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund or to any other fund.

(d) There is annually appropriated to the board for the purposes of this chapter all money in the fund not otherwise appropriated to the board for the purposes of this chapter.

SECTION 8. IC 10-17-13-3, AS ADDED BY P.L.144-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The veterans' affairs trust fund is established to provide ~~assistance to veterans and their families.~~ **a self-sustaining funding source for the military family relief fund established by IC 10-17-12-8.**

(b) The fund consists of the following:

(1) Appropriations by the general assembly.

(2) Donations, gifts, grants, and bequests to the fund.

(3) Interest and dividends on assets of the funds.

(4) Money transferred to the fund from other funds.

(5) Money from any other source deposited in the fund.

SECTION 9. IC 10-17-13-10, AS ADDED BY P.L.144-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The board shall manage and develop the fund and the assets of the fund.

(b) The board shall do the following:

(1) Establish a policy for the investment of the assets of the fund. In establishing a policy under this subdivision, the board shall:

~~(A) consider the immediate needs of veterans and their families to the extent those needs are not addressed by the military family relief fund established by IC 10-17-12-8; and~~

~~(B) have as its long term goal creating a self sustaining fund that is not dependent on legislative sources of funding.~~

(A) establish adequate long term financial goals for the fund; and

(B) provide adequate funding for the military family relief fund established by IC 10-17-12-8 during a time of war or national conflict.

(2) Acquire money for the fund through the solicitation of private or public donations and other revenue producing activities.

(3) Perform other tasks consistent with prudent management and development of the fund.

SECTION 10. IC 10-17-13-14, AS ADDED BY P.L.144-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. The board shall adopt rules under IC 4-22-2 to ~~do the following:~~

~~(1) Establish or designate programs, including existing programs administered by state agencies for the benefit of active duty military personnel, veterans, and their families, to be funded by the fund. The board shall consider the following needs of veterans and their families in establishing programs under this subdivision:~~

~~(A) Education.~~

~~(B) Economic assistance, including grants and loans.~~

~~(C) Health and medical care.~~

~~(D) Housing and transportation needs.~~

~~(E) Employment and workforce issues.~~

~~(F) Any other issue the board determines is appropriate.~~

~~(2) Determine eligibility and application procedures for programs described in subdivision (1).~~

~~(3) Otherwise implement this chapter.~~

implement this chapter.

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

P.L.51-2009
[H.1165. Approved April 30, 2009.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 21-14-6-2, AS ADDED BY P.L.2-2007, SECTION 255, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. **(a) This section applies to a public safety officer's child who is less than twenty-four (24) years of age on the date of the public safety officer's death.** The children of a public safety officer who has been killed in the line of duty are ~~not required to pay~~ **exempt from the payment of** ~~educational costs~~ **tuition and regularly assessed fees for eight (8) semesters (or the equivalent) in which the children enroll** at a state educational institution or state supported technical school. ~~so long as~~ The children ~~are less than twenty-three (23) years of age and are~~ **must be** full-time students pursuing a prescribed course of study.

(b) The maximum amount that an eligible applicant is exempt from paying for a semester hour is an amount equal to the cost of an undergraduate semester credit hour at the state educational institution in which the eligible applicant enrolls.

P.L.52-2009
[H.1176. Approved April 30, 2009.]

AN ACT to amend the Indiana Code concerning trade regulation.

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

SECTION 1. IC 24-4.4-2-201, AS ADDED BY P.L.145-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 201. (1) A creditor or mortgage servicer shall provide an accurate payoff amount for a first lien mortgage transaction to the debtor not later than ten (10) calendar days after the creditor or mortgage servicer receives the debtor's written request for the accurate payoff amount. A creditor or mortgage servicer who fails to provide an accurate payoff amount is liable for:

(a) one hundred dollars ($100) if an accurate payoff amount is not provided by the creditor or mortgage servicer not later than ten (10) calendar days after the creditor or mortgage servicer receives the debtor's first written request; and

(b) the greater of:

(i) one hundred dollars ($100); or

(ii) the loan finance charge that accrues on the first lien mortgage transaction from the date the creditor or mortgage servicer receives the first written request until the date on which the accurate payoff amount is provided;

if an accurate payoff amount is not provided by the creditor or mortgage servicer not later than ten (10) calendar days after the creditor or mortgage servicer receives the debtor's second written request, and the creditor or mortgage servicer fails to comply with subdivision (a).

(2) This subsection applies to a first lien mortgage transaction, or the refinancing or consolidation of a first lien mortgage transaction, that:

(a) is closed after June 30, 2009; and

(b) has an interest rate that is subject to change at one (1) or more times during the term of the first lien mortgage transaction.

A creditor in a transaction to which this subsection applies may not contract for and may not charge the debtor a prepayment fee or penalty.

~~(2)~~ **(3)** This subsection applies to a first lien mortgage transaction with respect to which any installment or minimum payment due is delinquent for at least sixty (60) days. The creditor, servicer, or the creditor's agent shall acknowledge a written offer made in connection with a proposed short sale not later than ten (10) business days after the date of the offer if the offer complies with the requirements for a qualified written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor, servicer, or creditor's agent is required to acknowledge a written offer made in connection with a proposed short sale from a third party acting on behalf of the debtor only if the debtor has provided written authorization for the creditor, servicer, or creditor's agent to do so. Not later than thirty (30) business days after receipt of an offer under this subsection, the creditor, servicer, or creditor's agent shall respond to the offer with an acceptance or a rejection of the offer. As used in this subsection, "short sale" means a transaction in which the property that is the subject of a first lien mortgage transaction is sold for an amount that is less than the amount of the debtor's outstanding obligation under the first lien mortgage transaction. A creditor or mortgage servicer that fails to respond to an offer within the time prescribed by this subsection is liable in accordance with 12 U.S.C. 2605(f) in any action brought under that section.

SECTION 2. IC 24-5-23.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 23.5. Real Estate Appraisals

Sec. 1. (a) As used in this chapter, "appraisal" means an estimation that:

(1) represents the final opinion of the value of real property that is the subject of a real estate transaction; and

(2) serves as the basis for the extension of credit, in the case of a real estate transaction involving the making, refinancing, or consolidation of a mortgage loan.

(b) The term may include any of the following:

(1) The results of an automated valuation model.

(2) A broker's price opinion.

(3) A desktop evaluation.

Sec. 2. As used in this chapter, "appraisal company" means a sole proprietorship, firm, corporation, partnership, limited liability company, limited liability partnership, joint venture, trust, or other business unit or association that:

(1) performs appraisals on a regular basis for compensation through one (1) or more owners, officers, employees, or agents; or

(2) holds itself out to the public as performing appraisals.

Sec. 3. (a) As used in this chapter, "creditor" means a person:

(1) that regularly engages in Indiana in the extension of mortgage loans that are subject to a credit service charge or loan finance charge, as applicable, or are payable by written agreement in more than four (4) installments (not including a down payment); and

(2) to whom the obligation arising from a mortgage loan is initially payable, either on the face of the note or contract, or by agreement if there is not a note or contract.

(b) The term does not include a person described in:

(1) IC 24-9-2-6(a)(2) if the person described in IC 24-9-2-6(a)(2) is not the person extending the credit in the transaction; or

(2) IC 24-9-2-6(b).

Sec. 4. (a) As used in this chapter, "mortgage loan" means a loan in which a mortgage, deed of trust, or land contract that constitutes a lien is created or retained against an interest in real property in Indiana.

(b) The term includes the following:

(1) A home loan subject to IC 24-9.

(2) A loan described in IC 24-9-1-1, to the extent allowed under federal law.

(3) A first lien mortgage transaction (as defined in IC 24-4.4-1-301(6)) subject to IC 24-4.4.

(4) A consumer credit sale subject to IC 24-4.5-2 in which a mortgage, deed of trust, or land contract that constitutes a lien is created or retained against an interest in real property

in Indiana.

(5) A consumer credit loan subject to IC 24-4.5-3 in which a mortgage, deed of trust, or land contract that constitutes a lien is created or retained against an interest in real property in Indiana.

(6) A loan in which a mortgage, deed of trust, or land contract that constitutes a lien is created or retained against land:

(A) that is located in Indiana;

(B) upon which there is a dwelling that is not or will not be used by the borrower primarily for personal, family, or household purposes; and

(C) that is classified as residential for property tax purposes.

The term includes a loan that is secured by land in Indiana upon which there is a dwelling that is purchased by or through the borrower for investment or other business purposes.

Sec. 5. As used in this chapter, "real estate appraiser" means a person who prepares the appraisal for a real estate transaction in Indiana, regardless of whether the person is licensed or certified, or required to be licensed or certified, under the real estate appraiser licensure and certification program established under IC 25-34.1-3-8.

Sec. 6. As used in this chapter, "real estate transaction" means a transaction that involves one (1) or both of the following:

(1) The sale or lease of any legal or equitable interest in real estate located in Indiana.

(2) The making, refinancing, or consolidation of a mortgage loan.

Sec. 7. A person shall not corrupt or improperly influence, or attempt to corrupt or improperly influence:

(1) the independent judgment of a real estate appraiser with respect to the value of the real estate that is the subject of a real estate transaction; or

(2) the development, reporting, result, or review of an appraisal prepared in connection with a real estate transaction;

through bribery, coercion, extortion, intimidation, collusion, or any other manner.

Sec. 8. (a) This subsection applies with respect to a completed application for a mortgage loan that is received by a creditor after December 31, 2009. A creditor shall, not later than three (3) business days after receiving a completed written application for a mortgage loan from a borrower or prospective borrower, provide to the borrower or prospective borrower a notice, on a form prescribed by the homeowner protection unit under subsection (b), that includes the following:

(1) Contact information for the homeowner protection unit established by the attorney general under IC 4-6-12, including:

(A) an electronic mail address for the homeowner protection unit; and

(B) the toll free telephone number described in IC 4-6-12-3.5.

(2) A statement that the borrower or prospective borrower may contact the homeowner protection unit to report:

(A) a suspected violation of section 7 of this chapter; or

(B) other information about suspected fraudulent residential real estate transactions, as authorized by IC 4-6-12-3.5(b).

(3) A statement that the borrower in a real estate transaction that involves the making, refinancing, or consolidation of a mortgage loan has the right to inspect the HUD-1 or HUD-1A settlement statement during the business day immediately preceding settlement, as provided by the federal Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.), as amended.

The creditor shall provide the notice required by this subsection by delivering it to the borrower or prospective borrower or placing it in the United States mail to the borrower or prospective borrower within the time prescribed by this subsection.

(b) Not later than September 1, 2009, the home owner protection unit established by the attorney general under IC 4-6-12 shall prescribe the form required under subsection (a) for use by creditors who receive completed written applications for mortgage loans after December 31, 2009.

(c) The homeowner protection unit established by the attorney general under IC 4-6-12, in cooperation with the real estate

appraiser licensure and certification board created by IC 25-34.1-8-1, shall publicize and promote awareness of the availability of the:

(1) electronic mail address; and

(2) toll free telephone number;

described in subsection (a)(1) to accept complaints from real estate appraisers, creditors, borrowers, potential borrowers, and other persons concerning suspected violations of section 7 of this chapter.

(d) A creditor may share any information obtained concerning a suspected violation of section 7 of this chapter with the homeowner protection unit established by the attorney general under IC 4-6-12. The homeowner protection unit may, in turn, share any information received from a creditor under this subsection with the following:

(1) Federal, state, and local law enforcement agencies and federal regulatory agencies in accordance with IC 4-6-12-3(a)(4).

(2) Any entity listed in IC 4-6-12-4 that may have jurisdiction over any person who is suspected of violating section 7 of this chapter, including any entity that may have jurisdiction over the creditor or an agent of the creditor if the homeowner protection unit suspects that the creditor or an agent of the creditor has violated section 7 of this chapter. However, the homeowner protection unit and any entity listed in IC 4-6-12-4 that receives information under this subdivision shall treat the information, including information concerning the identity of the complainant, as confidential and shall exercise all necessary caution to avoid disclosure of the information, except as otherwise permitted or required by law.

(e) Any:

(1) real estate appraiser, creditor, borrower, potential borrower, or other person that makes, in good faith, a voluntarily disclosure of a suspected violation of section 7 of this chapter to the homeowner protection unit under this section or otherwise; and

(2) director, officer, manager, employee, or agent of a person described in subdivision (1) who makes, or requires another person to make, a disclosure described in subdivision (1);

is not liable to any person under any law or regulation of the United States, under any constitution, law, or regulation of any state or a political subdivision of any state, or under any contract or other legally enforceable agreement, including an arbitration agreement, for a disclosure described in subdivision (1) or for failing to provide notice of a disclosure described in subdivision (1) to any person who is the subject of the disclosure.

(f) Beginning in 2009, the report provided by the mortgage lending and fraud prevention task force to the legislative council under P.L.145-2008, SECTION 35, must include the following information:

(1) The total number of complaints or reports:

(A) received by the homeowner protection unit during the most recent state fiscal year; and

(B) concerning a suspected violation of section 7 of this chapter.

(2) From the total number of complaints or reports reported under subdivision (1), a breakdown of the sources of the complaints or reports, classified according to the complainants' interest in or relationship to the real estate transactions upon which the complaints or reports are based.

(3) A description of any:

(A) disciplinary or enforcement actions taken; or

(B) criminal prosecutions pursued;

by the homeowner protection unit or any entity listed in IC 4-6-12-4 and having jurisdiction in the matter, as applicable, in connection with the complaints or reports reported under subdivision (1).

The homeowner protection unit shall make available to the mortgage lending and fraud prevention task force any information necessary to provide the information required under this subsection in the task force's report to the legislative council.

Sec. 9. (a) A person that knowingly or intentionally violates section 7 of this chapter commits:

(1) a Class A misdemeanor; and

(2) an act that is:

(A) actionable by the attorney general under IC 24-5-0.5; and

(B) subject to the penalties listed in IC 24-5-0.5.

(b) The attorney general may maintain an action in the name of the state of Indiana to enjoin a person from violating section 7 of this chapter. A court in which the action is brought may:

(1) issue an injunction;

(2) order the person to make restitution;

(3) order the person to reimburse the state for the attorney general's reasonable costs of investigating and prosecuting the violation; and

(4) impose a civil penalty of not more than ten thousand dollars ($10,000) per violation.

(c) A person that violates an injunction issued under this section is subject to a civil penalty of not more than ten thousand dollars ($10,000) per violation. The court that issues the injunction retains jurisdiction over a proceeding seeking the imposition of a civil penalty under this subsection.

(d) A civil penalty imposed and collected under this section shall be deposited in the investigative fund established by IC 25-34.1-8-7.5.

(e) The enforcement procedures established by this section are cumulative and an enforcement procedure available under this section is supplemental to any other enforcement procedure available under:

(1) this section; or

(2) any other state or federal law, rule, or regulation;

for a violation of section 7 of this chapter.

SECTION 3. IC 24-5.5-5-7.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 7.2. A foreclosure consultant shall retain all records and documents, including the foreclosure consultant contract, related to services performed on behalf of a homeowner for at least three (3) years after the termination or conclusion of the foreclosure consultant contract entered into by the foreclosure consultant and the homeowner.**

SECTION 4. IC 24-9-1-1, AS AMENDED BY P.L.181-2006, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. Except for ~~IC 24-9-3-7(3)~~ **IC 24-9-3-7(c)(3) and IC 24-9-3-7(c)(4),** this article does not apply to:

(1) a loan made or acquired by a person organized or chartered

under the laws of this state, any other state, or the United States relating to banks, trust companies, savings associations, savings banks, credit unions, or industrial loan and investment companies; or

(2) a loan:

(A) that can be purchased by the Federal National Mortgage Association, the Federal Home Loan Mortgage Association, or the Federal Home Loan Bank;

(B) to be insured by the United States Department of Housing and Urban Development;

(C) to be guaranteed by the United States Department of Veterans Affairs;

(D) to be made or guaranteed by the United States Department of Agriculture Rural Housing Service;

(E) to be funded by the Indiana housing and community development authority; or

(F) with a principal amount that exceeds the conforming loan size limit for a single family dwelling as established by the Federal National Mortgage Association.

SECTION 5. IC 24-9-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) Except as provided in subsection (b), "points and fees" means the total of the following:

(1) Points and fees (as defined in 12 CFR 226.32(b)(1) on January 1, 2004).

(2) All compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in the broker's own name.

As used in subdivision (2), "compensation" does not include a payment included in subdivision (1).

(b) The term does not include the following:

(1) Bona fide discount points.

(2) An amount not to exceed one and one-half (1 1/2) points in indirect broker compensation, if the terms of the loan do not include:

(A) a prepayment penalty, in the case of a home loan described in IC 24-9-3-6(b); or

(B) a prepayment penalty that exceeds two percent (2%) of the

home loan ~~principle,~~ **principal, in the case of a home loan other than a home loan described in IC 24-9-3-6(b).**

(3) Reasonable fees paid to an affiliate of the creditor.

(4) Interest prepaid by the borrower for the month in which the home loan is closed.

SECTION 6. IC 24-9-3-6, AS AMENDED BY P.L.145-2008, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) A creditor may not charge a fee for informing or transmitting to a person the balance due to pay off a home loan or to provide a written release upon prepayment. A creditor must provide a payoff balance not later than ten (10) calendar days after the request is received by the creditor. For purposes of this subsection, "fee" does not include actual charges incurred by a creditor for express or priority delivery of home loan documents to the borrower if such delivery is requested by the borrower.

(b) This subsection applies to a home loan, or the refinancing or consolidation of a home loan, that:

(1) is closed after June 30, 2009; and

(2) has an interest rate that is subject to change at one (1) or more times during the term of the home loan.

A creditor in a transaction to which this subsection applies may not contract for and may not charge the borrower a prepayment fee or penalty.

~~(b)~~ **(c)** This subsection applies to a home loan with respect to which any installment or minimum payment due is delinquent for at least sixty (60) days. The creditor, servicer, or the creditor's agent shall acknowledge a written offer made in connection with a proposed short sale not later than ten (10) business days after the date of the offer if the offer complies with the requirements for a qualified written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor, servicer, or creditor's agent is required to acknowledge a written offer made in connection with a proposed short sale from a third party acting on behalf of the debtor only if the debtor has provided written authorization for the creditor, servicer, or creditor's agent to do so. Not later than thirty (30) business days after receipt of an offer under this subsection, the creditor, servicer, or creditor's agent shall respond to the offer with an acceptance or a rejection of the offer. As used in this subsection, "short sale" means a transaction in which the property that is the subject of a

home loan is sold for an amount that is less than the amount of the borrower's outstanding obligation on the home loan. A creditor, a servicer, or a creditor's agent that fails to respond to an offer within the time prescribed by this subsection is liable in accordance with 12 U.S.C. 2605(f) in any action brought under that section.

SECTION 7. IC 24-9-3-7, AS AMENDED BY P.L.141-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. **(a) As used in this section, "mortgage transaction" includes the following:**

(1) A home loan subject to this article.

(2) A loan described in IC 24-9-1-1.

(3) A first lien mortgage transaction (as defined in IC 24-4.4-1-301) subject to IC 24-4.4.

(4) A consumer credit sale subject to IC 24-4.5-2 in which a mortgage, deed of trust, or land contract that constitutes a lien is created or retained against land upon which there is a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes.

(5) A consumer credit loan subject to IC 24-4.5-3 in which a mortgage, deed of trust, or land contract that constitutes a lien is created or retained against land upon which there is a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes.

(6) A loan in which a mortgage, deed of trust, or land contract that constitutes a lien is created or retained against land:

(A) that is located in Indiana;

(B) upon which there is a dwelling that is not or will not be used by the borrower primarily for personal, family, or household purposes; and

(C) that is classified as residential for property tax purposes.

The term includes a loan that is secured by land in Indiana upon which there is a dwelling that is purchased by or through the borrower for investment or other business purposes.

(b) As used in this section, "real estate transaction" means the sale or lease of any legal or equitable interest in real estate:

(1) that is located in Indiana;

(2) upon which there is a dwelling; and

(3) that is classified as residential for property tax purposes.

(c) A person may not:

(1) divide a loan transaction into separate parts with the intent of evading a provision of this article;

(2) structure a home loan transaction as an open-end loan with the intent of evading the provisions of this article if the loan would be a high cost home loan if the home loan had been structured as a closed-end loan; ~~or~~

(3) engage in, ~~a deceptive act in connection with a: (A) home loan; or (B) loan described in IC 24-9-1-1.~~ **or solicit to engage in, a real estate transaction or a mortgage transaction without a permit or license required by law; or**

(4) with respect to a real estate transaction or a mortgage transaction, represent that:

(A) the transaction has the sponsorship or approval of a particular person or entity that it does not have and that the person knows or reasonably should know it does not have; or

(B) the real estate or property that is the subject of the transaction has any improvements, appurtenances, uses, characteristics, or associated benefits that it does not have and that the person knows or reasonably should know it does not have.

SECTION 8. IC 24-9-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. A person seeking to enforce section ~~7(3)~~ **7(c)(3) or 7(c)(4)** of this chapter may not knowingly or intentionally intimidate, coerce, or harass another person.

SECTION 9. IC 24-9-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. The following additional limitations and prohibited practices apply to a high cost home loan:

(1) A creditor making a high cost home loan may not directly or indirectly finance any points and fees.

(2) **This subdivision does not apply to a high cost home loan described in IC 24-9-3-6(b).** Prepayment fees or penalties may not be included in the loan documents for a high cost home loan or charged to the borrower if the fees or penalties exceed in total two percent (2%) of the high cost home loan amount prepaid

during the first twenty-four (24) months after the high cost home loan closing.

(3) **This subdivision does not apply to a high cost home loan described in IC 24-9-3-6(b).** A prepayment penalty may not be contracted for after the second year following the high cost home loan closing.

(4) **This subdivision does not apply to a high cost home loan described in IC 24-9-3-6(b).** A creditor may not include a prepayment penalty fee in a high cost home loan unless the creditor offers the borrower the option of choosing a loan product without a prepayment fee. The terms of the offer must be made in writing and must be initialed by the borrower. The document containing the offer must be clearly labeled in large bold type and must include the following disclosure:

"LOAN PRODUCT CHOICE

I was provided with an offer to accept a product both with and without a prepayment penalty provision. I have chosen to accept the product with a prepayment penalty.".

(5) A creditor shall not sell or otherwise assign a high cost home loan without furnishing the following statement to the purchaser or assignee:

"NOTICE: This is a loan subject to special rules under IC 24-9. Purchasers or assignees may be liable for all claims and defenses with respect to the loan that the borrower could assert against the lender.".

(6) A mortgage or deed of trust that secures a high cost home loan at the time the mortgage or deed of trust is recorded must prominently display the following on the face of the instrument:

"This instrument secures a high cost home loan as defined in IC 24-9-2-8.".

(7) A creditor making a high cost home loan may not finance, directly or indirectly, any life or health insurance.

SECTION 10. IC 25-1-11-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. **(a) Except as provided in subsection (b),** a practitioner may petition the board to accept the surrender of the practitioner's license instead of having a hearing before the board. The practitioner may not surrender the practitioner's license without the written approval of the board, and the

board may impose any conditions appropriate to the surrender or reinstatement of a surrendered license.

(b) The board may not approve the surrender of a practitioner's license under subsection (a) if the office of the attorney general:

(1) has filed an administrative complaint concerning the practitioner's license; and

(2) opposes the surrender of the practitioner's license.

SECTION 11. IC 25-1-11-18, AS AMENDED BY P.L.194-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. A practitioner who has been subjected to disciplinary sanctions may be required by a board to pay the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. These costs are limited to costs for the following:

(1) Court reporters.

(2) Transcripts.

(3) Certification of documents.

(4) Photo duplication.

(5) Witness attendance and mileage fees.

(6) Postage.

(7) Expert witnesses.

(8) Depositions.

(9) Notarizations.

(10) Administrative law judges.

(11) Real estate review appraisals, if applicable.

SECTION 12. IC 25-34.1-6-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.5. (a) A violation of:**

(1) IC 24-5-15; or

(2) IC 24-5.5;

by a person licensed or required to be licensed under this article is a violation of this article.

(b) A person who commits a violation described in subsection (a) commits a Class A infraction and is subject to:

(1) the enforcement procedures described in section 2 of this chapter; and

(2) any sanction that may be imposed by the commission under IC 25-1-11-12 for an act described in IC 25-1-11-11.

SECTION 13. IC 25-34.1-8-7.5, AS AMENDED BY P.L.57-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.5. (a) The investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against real estate fraud and real estate appraisal fraud. The fund shall be administered by the attorney general and the professional licensing agency.

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

(1) money from a fee imposed upon licensed or certified appraisers and real estate brokers and salespersons under IC 25-34.1-2-7 and IC 25-34.1-3-9.5; **and**

(2) civil penalties deposited in the fund under IC 24-5-23.5-9(d).

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

(d) Except as otherwise provided in this subsection, money in the fund at the end of a state fiscal year does not revert to the state general fund. If the total amount in the investigative fund exceeds seven hundred fifty thousand dollars ($750,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds seven hundred fifty thousand dollars ($750,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated for use by the attorney general and the licensing agency to administer and enforce the provisions of this article and to conduct investigations and take enforcement action against real estate and appraisal fraud under this article. The attorney general shall receive five dollars ($5) of each fee collected under IC 25-34.1-2-7 and IC 25-34.1-3-9.5, and the licensing agency shall receive any amount that exceeds five dollars ($5) of each fee collected under IC 25-34.1-2-7 and IC 25-34.1-3-9.5.

P.L.53-2009
[H.1326. Approved April 30, 2009.]

AN ACT to amend the Indiana Code concerning elections.

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

SECTION 1. IC 3-10-1-7.2, AS AMENDED BY P.L.164-2006, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.2. (a) Except as provided in subsection (e), a voter who desires to vote an official ballot at a primary election shall provide proof of identification.

(b) Except as provided in subsection (e), before the voter proceeds to vote in a primary election, a ~~member of the~~ precinct election ~~board~~ **officer** shall ask the voter to provide proof of identification. The voter must produce the proof of identification before being permitted to sign the poll list.

(c) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the precinct election board determines that the proof of identification presented by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by IC 3-11-8.

(d) If the voter executes a challenged voter's affidavit under section 9 of this chapter or IC 3-11-8-22.1, the voter may:

(1) sign the poll list; and

(2) receive a provisional ballot.

(e) A voter who votes in person at a precinct polling place that is located at a state licensed care facility where the voter resides is not required to provide proof of identification before voting in a primary election.

SECTION 2. IC 3-11-8-25.1, AS AMENDED BY P.L.164-2006,

SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 25.1. (a) Except as provided in subsection (e), a voter who desires to vote an official ballot at an election shall provide proof of identification.

(b) Except as provided in subsection (e), before the voter proceeds to vote in the election, a ~~member of the~~ precinct election ~~board~~ **officer** shall ask the voter to provide proof of identification. The voter shall produce the proof of identification before being permitted to sign the poll list.

(c) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the precinct election board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;a member of the precinct election board shall challenge the voter as prescribed by this chapter.

(d) If the voter executes a challenged voter's affidavit under section 22.1 of this chapter, the voter may:

(1) sign the poll list; and

(2) receive a provisional ballot.

(e) A voter who votes in person at a precinct polling place that is located at a state licensed care facility where the voter resides is not required to provide proof of identification before voting in an election.

(f) After a voter has passed the challengers or has been sworn in, the voter shall be instructed by a member of the precinct election board to proceed to the location where the poll clerks are stationed. The voter shall announce the voter's name to the poll clerks or assistant poll clerks. A poll clerk, an assistant poll clerk, or a member of the precinct election board shall require the voter to write the following on the poll list:

(1) The voter's name.

(2) Except as provided in subsection (k), the voter's current residence address.

(g) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

(1) ask the voter to provide or update the voter's voter identification number;

(2) tell the voter the number the voter may use as a voter identification number; and

(3) explain to the voter that the voter is not required to provide or update a voter identification number at the polls.

(h) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall ask the voter to provide proof of identification.

(i) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under IC 3-7-29. If the board determines that the voter's signature is authentic, the voter may then vote. If either poll clerk doubts the voter's identity following comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by section 21 of this chapter.

(j) If, in a precinct governed by subsection (g):

(1) the poll clerk does not execute a challenger's affidavit; or

(2) the voter executes a challenged voter's affidavit under section 22.1 of this chapter or executed the affidavit before signing the poll list;

the voter may then vote.

(k) Each line on a poll list sheet provided to take a voter's current address must include a box under the heading "Address Unchanged" so that a voter whose residence address shown on the poll list is the voter's current residence address may check the box instead of writing the voter's current residence address on the poll list.

P.L.54-2009
[H.1650. Approved April 30, 2009.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 4-13-1-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 24. (a) As used in this section, "salt" means road salt or another product used to treat snow or ice, or both snow and ice.**

(b) The department shall award quantity purchase agreements to vendors for the purchase of salt under IC 5-22.

(c) A quantity purchase agreement awarded under this section must require the vendor to offer to political subdivisions salt under the quantity purchase agreement as provided in IC 5-22-17-9.

(d) Political subdivisions:

(1) may participate in the solicitation of purchase of salt by submitting the estimated volume of use to the department; and

(2) shall be committed to purchasing the minimum fill percentage submitted for solicitation.

(e) The department may adopt rules under IC 4-22-2 for management and control of the process by which political subdivisions may purchase salt.

SECTION 2. IC 9-13-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. "Abandoned vehicle" means the following:

(1) A vehicle located on public property illegally.

(2) A vehicle left on public property without being moved for ~~three (3) days.~~ **twenty-four (24) hours.**

(3) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right-of-way.

(4) A vehicle that has remained on private property without the consent of the owner or person in control of that property for more than forty-eight (48) hours.

(5) A vehicle from which the engine, transmission, or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property.

(6) A vehicle that has been removed by a towing service or public agency upon request of an officer enforcing a statute or an ordinance other than this chapter if the impounded vehicle is not claimed or redeemed by the owner or the owner's agent within twenty (20) days after the vehicle's removal.

(7) A vehicle that is at least three (3) model years old, is mechanically inoperable, and is left on private property continuously in a location visible from public property for more than twenty (20) days. **For purposes of this subdivision, a vehicle covered by a tarpaulin or other plastic, vinyl, rubber, cloth, or textile covering is considered to be visible.**

SECTION 3. IC 9-19-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. Air conditioning equipment shall be manufactured, installed, and maintained with due regard for the safety of the occupants of the vehicle and the public and may not contain a refrigerant that is toxic to individuals or that is flammable, **unless the refrigerant is included in the list published by the United States Environmental Protection Agency as a safe alternative motor vehicle air conditioning substitute for chlorofluorocarbon-12 under 42 U.S.C. 7671k(c).**

SECTION 4. IC 9-19-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. A person who:

(1) violates this chapter; or

(2) violates ~~15 U.S.C. 1988~~ **49 U.S.C. 32709** (as in effect January 1, ~~1987);~~ **1995);**

commits a deceptive act and is subject to a civil penalty of not more than one thousand five hundred dollars ($1,500) for each violation in addition to other remedies available under this chapter and IC 24-5-0.5. The attorney general, acting in the name of the state, has the exclusive right to petition for recovery of such a penalty, and the penalty may be recovered only in an action brought under IC 24-5-0.5-4(c).

SECTION 5. IC 9-20-18-7 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) A court shall determine the extent of liability of the driver, carrier, shipper, or other party shown to be ~~criminally~~ liable.

(b) It is a defense if a party can show that the party:

(1) could not reasonably have known the actual weight of the load involved; ~~or~~

(2) had no access to or control of the loading of an overweighted load;

(3) reasonably relied upon the representation of another party regarding the validity, scope, or allowable weight of a permit issued to the other party under this article; or

(4) received written confirmation from a carrier that the carrier:

(A) had a valid permit for the load; or

(B) was not required to have a permit for the load.

(c) If a person who is an owner, a driver, a carrier or a shipper specifically or directly orders or assigns a particular shipment to be loaded:

(1) the person shall be considered to have had control of the loading within the meaning of this section; and

(2) a showing of knowledge of the overweighted load affixes ~~criminal~~ liability to the person.

(d) The person who has loaded a shipment has control of the loading within the meaning of this section and a showing of knowledge of the overweighted load affixes ~~criminal~~ liability to the person if the person is self-employed. If the person loading a shipment is not self-employed, then ~~criminal~~ liability affixes to the person's employer jointly and severally with the driver of an overweight vehicle.

(e) If a court determines that the owner of a vehicle or combination of vehicles involved in a case is jointly or severally liable, the owner shall be given ninety (90) days to pay the liability assessed by the court. During the ninety (90) days the court may continue the impounding of the equipment until all fines and costs are paid. If the fines and costs are not paid within the ninety (90) days after the court determination, the court may order the property sold to pay the fines and costs.

(f) The court shall determine the liabilities, rights, and remedies of all of the parties involved.

SECTION 6. IC 9-22-1-11, AS AMENDED BY P.L.131-2008,

SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. An officer who finds or is notified of a vehicle or parts believed to be abandoned shall attach in a prominent place a notice tag containing the following information:

(1) The date, time, officer's name, public agency, and address and telephone number to contact for information.

(2) That the vehicle or parts are considered abandoned.

(3) That the vehicle or parts will be removed after:

(A) ~~thirty-six (36)~~ **twenty-four (24)** hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under IC 8-23-4; or

(B) seventy-two (72) hours, for any other vehicle.

(4) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle.

(5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within:

(A) ~~thirty-six (36)~~ **twenty-four (24)** hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under IC 8-23-4; or

(B) seventy-two (72) hours, for any other vehicle.

SECTION 7. IC 9-22-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) A person who finds a vehicle believed to be abandoned on private property that the person owns or controls, including rental property, may:

(1) obtain the assistance of an officer under section 18 of this chapter to have the vehicle removed; or

(2) personally arrange for the removal of the vehicle by complying with subsection (b) and section 16 of this chapter.

(b) If the person wishes to personally arrange for the removal of the vehicle, the person shall attach in a prominent place a notice tag containing the following information:

(1) The date, time, name, and address of the person who owns or controls the private property and a telephone number to contact for information.

(2) That the vehicle is considered abandoned.

(3) That the vehicle will be removed after ~~seventy-two (72)~~ **twenty-four (24)** hours.

(4) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle.

(5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within ~~seventy-two (72)~~ **twenty-four (24)** hours.

SECTION 8. IC 9-22-1-16, AS AMENDED BY P.L.191-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) If after ~~seventy-two (72)~~ **twenty-four (24)** hours the person who owns a vehicle believed to be abandoned on private property that the person owns or controls, including rental property, has not removed the vehicle from the private property, the person who owns or controls the private property may have the vehicle towed from the private property.

(b) Notwithstanding subsection (a), in an emergency situation a vehicle may be removed immediately. As used in this subsection, "emergency situation" means that the presence of the abandoned vehicle interferes physically with the conduct of normal business operations of the person who owns or controls the private property or poses a threat to the safety or security of persons or property, or both.

SECTION 9. IC 9-22-1-32, AS AMENDED BY P.L.104-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 32. The following are not liable for loss or damage to a vehicle or parts occurring during the removal **or** storage ~~or disposition~~ of a vehicle or parts under this chapter:

(1) A person who owns, leases, or occupies property from which an abandoned vehicle or **its contents or** parts are removed.

(2) A public agency.

(3) A towing service.

(4) An automobile scrapyard.

(5) A storage yard.

(6) An agent of a person or entity listed in subdivisions (1) through (5).

SECTION 10. IC 9-26-1-2, AS AMENDED BY P.L.126-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. The driver of a vehicle involved in an accident

that does not result in injury or death of a person or the entrapment of a person in a vehicle **and that does not involve the transportation of hazardous materials** but that does result in damage to a vehicle that is driven or attended by a person shall do the following:

(1) Immediately stop the vehicle at the scene of the accident or as close to the accident as possible in a manner that does not obstruct traffic more than is necessary. **If the accident occurs on a federal interstate highway, or on a ramp providing access to or from a federal interstate highway, the driver shall, as soon as safely possible, move the vehicle off the highway or ramp to a location as close to the accident as possible in a manner that does not obstruct traffic more than is necessary.**

(2) Immediately return to and remain at the scene of the accident until the driver does the following **upon request:**

(A) Gives the driver's name and address and the registration number of the vehicle the driver was driving.

(B) Gives the names and addresses of the owner and any occupants of the vehicle the driver was driving, if the names or addresses are different from the name and address provided under clause (A).

(C) Provides proof of financial responsibility (as defined in IC 9-25-2-3) for the motor vehicle.

~~(B) Upon request,~~ **(D)** Exhibits the driver's license of the driver to the driver or occupant of or person attending each vehicle involved in the accident.

(3) If the accident results in total property damage to an apparent extent of at least one thousand dollars ($1,000), forward a written report of the accident to the:

(A) state police department, if the accident occurs before January 1, 2006; or

(B) bureau, if the accident occurs after December 31, 2005;

within ten (10) days after the accident.

P.L.55-2009
[H.1671. Approved April 30, 2009.]

AN ACT to amend the Indiana Code concerning higher education.

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

SECTION 1. IC 21-13-3-5, AS ADDED BY P.L.2-2007, SECTION 254, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. To initially qualify for a scholarship from the fund, a nursing student must:

(1) be admitted to an approved postsecondary educational institution as a full-time or part-time nursing student **in a program that will meet the requirements to allow the student to obtain licensing as a registered nurse or licensed practical nurse under IC 25-23-1;**

(2) agree, in writing, to work as a **registered** nurse **or licensed practical nurse providing direct patient care** in: ~~any type of health care setting~~

(A) an acute care or specialty hospital;

(B) a long term care facility;

(C) a rehabilitation care facility;

(D) a home health care entity;

(E) a hospice program;

(F) a mental health facility; or

(G) a facility located in a shortage area (as defined in IC 16-46-5-6);

in Indiana for at least two (2) years following graduation;

(3) meet any other minimum criteria established by the commission; and

(4) demonstrate a financial need for the scholarship.

SECTION 2. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 21-13-3-5, as amended by this act, a nursing student who, before July 1, 2009, is qualified for a scholarship**

under IC 21-13-3-5, before its amendment by this act, and has not agreed to work in a facility described in IC 21-13-3-5(2), as amended by this act, is eligible to renew the scholarship according to the requirements of IC 21-13-3-5, before its amendment by this act, and IC 21-13-3-6.

(b) This SECTION expires June 30, 2011.

SECTION 3. **An emergency is declared for this act.**

P.L.56-2009

[H.1697. Approved April 30, 2009.]

AN ACT to amend the Indiana Code concerning economic development.

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

SECTION 1. IC 5-28-2-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6. For purposes of IC 5-28-17, "small business" means a business entity that satisfies the following requirements:**

(1) On at least fifty percent (50%) of the working days of the business entity occurring during the preceding calendar year, the business entity employed not more than one hundred fifty (150) employees.

(2) The majority of the employees of the business entity work in Indiana.

SECTION 2. IC 5-28-5-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6.5. The board shall maintain a small business division, including the Small Business Development Center Lead Center, to carry out the corporation's duties under IC 5-28-17. The board shall staff the division with employees of the corporation.**

SECTION 3. IC 5-28-17-1, AS ADDED BY P.L.4-2005, SECTION

34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The corporation shall do the following to carry out this chapter:

(1) Contribute to the strengthening of the economy of Indiana by encouraging the organization and development of new business enterprises, including technologically oriented enterprises.

(2) Submit an annual report to the governor and to the general assembly not later than November 1 of each year. The annual report must:

(A) include detailed information on the structure, operation, and financial status of the corporation, **including:**

(i) detailed information on the corporation's efforts to support the development of small businesses under this chapter; and

(ii) an evaluation of the results of the corporation's efforts to encourage the development of small businesses under this chapter; and

(B) be in an electronic format under IC 5-14-6.

The board shall conduct an annual public hearing to receive comment from interested parties regarding the annual report, and notice of the hearing shall be given at least fourteen (14) days before the hearing in accordance with IC 5-14-1.5-5(b).

(3) Approve and administer loans from the microenterprise partnership program fund established by IC 5-28-18.

(4) Conduct activities for nontraditional entrepreneurs under IC 5-28-18.

(5) Establish and administer the small and minority business financial assistance program under IC 5-28-20.

(6) Establish and administer the microenterprise partnership program under IC 5-28-19.

(7) Assist small businesses in obtaining state and federal tax incentives.

(8) Maintain, through the Small Business Development Centers, a statewide network of public, private, and educational resources to, among other things, inform small businesses of the state and federal programs under which they may obtain financial assistance or realize reduced costs through programs such as the small employer health

insurance pooling program under IC 27-8-5-16(8).

(b) The corporation may do the following to carry out this chapter:

(1) Receive money from any source, enter into contracts, and expend money for any activities appropriate to its purpose.

(2) Do all other things necessary or incidental to carrying out the corporation's functions under this chapter.

(3) Establish programs to identify entrepreneurs with marketable ideas and to support the organization and development of new business enterprises, including technologically oriented enterprises.

(4) Conduct conferences and seminars to provide entrepreneurs with access to individuals and organizations with specialized expertise.

(5) Establish a statewide network of public, private, and educational resources to assist the organization and development of new enterprises.

(6) Operate a small business assistance center to provide small businesses, including minority owned businesses and businesses owned by women, with access to managerial and technical expertise and to provide assistance in resolving problems encountered by small businesses.

(7) Cooperate with public and private entities, including the Indiana Small Business Development Center Network and the federal government marketing program, in exercising the powers listed in this subsection.

(8) Establish and administer the small and minority business financial assistance program under IC 5-28-20.

(9) Approve and administer loans from the microenterprise partnership program fund established by IC 5-28-18.

(10) Coordinate state funded programs that assist the organization and development of new enterprises.

SECTION 4. IC 5-28-17-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3. The corporation's small business division described in IC 5-28-5-6.5 shall provide free access to the office's services through:**

(1) a toll free telephone number; and

(2) an Internet web page maintained on the corporation's web site.

SECTION 5. IC 5-28-17-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4. This chapter may not be construed to limit the corporation's ability to carry out its responsibilities under this chapter with respect to a business that:**

(1) the corporation considers to be a small business; and

(2) does not meet the definition of a small business set forth in IC 5-28-2-6.

P.L.57-2009

[S.202. Approved May 1, 2009.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 13-11-2-87 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 87. (a) "Fund", for purposes of IC 13-14-12, refers to the environmental management special fund.

(b) "Fund", for purposes of IC 13-15-10, refers to the waste facility operator trust fund.

(c) "Fund", for purposes of IC 13-15-11, refers to the environmental management permit operation fund.

(d) "Fund", for purposes of IC 13-17-6, refers to the asbestos trust fund.

(e) "Fund", for purposes of IC 13-17-8, refers to the Title V operating permit program trust fund.

~~(f) "Fund", for purposes of IC 13-17-14, refers to the lead trust fund.~~

~~(g)~~ **(f)** "Fund", for purposes of IC 13-18-8-5, refers to a sanitary fund.

~~(h)~~ **(g)** "Fund", for purposes of IC 13-18-13, refers to the wastewater revolving loan fund established by IC 13-18-13-2.

~~(i)~~ **(h)** "Fund", for purposes of IC 13-18-21, refers to the drinking water revolving loan fund established by IC 13-18-21-2. The term does not include the supplemental fund established by IC 13-18-21-22.

~~(j)~~ **(i)** "Fund", for purposes of IC 13-19-5, refers to the environmental remediation revolving loan fund established by IC 13-19-5-2.

~~(k)~~ **(j)** "Fund", for purposes of IC 13-20-4, refers to the municipal waste transportation fund.

~~(l)~~ **(k)** "Fund", for purposes of IC 13-20-13, refers to the waste tire management fund.

~~(m)~~ **(l)** "Fund", for purposes of IC 13-20-22, refers to the state solid waste management fund.

~~(n)~~ **(m)** "Fund", for purposes of IC 13-21-7, refers to the waste management district bond fund.

~~(o)~~ **(n)** "Fund", for purposes of IC 13-21-13-2, refers to a district solid waste management fund.

~~(p)~~ **(o)** "Fund", for purposes of IC 13-23-6, refers to the underground petroleum storage tank trust fund.

~~(q)~~ **(p)** "Fund", for purposes of IC 13-23-7, refers to the underground petroleum storage tank excess liability trust fund.

~~(r)~~ **(q)** "Fund", for purposes of IC 13-25-4, refers to the hazardous substances response trust fund.

~~(s)~~ **(r)** "Fund", for purposes of IC 13-25-5, refers to the voluntary remediation fund.

~~(t)~~ **(s)** "Fund", for purposes of IC 13-28-2, refers to the voluntary compliance fund.

SECTION 2. IC 13-30-10-1.5, AS ADDED BY P.L.114-2008, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) Except as provided in subsection (b), a person regulated under IC 13-22 who knowingly does any of the following commits a Class B misdemeanor:

(1) Transports hazardous waste to an unpermitted facility.

(2) Treats, stores, or disposes of hazardous waste without a permit issued by the department.

(3) Transports, treats, stores, disposes, recycles, or causes to be transported used oil regulated under 329 IAC 13 in violation of the standards established by the department for the management of used oil.

(4) Makes a false material statement or representation in any label, manifest, record, report, or other document filed or maintained under the hazardous waste or used oil standards.

(b) An offense under subsection (a) is a Class D felony if the offense results in damage to the environment that renders the environment unfit for human or vertebrate animal life. An offense under subsection (a) is a Class C felony if the offense results in the death of another person.

(c) Before imposing sentence upon conviction of an offense under subsection (a) or (b), the court shall consider either or both of the following factors, if found by the jury or if stipulated to by the parties in a plea agreement:

(1) If the offense involves discharge of a contaminant into the environment, whether that discharge resulted in any or a combination of the following:

(A) A substantial risk of serious bodily injury.

(B) Serious bodily injury to an individual.

(C) The death of a vertebrate animal.

(D) Damage to the environment that:

(i) renders the environment unfit for human or vertebrate animal life; or

(ii) causes damage to an endangered, an at risk, or a threatened species.

(2) Whether the person did not know and could not reasonably have been expected to know that the contaminant discharged into the environment was capable of causing a result described in subdivision (1).

(d) Notwithstanding the maximum fine under IC 35-50-3-3, the court shall order a person convicted under subsection (a) to pay a fine of at least five thousand dollars ($5,000) per day for each violation and not more than twenty-five thousand dollars ($25,000) per day for each violation.

(e) Notwithstanding the maximum fine under IC 35-50-2-6(a) or IC 35-50-2-7(a), the court shall order a person convicted under subsection (b) to pay:

(1) a fine of at least five thousand dollars ($5,000) and not more than fifty thousand dollars ($50,000) for each day of violation; or

(2) if the person has a prior unrelated conviction for an offense under this title that may be punished as a felony, a fine of at least

five thousand dollars ($5,000) and not more than one hundred thousand dollars ($100,000) for each day of violation.

(f) Except as provided in subsection (g), a person regulated under IC 13-17 who does any of the following commits a Class C misdemeanor:

(1) Knowingly violates any applicable requirements of IC 13-17-4, IC 13-17-5, IC 13-17-6, IC 13-17-7, IC 13-17-8, IC 13-17-9, IC 13-17-10, **or** IC 13-17-13. ~~or IC 13-17-14.~~

(2) Knowingly violates any air pollution registration, construction, or operating permit condition issued by the department.

(3) Knowingly violates any fee or filing requirement in IC 13-17.

(4) Knowingly makes any false material statement, representation, or certification in any form, notice, or report required by an air pollution registration, construction, or operating permit issued by the department.

(g) An offense under subsection (f) is a Class D felony if the offense results in damage to the environment that renders the environment unfit for human or vertebrate animal life. An offense under subsection (f) is a Class C felony if the offense results in the death of another person.

(h) Before imposing sentence upon conviction of an offense under subsection (f) or (g), the court shall consider either or both of the following factors, if found by the jury or if stipulated to by the parties in a plea agreement:

(1) If the offense involves discharge of a contaminant into the environment, whether that discharge resulted in any or a combination of the following:

(A) A substantial risk of serious bodily injury.

(B) Serious bodily injury to an individual.

(C) The death of a vertebrate animal.

(D) Damage to the environment that:

(i) renders the environment unfit for human or vertebrate animal life; or

(ii) causes damage to an endangered, an at risk, or a threatened species.

(2) Whether the person did not know and could not reasonably have been expected to know that the contaminant discharged into the environment was capable of causing a result described in subdivision (1).

(i) Notwithstanding the maximum fine under IC 35-50-3-4, the court shall order a person convicted under subsection (f) to pay a fine of at least five thousand dollars ($5,000) per day for each violation and not more than twenty-five thousand dollars ($25,000) per day for each violation.

(j) Notwithstanding the maximum fine under IC 35-50-2-6(a) or IC 35-50-2-7(a), the court shall order a person convicted under subsection (g) to pay:

(1) a fine of at least five thousand dollars ($5,000) and not more than fifty thousand dollars ($50,000) for each day of violation; or

(2) if the person has a prior unrelated conviction for an offense under this title that may be punished as a felony, a fine of at least five thousand dollars ($5,000) and not more than one hundred thousand dollars ($100,000) for each day of violation.

(k) Except as provided in subsection (l), a person regulated under IC 13-18 who does any of the following commits a Class C misdemeanor:

(1) Willfully or recklessly violates any applicable standards or limitations of IC 13-18-3-2.4, IC 13-18-4-5, IC 13-18-8, IC 13-18-9, IC 13-18-10, IC 13-18-12, IC 13-18-14, IC 13-18-15, or IC 13-18-16.

(2) Willfully or recklessly violates any National Pollutant Discharge Elimination System permit condition issued by the department under IC 13-18-19.

(3) Willfully or recklessly violates any National Pollutant Discharge Elimination System Permit filing requirement.

(4) Knowingly makes any false material statement, representation, or certification in any National Pollutant Discharge Elimination System Permit form or in any notice or report required by a National Pollutant Discharge Elimination System permit issued by the department.

(l) An offense under subsection (k) is a Class D felony if the offense results in damage to the environment that renders the environment unfit for human or vertebrate animal life. An offense under subsection (k) is a Class C felony if the offense results in the death of another person.

(m) Before imposing sentence upon conviction of an offense under subsection (k) or (l), the court shall consider any or a combination of the following factors, if found by the jury or if stipulated to by the

parties in a plea agreement:

(1) If the offense involves discharge of a contaminant into the environment, whether that discharge resulted in any or a combination of the following:

(A) A substantial risk of serious bodily injury.

(B) Serious bodily injury to an individual.

(C) The death of a vertebrate animal.

(D) Damage to the environment that:

(i) renders the environment unfit for human or vertebrate animal life; or

(ii) causes damage to an endangered, an at risk, or a threatened species.

(2) Whether the person did not know and could not reasonably have been expected to know that the contaminant discharged into the environment was capable of causing a result described in subdivision (1).

(3) Whether the discharge was the result of a combined sewer overflow and the person regulated had given notice of that fact to the department.

(n) Notwithstanding the maximum fine under IC 35-50-3-4, the court shall order a person convicted under subsection (k)(1), (k)(2), or (k)(3) to pay a fine of at least five thousand dollars ($5,000) a day for each violation and not more than twenty-five thousand dollars ($25,000) a day for each violation.

(o) Notwithstanding the maximum fine under IC 35-50-3-4, the court shall order a person convicted under subsection (k)(4) to pay a fine of at least five thousand dollars ($5,000) for each instance of violation and not more than ten thousand dollars ($10,000) for each instance of violation.

(p) Notwithstanding the maximum fine under IC 35-50-2-6(a) or IC 35-50-2-7(a), the court shall order a person convicted under subsection (l) to pay:

(1) a fine of at least five thousand dollars ($5,000) and not more than fifty thousand dollars ($50,000) for each day of violation; or

(2) if the person has a prior unrelated conviction for an offense under this title that may be punished as a felony, a fine of at least five thousand dollars ($5,000) and not more than one hundred thousand dollars ($100,000) for each day of violation.

(q) The penalties under this section apply regardless of whether a person uses electronic submissions or paper documents to accomplish the actions described in this section.

SECTION 3. IC 16-18-2-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. (a) "Abatement", for purposes of IC 16-41-39.8, means any measure or set of measures designed to permanently eliminate lead-based paint hazards. The term includes the following:**

(1) The removal of lead-based paint and lead-contaminated dust.

(2) The permanent enclosure or encapsulation of lead-based paint.

(3) The replacement of lead-painted surfaces or fixtures.

(4) The removal or covering of lead-contaminated soil.

(5) All preparation, cleanup, disposal, and postabatement clearance testing activities associated with subdivisions (1) through (4).

(6) A project for which there is a written contract or other documentation, providing that a person will be conducting activities in or to a residential dwelling or child occupied facility that:

(A) will permanently eliminate lead-based paint hazards; or

(B) are designed to permanently eliminate lead-based paint hazards as described under subdivisions (1) through (5).

(7) A project resulting in the permanent elimination of lead-based paint hazards, conducted by persons certified under 40 CFR 745.226 or IC 13-17-14, unless the project is described under subsection (b) or (c).

(8) A project resulting in the permanent elimination of lead-based paint hazards, conducted by persons who, through the person's company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing lead-based paint activities, unless those projects are described under subsection (b) or (c).

(9) A project resulting in the permanent elimination of lead-based paint hazards that is conducted in response to state or local abatement orders.

(b) The term does not include renovation, remodeling, landscaping, or other activities when those activities are not designed to permanently eliminate lead-based paint hazards but are designed to repair, restore, or remodel a structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards.

(c) The term does not include interim controls, operations, or maintenance activities or other measures designed to temporarily reduce lead-based paint hazards.

SECTION 4. IC 16-18-2-54.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 54.7. "Child-occupied facility", for purposes of lead-based paint activities and IC 16-41-39.8, means a building or a portion of a building that:**

(1) was constructed before 1978;

(2) does not qualify as target housing (as defined in section 346.3 of this chapter); and

(3) is visited regularly by a child who is not more than six (6) years of age under the following circumstances described in clause (A), (B), or (C):

(A) The child visits at least two (2) days a week (Sunday through Saturday) and each of the visits lasts at least three (3) hours.

(B) The child visits at least six (6) hours each week.

(C) The child's combined annual visits during a calendar year total at least sixty (60) hours.

The term includes day care centers, preschools, and kindergarten classrooms.

SECTION 5. IC 16-18-2-56.2, AS ADDED BY P.L.102-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 56.2. "Clearance examination", for purposes of IC 16-41-39.4, means an activity conducted by a clearance examiner who is licensed under ~~IC 13-17-14~~ **IC 16-41-39.8** to establish proper completion of interim controls (as defined in 24 CFR 35.110).

SECTION 6. IC 16-18-2-66.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 66.7. "Component", for purposes of IC 16-41-39.8, has the meaning set forth in 24 CFR 35.110, as in**

effect July 1, 2002.

SECTION 7. IC 16-18-2-106.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 106.6. "Elevated blood lead level", for purposes of IC 16-41-39.8, means a blood lead level of at least ten (10) micrograms of lead per deciliter of whole blood.**

SECTION 8. IC 16-18-2-114.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 114.5. "Encapsulant", for purposes of IC 16-41-39.8, means a substance that forms a barrier between lead-based paint and the environment using a liquid applied coating, with or without reinforcement materials, or an adhesively bonded covering material.**

SECTION 9. IC 16-18-2-114.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 114.6. "Encapsulation", for purposes of IC 16-41-39.8, means the application of an encapsulant.**

SECTION 10. IC 16-18-2-143, AS AMENDED BY P.L.102-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 143. (a) "Fund", for purposes of IC 16-26-2, has the meaning set forth in IC 16-26-2-2.

(b) "Fund", for purposes of IC 16-31-8.5, has the meaning set forth in IC 16-31-8.5-2.

(c) "Fund", for purposes of IC 16-41-39.4, refers to the childhood lead poisoning prevention fund established by IC 16-41-39.4-3.1.

(d) "Fund", for purposes of IC 16-41-39.8, refers to the lead trust fund established by IC 16-41-39.8-7.

~~(d)~~ **(e)** "Fund", for purposes of IC 16-46-5, has the meaning set forth in IC 16-46-5-3.

~~(e)~~ **(f)** "Fund", for purposes of IC 16-46-12, has the meaning set forth in IC 16-46-12-1.

~~(f)~~ **(g)** "Fund", for purposes of IC 16-41-42.2, has the meaning set forth in IC 16-41-42.2-2.

SECTION 11. IC 16-18-2-198.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 198.5. "Lead-based paint", for purposes of IC 16-41-39.8, means paint or another surface coating**

that contains lead in an amount equal to or more than one (1) milligram per square centimeter, or in the amount of more than one-half percent (0.5%) by weight.

SECTION 12. IC 16-18-2-198.7, AS ADDED BY P.L.102-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 198.7. **(a)** "Lead-based paint activities", for purposes of IC 16-41-39.4 ~~has the meaning set forth in IC 13-11-2-118.5.~~ **and IC 16-41-39.8, means the inspection risk assessment and abatement of lead-based paint in target housing and child occupied facilities.**

(b) The term includes project design and supervision.

SECTION 13. IC 16-18-2-315.8, AS ADDED BY P.L.102-2008, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 315.8. "Remediation" means actions that constitute:

(1) abatement (as defined in ~~IC 13-11-2-0.5);~~ **IC 16-18-2-0.5);** or

(2) interim control (as defined in 24 CFR 35.110);

of a lead hazard.

SECTION 14. IC 16-18-2-346.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 346.3. (a) "Target housing", for purposes of lead-based paint activities and IC 16-41-39.8, means housing constructed before January 1, 1978.**

(b) The term does not include the following:

(1) Housing for the elderly or individuals with disabilities that is not occupied by or expected to be occupied by a child of not more than six (6) years of age.

(2) A building without a bedroom.

SECTION 15. IC 16-41-39.4-6, AS ADDED BY P.L.102-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The lead-safe housing advisory council is established to advise the state department concerning housing related lead poisoning prevention activities.

(b) The advisory council consists of the following members:

(1) The state health commissioner, or the state health commissioner's designee, who shall serve as the chairperson of the advisory council.

(2) The director of the Indiana housing and community

development authority or the director's designee.

(3) The local health officer of each of three (3) local health departments, appointed by the state health commissioner to represent a diverse geographic and population mix, or the local health officer's designee.

(4) The following individuals, appointed by the governor:

(A) A representative of realtors in Indiana.

(B) A representative of home builders or remodelers in Indiana.

(C) A pediatrician or other physician with knowledge of lead poisoning.

(D) A representative of the private lead-based paint abatement industry who is licensed under ~~IC 13-17-14~~ **IC 16-41-39.8** to perform or supervise lead-based paint activities.

(E) A representative of a community based organization located in a community with a significant concentration of high risk lead-contaminated properties, as determined by a high prevalence in the community of:

(i) low income families having children with lead poisoning; and

(ii) housing units that were built before 1978.

(F) A parent of a child with lead poisoning.

(G) A representative from a child or health advocacy organization.

(H) A residential tenant.

(I) A representative of the paint and coatings industry.

(J) A representative of public housing administrators.

(K) A representative of residential rental property owners.

(L) A representative of licensed lead-based paint activities training providers.

(M) A representative of community action program agencies.

(N) A representative of the banking industry.

(O) An individual who is licensed as a lead-based paint activities inspector under ~~IC 13-17-14.~~ **IC 16-41-39.8.**

(P) A child care provider.

(c) The advisory council shall meet at least quarterly. The first meeting of the advisory council must occur not later than July 1, 2008.

(d) The advisory council shall submit to the governor, the attorney

general, and, in an electronic format under IC 5-14-6, the legislative council the following:

(1) A preliminary report before November 1, 2008.

(2) A final report before November 1, 2009.

(e) The reports required by subsection (d) shall contain the recommendations of the advisory council concerning the following:

(1) Development of a primary prevention program to address housing related lead poisoning.

(2) Development of a sufficient number of licensed lead inspectors, risk assessors, clearance examiners, individuals who are trained in lead-safe work practices, abatement workers, and contractors.

(3) Ensuring lead-safe work practices in remodeling, rehabilitation, and weatherization work.

(4) Funding mechanisms to assist child care and residential property owners with the cost of lead abatement, remediation, and mitigation, including interim controls.

(5) A procedure for distribution of funds from the Indiana lead trust fund established by ~~IC 13-17-14-6~~ **IC 16-41-39.8-7** to pay the cost of implementation of 40 CFR 745 for lead-based paint activities in target housing and child occupied facilities.

(6) A program to ensure that the resale of recycled building products does not pose a significant risk of lead poisoning to children.

(7) Necessary statutory or administrative rule changes to improve the effectiveness of state and local lead abatement, remediation, including interim controls, and other lead poisoning prevention and control activities.

(8) The content of a basic lead training course for child care workers concerning lead hazards that:

(A) includes lead-based paint rules awareness; and

(B) includes information concerning how the course should be made available to child care workers.

(9) For the preliminary report, recommendations for legislation to be introduced in the 2009 session of the general assembly.

(f) The state department shall staff and provide administrative and logistical support to the advisory council, including conference telephone capability for meetings of the advisory council.

(g) Each member of the advisory council who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(h) A majority of the members appointed to the advisory council is required for the advisory council to take action on any measure, including final reports.

(i) This section expires July 1, 2011.

SECTION 16. IC 16-41-39.4-7, AS ADDED BY P.L.102-2008, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) A retail establishment that sells paint or paint products shall do all of the following:

(1) Offer for sale a lead test kit that is capable of determining the presence of a lead-based paint hazard.

(2) Provide to customers the federal Environmental Protection Agency pamphlet "Protect Your Family from Lead in Your Home" or a similar source of information approved by the state department.

(3) Ensure that at least one (1) employee who provides advice to customers concerning paint and paint products:

(A) attends a training program concerning lead hazards; and

(B) provides training to other employees who provide advice to customers concerning paint and paint products.

This subsection does not apply to a paint or paint product that is used solely for a craft or hobby.

(b) A person that sells, offers for sale, or distributes a consumer product shall not remove, erase, or obscure the visibility of a statement that:

(1) the manufacturer or wholesaler of the consumer product has placed on the consumer product or the container or wrapper in which the consumer product is contained; and

(2) specifies that the consumer product contains or may contain lead.

(c) A person shall not sell or offer for sale at wholesale or retail or distribute a consumer product, surface coating material, a food product, or food packaging that:

(1) is a banned hazardous substance under the federal Hazardous Substances Act (15 U.S.C. 1261(q)(1)); or

(2) has been determined by the state department to:

(A) have a lead content that is greater than the lesser of the lead content specifications for lead paint in 16 CFR 1303.2 or state law; and

(B) pose a danger of childhood lead poisoning because the product, material, or packaging is reasonably expected to be accessible to, chewed by, or ingested by a child who is less than seven (7) years of age.

(d) If the state department, based on:

(1) test results performed by a certified laboratory at the state department's request;

(2) information received from a federal agency; or

(3) other reliable information;

has reason to believe that a person has violated this section, the state department may, with or without a prior hearing, issue to the person a cease and desist order if the commissioner determines a cease and desist order is in the public interest. In addition to all other remedies, the commissioner may bring an action in the name and on behalf of the state against the person to enjoin the person from violating this section.

(e) The state department or a local health department may at any time during regular business hours inspect any premises where consumer products are sold, offered for sale, or distributed to establish compliance with this section.

(f) The state department may seize an item that is sold, offered for sale, or distributed in violation of this section.

(g) The state department shall, not later than May 1, 2009, adopt rules under IC 4-22-2 to implement this section. The rules adopted under this subsection:

(1) may:

(A) establish exceptions under which items described in subsection (c) may be sold, offered for sale, or distributed upon the state department's determination that the risk posed to children by the items is minimal; or

(B) require labeling of an item or signage to reflect that the item contains lead; and

(2) must be consistent with federal law.

SECTION 17. IC 16-41-39.8 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 39.8. Lead-Based Paint Activities

Sec. 1. (a) This chapter does not apply to the following:

(1) A person making an inspection under the authority of IC 22-8-1.1.

(2) A person who performs lead-based paint activities within a residential dwelling that the person owns, unless the residential dwelling is occupied by:

(A) a person, other than the owner or the owner's immediate family, while these activities are being performed; or

(B) a child who:

(i) is not more than six (6) years of age or an age specified in rules adopted under section 6 of this chapter; and

(ii) resides in the building and has been identified as having an elevated blood lead level.

(b) This chapter may not be construed as requiring the abatement of lead-based paint hazards in a child occupied facility or target housing.

Sec. 2. (a) The lead-based paint activities program is established. The purpose of the program is to ensure that a person conducting lead-based paint activities in target housing, child occupied facilities, and any other type of building specified in rules adopted under section 6 of this chapter does so in a manner that safeguards the environment and protects the health of the building's occupants, especially children who are not more than six (6) years of age.

(b) The state department may investigate lead-based paint abatement activities in target housing and child-occupied facilities under the following circumstances:

(1) The state department has received a written complaint about abatement activities.

(2) The state department has been informed of a child who:

(A) is:

(i) not more than six (6) years of age; or

(ii) an age specified in rules adopted under section 6 of

this chapter;

(B) has been identified as having an elevated blood lead level; and

(C) has visited the site to be investigated.

(3) The state department is ensuring regulatory compliance with licensure and abatement activities.

Sec. 3. (a) A person who engages in lead-based paint activities must obtain a license under this chapter and under rules adopted under section 6 of this chapter. Lead-based paint activities licenses issued under IC 13-17-14 (before its repeal) or under this chapter expire as follows:

(1) On June 30, 2004, if issued before July 1, 2002.

(2) Three (3) years after the date of issuance, if issued after June 30, 2002.

(b) A person may receive a lead-based paint activities license under this chapter for the following disciplines:

(1) Inspector.

(2) Risk assessor.

(3) Project designer.

(4) Supervisor.

(5) Abatement worker.

(6) Contractor.

(c) A person may receive a clearance examiner license under this chapter. A person who engages in the clearance of nonabatement activities under 24 CFR 35.1340(b)(1)(iv), as in effect July 1, 2002, must obtain a clearance examiner license under this chapter and under rules adopted under section 6 of this chapter. A clearance examiner license expires three (3) years after the date of issuance.

(d) A person who enters into a contract requiring the person to execute for compensation lead-based paint activities must hold a lead-based paint activities contractor's license.

(e) A person must:

(1) take required training and pass an examination provided in a lead-based paint training course or clearance examiner training course, as appropriate, approved by the state department;

(2) for a license in the discipline of:

(A) inspector;

(B) risk assessor;

(C) project designer; or

(D) supervisor;

pass an examination provided by the state department or a third party as required by rules adopted under section 6 of this chapter; and

(3) meet any requirements established by rules adopted under section 6 of this chapter;

before the person may receive a lead-based paint activities license or clearance examiner license.

(f) The state department may issue a license for a position listed under subsection (b) or (c) if the applicant submits proof to the state department that the applicant satisfies the training, examination, and other requirements for the license under this chapter.

(g) A:

(1) lead-based paint activities license; or

(2) clearance examiner license;

issued under IC 13-17-14 (before its repeal) or this chapter may be renewed for a period of three (3) years. To renew a license, a person who holds a license for a position listed in subsection (b) or (c) must complete refresher training and pass any reexamination required by rules adopted under section 6 of this chapter.

(h) A lead-based paint activities contractor licensed under this chapter may not allow an agent or employee of the contractor to:

(1) exercise control over a lead-based paint activities project;

(2) come into contact with lead-based paint; or

(3) engage in lead-based paint activities;

unless the agent or employee is licensed under this chapter.

(i) A person engaging in lead-based paint activities shall comply with the work practice standards established in rules adopted under section 6 of this chapter and the applicable work practice standards established in section 13 of this chapter for performing the appropriate lead-based paint activities.

Sec. 4. (a) A lead-based paint activities training program must meet requirements specified in rules adopted under section 6 of this chapter before providing initial or refresher training to a person seeking a license listed in section 3(b) of this chapter.

(b) The state department may approve a lead-based paint

activities training course offered by a person who satisfies the requirements of subsection (a).

(c) A lead-based paint activities training course must be conducted by an instructor approved by the state department as provided in the rules adopted under section 6 of this chapter.

Sec. 5. (a) A clearance examiner training program must meet requirements specified in rules adopted under section 6 of this chapter before providing initial or refresher training to a person seeking a license under section 3(c) of this chapter.

(b) The state department may approve a clearance examiner training course offered as part of a program that satisfies the requirements of subsection (a).

(c) A clearance examiner training course must be conducted by an instructor approved by the state department as provided in the rules adopted under section 6 of this chapter.

Sec. 6. (a) Rules adopted by the air pollution control board before July 1, 2009, under IC 13-17-14-5 (repealed) are considered rules of the state department after December 31, 2009.

(b) The state department shall adopt rules under IC 4-22-2 to replace the rules of the air pollution control board described in subsection (a) and to implement this chapter. The rules adopted by the state department must contain at least the elements required to receive program authorization under 40 CFR 745, Subpart L, as in effect July 1, 2002, and must do the following:

(1) Establish minimum requirements for the issuance of a license for:

(A) lead-based paint activities inspectors, risk assessors, project designers, supervisors, abatement workers, and contractors; and

(B) clearance examiners.

(2) Establish minimum requirements for approval of the providers of:

(A) lead-based paint activities training courses; and

(B) clearance examiner training courses.

(3) Establish minimum qualifications for:

(A) lead-based paint activities training course instructors; and

(B) clearance examiner training course instructors.

(4) Extend the applicability of the licensing requirements to

other facilities as determined necessary by the board.

(5) Establish work practice standards.

(6) Establish a state department or third party examination process.

(7) Identify activities, if any, that are exempted from licensing requirements.

(8) Establish a reasonable fee based on current market value per person, per license, for the period the license is in effect for a person seeking a license under section 3 of this chapter. However, the following may not be required to pay a fee established under this subdivision:

(A) A state.

(B) A municipal corporation (as defined in IC 36-1-2-10).

(C) A unit (as defined in IC 36-1-2-23).

(9) Establish a reasonable fee based on current market value per course, per year, for a lead-based paint training program seeking approval of a lead-based paint training course under section 4 of this chapter. However, the following may not be required to pay a fee established under this subdivision:

(A) A state.

(B) A municipal corporation (as defined in IC 36-1-2-10).

(C) A unit (as defined in IC 36-1-2-23).

(D) An organization exempt from income taxation under 26 U.S.C. 501(a).

(10) Establish a reasonable fee based on current market value per course, per year, for a clearance examiner training program seeking approval of a clearance examiner training course under section 5 of this chapter. However, the following may not be required to pay a fee established under this subdivision:

(A) A state.

(B) A municipal corporation (as defined in IC 36-1-2-10).

(C) A unit (as defined in IC 36-1-2-23).

(D) An organization exempt from income taxation under 26 U.S.C. 501(a).

(c) The amount of the fees under subsection (b) may not be more than is necessary to recover the cost of administering this chapter.

(d) The proceeds of the fees under subsection (b) must be deposited in the lead trust fund established by section 7 of this

chapter.

(e) The minimum requirements established under subsection (b)(1) must be sufficient to allow the clearance examiner to perform clearance examinations without the approval of a certified risk assessor or inspector as provided in 24 CFR 35.1340(b)(1)(iv), as in effect July 1, 2002.

Sec. 7. (a) The lead trust fund established by IC 13-17-14-6 (repealed) is reestablished to provide a source of money for the purposes set forth in subsection (f).

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

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

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

(e) The sources of money for the fund are the following:

(1) License fees established under section 6 of this chapter.

(2) Appropriations made by the general assembly, gifts, and donations intended for deposit in the fund.

(3) Penalties imposed under sections 14 and 15 of this chapter for violations of this chapter and rules adopted under this chapter concerning lead-based paint activities.

(f) The state department may use money in the fund to do the following:

(1) Pay the expenses of administering this chapter.

(2) Cover other costs related to implementation of 40 CFR 745 for lead-based paint activities in target housing and child occupied facilities.

Sec. 8. (a) A lead-based paint activities contractor licensed under this chapter shall compile records concerning each lead-based paint activities project performed by the lead-based paint activities contractor. The records must include the following information on each lead-based paint activities project:

(1) The name, address, and proof of license of the following:

(A) The person who supervised the lead-based paint activities project for the lead-based paint activities contractor.

(B) Each employee or agent of the lead-based paint activities contractor that worked on the project.

(2) The name, address, and signature of each certified risk assessor or inspector conducting clearance sampling and the date of clearance testing.

(3) The site of the lead-based paint activities project.

(4) A description of the lead-based paint activities project.

(5) The date on which the lead-based paint activities project was started and the date on which the lead-based paint activities project was completed.

(6) A summary of procedures that were used in the lead-based paint activities project to comply with applicable federal and state standards for lead-based paint activities projects.

(7) A detailed written description of the lead-based paint activities, including methods used, locations of rooms or components where lead-based paint activities occurred, reasons for selecting particular lead-based paint activities methods for each component, and any suggested monitoring of encapsulants or enclosures.

(8) The occupant protection plan.

(9) The results of clearance testing and all soil analysis (if applicable) and the name of each federally approved laboratory that conducted the analysis.

(10) The amount of material containing lead-based paint that was removed from the site of the project.

(11) The name and address of each disposal site used for the disposal of lead-based paint containing material that was disposed of as a result of the lead-based paint activities project.

(b) A copy of each receipt issued by a disposal site identified under subsection (a)(11) must be included in the records concerning the lead-based paint activities project that are compiled under this section.

(c) A lead-based paint activities contractor shall retain the records compiled under this section concerning a particular lead-based paint activities project for at least three (3) years after the lead-based paint activities project is concluded.

(d) A lead-based paint activities contractor shall make records kept under this section available to the state department upon

request.

Sec. 9. A political subdivision or a state agency may not accept a bid for a lead-based paint activities project from a person who does not hold a lead-based paint activities license.

Sec. 10. Without limiting the authority to inspect under IC 16-41-5-1, the state department may do the following:

(1) Inspect the site of a lead-based paint activities project:

(A) during the project; or

(B) after the project is completed.

(2) Conduct an investigation of a lead-based paint activities project upon:

(A) the state department's own initiation; or

(B) the receipt of a complaint by a person.

(3) Conduct an investigation of the provider of a lead-based paint activities training course upon:

(A) the state department's own initiation; or

(B) the receipt of a complaint by a person.

Sec. 11. (a) If the state department finds that a lead-based paint activities project is not being performed in accordance with applicable laws or rules, the state department may enjoin further work on the lead-based paint activities project without prior notice or hearing by delivering a notice to:

(1) the lead-based paint activities contractor engaged in the lead-based paint activities project; or

(2) an agent or representative of the lead-based paint activities contractor.

(b) A notice issued under this section must:

(1) specify the violations of laws or rules that are occurring on the lead-based paint activities project; and

(2) prohibit further work on the lead-based paint activities project until the violations specified under subdivision (1) cease and the notice is rescinded by the state department.

(c) Not later than ten (10) days after receiving written notification from a contractor that violations specified in a notice issued under this section have been corrected, the state department shall issue a determination regarding recission of the notice.

(d) A lead-based paint activities contractor or any other person aggrieved or adversely affected by the issuance of a notice under subsection (a) may obtain a review of the state department's action

under IC 4-21.5.

Sec. 12. (a) The state department may under IC 4-21.5 reprimand, or suspend or revoke the license of, a clearance examiner or a lead-based paint activities inspector, risk assessor, project designer, supervisor, worker, or contractor for any of the following reasons:

(1) Violating any requirements of this chapter or rules adopted under section 6 of this chapter.

(2) Fraudulently or deceptively obtaining or attempting to obtain a license under this chapter.

(3) Failing to meet the qualifications for a license or failing to comply with the requirements of applicable laws or rules.

(4) Failing to meet an applicable federal or state standard for lead-based paint activities.

(b) The state department may under IC 4-21.5 reprimand a lead-based paint activities contractor or suspend or revoke the license of a lead-based paint activities contractor that employs a person who is not licensed under this chapter for a purpose that requires the person to hold a license issued under this chapter.

(c) The state department may under IC 4-21.5 revoke the approval of a clearance examiner training course or a lead-based paint activities training course for any of the following reasons:

(1) Violating any requirement of this chapter.

(2) Falsifying information on an application for approval.

(3) Misrepresenting the extent of a training course's approval.

(4) Failing to submit required information or notifications in a timely manner.

(5) Failing to maintain required records.

(6) Falsifying approval records, instructor qualifications, or other approval information.

Sec. 13. (a) This section applies to:

(1) remodeling, renovation, and maintenance activities at target housing and child occupied facilities built before 1960; and

(2) lead-based paint activities.

(b) This section does not apply to an individual who performs remodeling, renovation, or maintenance activities within a residential dwelling that the individual owns, unless the residential dwelling is occupied:

(1) while the activities are being performed, by an individual other than the owner or a member of the owner's immediate family; or

(2) by a child who:

(A) is less than seven (7) years of age or an age specified in rules adopted under section 6 of this chapter; and

(B) resides in the building and has been identified as having an elevated blood lead level.

(c) A person not exempted under subsection (b) from the application of this section who performs an activity under subsection (a) that disturbs:

(1) exterior painted surfaces of more than twenty (20) square feet;

(2) interior painted surfaces of more than two (2) square feet in any one (1) room or space; or

(3) more than ten percent (10%) of the combined interior and exterior painted surface area of components of the building;

shall meet the requirements of subsections (e), (f), and (g).

(d) For purposes of this section, paint is considered to be lead-based paint unless the absence of lead in the paint has been determined by a lead-based paint inspection conducted under this chapter.

(e) A person may not use any of the following methods to remove lead-based paint:

(1) Open flame burning or torching.

(2) Machine sanding or grinding without high efficiency particulate air local exhaust control.

(3) Abrasive blasting or sandblasting without high efficiency particulate air local exhaust control.

(4) A heat gun that:

(A) operates above one thousand one hundred (1,100) degrees Fahrenheit; or

(B) chars the paint.

(5) Dry scraping, except:

(A) in conjunction with a heat gun; or

(B) within one (1) foot of an electrical outlet.

(6) Dry sanding, except within one (1) foot of an electrical outlet.

(f) In a space that is not ventilated by the circulation of outside

air, a person may not strip lead-based paint using a volatile stripper that is a hazardous chemical under 29 CFR 1910.1200, as in effect July 1, 2002.

(g) A person conducting activities under subsection (a) on painted exterior surfaces may not allow visible paint chips or painted debris that contains lead-based paint to remain on the soil, pavement, or other exterior horizontal surface for more than forty-eight (48) hours after the surface activities are complete.

Sec. 14. (a) A person who violates:

(1) any provision of this chapter; or

(2) a rule or standard adopted by the state department under section 6 of this chapter;

is liable for a civil penalty not to exceed twenty-five thousand dollars ($25,000) per day for any violation.

(b) The state department may:

(1) recover the civil penalty described in subsection (a) in a civil action commenced in any court with jurisdiction; and

(2) request in the action that the person be enjoined from continuing the violation.

Sec. 15. A person who obstructs, delays, resists, prevents, or interferes with:

(1) the state department; or

(2) the state department's personnel or designated agent;

in the performance of an inspection or investigation performed under IC 16-41-5-1 commits a Class C infraction. Each day of violation of this section constitutes a separate infraction.

SECTION 18. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 13-11-2-0.5; IC 13-11-2-25.5; IC 13-11-2-36.5; IC 13-11-2-61.5; IC 13-11-2-66.5; IC 13-11-2-66.7; IC 13-11-2-118.3; IC 13-11-2-118.5; IC 13-11-2-229.5; IC 13-17-14.

SECTION 19. [EFFECTIVE JULY 1, 2009] **(a) The treasurer of state shall retain in the lead trust fund reestablished by IC 16-41-39.8, as added by this act, the balance in that fund on December 31, 2009.**

(b) This SECTION expires July 1, 2010.

P.L.58-2009
[S.280. Approved May 1, 2009.]

AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

SECTION 1. IC 31-9-2-93 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 93. "Pre-adoptive sibling", for purposes of:

(1) IC 31-19-18;
(2) IC 31-19-16.5; and
(3) IC 31-19-25;

means a **person who would have been a** sibling of an adoptee ~~who is born before the date that~~ **had the adoptee not been adopted, regardless of whether the person is born before or after** the adoptee's adoption is finalized.

SECTION 2. IC 31-9-2-117.3, AS ADDED BY P.L.133-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 117.3. "Sibling", for purposes of **IC 31-19 and** IC 31-28-5, means a brother or sister by blood, half-blood, or adoption.

SECTION 3. IC 31-14-9-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. Upon the filing of a petition to establish paternity, the clerk of the court shall prepare a notice of the filing on a form prescribed and furnished by the state department of health. The notice must include the following:**

(1) The name of the child.
(2) The name of the mother of the child.
(3) The name and address of the man alleged or alleging to be the father of the child.
(4) The name of the petitioner.
(5) The date the petition was filed.

(6) The name of the court and cause number.

SECTION 4. IC 31-14-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. **(a)** Not later than the tenth day of each month, the clerk of the court shall forward to the state department of health the following:

(1) Each record of a paternity determination entered during the preceding month.

(2) Each order entered during the preceding month indicating that a court has set aside a paternity determination.

(3) Any other related reports that the state department of health requires.

(b) Not later than five (5) days after a petition to establish paternity has been filed, the clerk of the court shall forward to the state department of health a notice required by section 0.5 of this chapter related to the petition to establish paternity.

SECTION 5. IC 31-14-21-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) **Except as provided under section 13 of this chapter and** subject to IC 31-19-2-14, if a court presiding over a paternity action under this article knows of:

(1) a pending adoption of a child who is the subject of the paternity action; and

(2) the court in which the adoption is pending;

the court having jurisdiction over the paternity action shall establish a child's paternity within the period prescribed by this chapter.

(b) **Except as provided under section 13 of this chapter and** subject to IC 31-19-2-14, the court shall conduct an initial hearing not more than thirty (30) days after:

(1) the filing of the paternity petition; or

(2) the birth of the child;

whichever occurs later.

SECTION 6. IC 31-14-21-9.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9.1. (a) **Except as provided under section 13 of this chapter and subject to IC 31-19-2-14,** at the initial hearing held under section 9 of this chapter, the court shall order all the parties to the paternity action to undergo blood or genetic testing.

(b) If the alleged father is unable to pay for the initial costs of the

testing, the court shall order that the tests be paid by the state department of health from putative father registry fees collected under IC 31-19-2-8(2). The state department of health may recover costs from an individual found to be the biological father of the child in the action.

SECTION 7. IC 31-14-21-9.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9.2. **Subject to IC 31-19-2-14 and section 13 of this chapter,** not later than ninety (90) days after the initial hearing held under section 9 of this chapter, the court shall conduct a final hearing to determine paternity. Not more than fourteen (14) days after the final hearing, the court shall issue its ruling in the paternity action.

SECTION 8. IC 31-14-21-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 13. Upon notice that a court in which an adoption is pending has assumed jurisdiction of a paternity action under IC 31-19-2-14, the court in which the paternity action was pending shall stay all proceedings in the paternity action until further order from the court in which the adoption is pending.**

SECTION 9. IC 31-19-2.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. Notice of the pendency of the adoption proceedings does not have to be given to:

(1) a person whose consent to adoption has been filed with the petition for adoption;

(2) a person whose consent to adoption is not required by:

(A) IC 31-19-9-8(a)(4)(A);

(B) IC 31-19-9-8(a)(4)(D);

(C) IC 31-19-9-8(a)(5);

(D) IC 31-19-9-8(a)(6);

(E) IC 31-19-9-8(a)(7);

(F) IC 31-19-9-8(a)(8);

(G) IC 31-19-9-9;

(H) IC 31-19-9-10;

~~(G)~~ **(I)** IC 31-19-9-12; ~~or~~

~~(H)~~ **(J)** IC 31-19-9-15; or

(K) IC 31-19-9-18;

(3) the hospital of an infant's birth or a hospital to which an infant is transferred for medical reasons after birth if the infant is being

adopted at or shortly after birth;

(4) a person whose parental rights have been terminated before the entry of a final decree of adoption; or

(5) a person who has waived notice under:

(A) IC 31-19-4-8; or

(B) IC 31-19-4.5-4.

SECTION 10. IC 31-19-4-3, AS AMENDED BY P.L.146-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) If:

(1) the mother of a child:

(A) informs an attorney or agency arranging the child's adoption, on or before the date the child's mother executes a consent to the child's adoption, that the child was conceived outside Indiana; and

(B) does not disclose to the attorney or agency the name or address, or both, of the putative father of the child; and

(2) the putative father of the child has:

(A) failed or refused to consent to the adoption of the child or has not had the parent-child relationship terminated under IC 31-35 (or IC 31-6-5 before its repeal); and

(B) not registered with the putative father registry under IC 31-19-5 within the period under IC 31-19-5-12;

the attorney or agency shall serve notice of the adoption proceedings on the putative father by publication in the same manner as a summons is served by publication under ~~Rule 4.13~~ **Rule 4.13(C)** of the Indiana Rules of Trial Procedure.

(b) The only circumstance under which notice to the putative father must be given by publication under ~~Rule 4.13~~ **Rule 4.13(C)** of the Indiana Rules of Trial Procedure is when the child was conceived outside of Indiana as described in subsection (a).

SECTION 11. IC 31-19-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter applies to a putative father whenever:

(1) an adoption under IC 31-19-2 ~~is~~ **has been or may be** filed regarding a child who may have been conceived by the putative father; and

(2) on or before the date the child's mother executes a consent to the child's adoption, the child's mother has not disclosed the name

or address, or both, of the putative father to an attorney or agency that is arranging the child's adoption.

SECTION 12. IC 31-19-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. **(a)** This chapter does not relieve a man who is presumed to be a father under 31-14-7-2 from the obligation of registering in accordance with this chapter to be entitled to notice of an adoption of a child for whom the man may be the presumed father.

(b) The filing of a paternity action by a putative father does not relieve the putative father from the:

(1) obligation of registering; or

(2) consequences of failing to register;

in accordance with this chapter unless paternity has been established before the filing of the petition for adoption of the child.

SECTION 13. IC 31-19-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) The state department of health shall maintain the following information in the registry:

(1) The putative father's:

(A) name;

(B) address at which the putative father may be served with notice of an adoption under Rule 4.1 of the Indiana Rules of Trial Procedure;

(C) Social Security number; and

(D) date of birth.

(2) The mother's:

(A) name, including all other names known to the putative father that the mother uses, if known;

(B) address, if known;

(C) Social Security number, if known; and

(D) date of birth, if known.

(3) The child's:

(A) name, if known; and

(B) place of birth, if known.

(4) The date that the state department of health receives a putative father's registration.

(5) The:

(A) name of an attorney or agency that requests the state department to search the registry under section 15 of this chapter to determine whether a putative father is registered in relation to a mother whose child is or may be the subject of an adoption; and

(B) date that the attorney or agency submits a request as provided under this subdivision.

(6) Any notice of a filing of a petition to establish paternity as described in IC 31-14-9-0.5.

~~(6)~~ **(7)** Any other information that the state department determines is necessary to access the information in the registry.

(b) If a putative father does not have an address where the putative father is able to be served with notice of an adoption, the putative father may designate another person as an agent for the purpose of being served with notice of adoption. The putative father must provide the department with the agent's name and the address at which the agent may be served. Service of notice upon the agent under Rule 4.1 of the Indiana Rules of Trial Procedure constitutes service of notice upon the putative father. If notice of an adoption may not be served on the agent under Rule 4.1 of the Indiana Rules of Trial Procedure as provided by this subsection, further notice of the adoption to the agent or to the putative father is not necessary.

SECTION 14. IC 31-19-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. **(a)** A putative father who registers under this chapter shall provide to the state department of health the following:

(1) The putative father's:

(A) name;

(B) address at which the putative father may be served with notice of an adoption under Rule 4.1 of the Indiana Rules of Trial Procedure;

(C) Social Security number; and

(D) date of birth.

(2) The mother's name, including all other names known to the putative father that the mother uses.

(3) Any other information described under section 7 of this chapter that is known to the putative father.

(b) A clerk of the court shall provide to the state department of

health the notice required to be prepared under IC 31-14-9-0.5.

SECTION 15. IC 31-19-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) An attorney or agency that arranges an adoption or may arrange an adoption may at any time request that the state department of health search the registry to determine whether a putative father:

(1) is registered in relation to a mother whose child is or may be the subject of an adoption; **or**

(2) has filed a petition to establish paternity under this chapter;

(b) Whenever a petition for adoption is filed, the attorney or agency that arranges the adoption shall:

(1) request that the state department of health search the registry under this section at least one (1) day after the expiration of the period specified by section 12 of this chapter; and

(2) file an affidavit prepared by the state department of health under section 16 of this chapter in response to a request under subdivision (1) with the court presiding over the adoption under this article.

SECTION 16. IC 31-19-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) Not later than ~~ten (10)~~ **five (5)** days after receiving a request under section 15 of this chapter, the state department of health shall submit an affidavit to the attorney or agency verifying whether a putative father:

(1) is registered within the period specified by section 12 of this chapter in relation to a mother whose child is the subject of the adoption that the attorney or agency is arranging; **or**

(2) has filed a petition to establish paternity under this chapter.

(b) Whenever the state department of health finds that one (1) or more putative fathers are registered, the state department shall:

(1) submit a copy of each registration form with the state department's affidavit; and

(2) include in the affidavit the date that the attorney or agency submits the request for a search that relates to the affidavit.

(c) Whenever the state department of health finds that one (1) or more putative fathers have filed a petition to establish paternity under this chapter, the state department of health shall:

(1) submit a copy of each notice prepared by the clerk of the court under IC 31-14-9-0.5 with the state department of health's affidavit; and

(2) include in the affidavit the date the attorney or agency submitted the request for the search that relates to the affidavit.

~~(c)~~ **(d)** A court may not grant an adoption unless the state department's affidavit under this section is filed with the court as provided under IC 31-19-11-1(a)(4).

SECTION 17. IC 31-19-5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. Whenever the state department of health receives a request under section 15 of this chapter, the state department shall:

(1) search the state department's records of paternity determinations **and notices of filings of petitions to establish paternity** filed under IC 31-14-9-2; and

(2) notify the attorney or agency, in compliance with IC 31-19-6, as to whether a record of a paternity determination **or a notice of a filing of a petition to establish paternity** has been filed concerning a child who is or may be the subject of an adoption that the attorney or agency is arranging.

SECTION 18. IC 31-19-5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) Subject to subsection (b), upon written request by:

(1) a putative father;

(2) a mother;

(3) a child;

(4) any party or attorney of record in a pending adoption;

(5) an attorney who represents:

(A) prospective adoptive parents; ~~or~~

(B) petitioners in an adoption;

(C) a mother;

(D) a putative father; or

(E) a licensed child placing agency;

(6) a licensed child placing agency that represents:

(A) prospective adoptive parents; ~~or~~

(B) petitioners in an adoption;

(C) a mother; or

(D) a putative father; or

(7) a court that presides over a pending adoption;

the state department of health shall furnish a certified copy of a putative father's registration form **and a copy of any notice of a filing of a petition to establish paternity prepared under IC 31-14-9-0.5.**

(b) The state department may release the certified copy of the registration form to a person under subsection (a)(1) through (a)(3) only if the information contained in the registration form names the requesting person.

(c) A person listed under subsection (a), who requests information about a registration from the state department, must do the following:

(1) Submit the request in writing.

(2) Under the penalties of perjury, state that the requesting person is entitled to receive the information under this chapter.

(3) Submit the request in a manner described by section 20(1) or 20(2) of this chapter.

SECTION 19. IC 31-19-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. An attorney or agency that arranges an adoption or may arrange an adoption may at any time request that the state department of health search the state department's records of:

(1) paternity determinations to determine whether a man's paternity of a child has been established in relation to a child who is or may be the subject of an adoption; **and**

(2) notices of filings of petitions to establish paternity.

SECTION 20. IC 31-19-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. Not later than ~~ten (10)~~ **five (5)** days after receiving a request under section 1 of this chapter, the state department of health shall:

(1) submit an affidavit to the attorney or agency verifying whether a record of a paternity determination has been filed under IC 31-14-9-2 concerning the child; and

(2) search the putative father registry established by IC 31-19-5 and notify the attorney or agency, in compliance with IC 31-19-5-16 as to whether a putative father has:

(A) registered concerning the child; **or**

(B) filed a petition to establish paternity in relation to the child.

SECTION 21. IC 31-19-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. **(a)** If a record of a paternity determination has been filed concerning a child who is the subject of a request under section 1 of this chapter, the state department of health shall release a copy of the record of the paternity determination to the requesting attorney or agency.

(b) If a notice of a filing of a petition to establish paternity has been filed concerning a child who is the subject of a request under section 1 of this chapter, the state department of health shall release a copy of the notice of the filing of the petition to the requesting attorney or agency.

SECTION 22. IC 31-19-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as otherwise provided in this chapter, a petition to adopt a child who is less than eighteen (18) years of age may be granted only if written consent to adoption has been executed by the following:

(1) Each living parent of a child born in wedlock, **including a man who is presumed to be the child's biological father under IC 31-14-7-1(1) if the man is the biological or adoptive parent of the child.**

(2) The mother of a child born out of wedlock and the father of a child whose paternity has been established by:

(A) a court proceeding other than the adoption proceeding, except as provided in IC 31-14-20-2; or

(B) a paternity affidavit executed under IC 16-37-2-2.1;

unless the putative father gives implied consent to the adoption under section 15 of this chapter.

(3) Each person, agency, or county office of family and children having lawful custody of the child whose adoption is being sought.

(4) The court having jurisdiction of the custody of the child if the legal guardian or custodian of the person of the child is not empowered to consent to the adoption.

(5) The child to be adopted if the child is more than fourteen (14) years of age.

(6) The spouse of the child to be adopted if the child is married.

(b) A parent who is less than eighteen (18) years of age may consent to an adoption without the concurrence of:

(1) the individual's parent or parents; or

(2) the guardian of the individual's person;

unless the court, in the court's discretion, determines that it is in the best interest of the child to be adopted to require the concurrence.

SECTION 23. IC 31-19-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. A consent to adoption may **be withdrawn only as provided in this chapter and may** not be withdrawn after the entry of the adoption decree.

SECTION 24. IC 31-19-15-1, AS AMENDED BY P.L.130-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided in section 2 of this chapter or IC 31-19-16, if the biological parents of an adopted person are alive, the biological parents are:

(1) relieved of all legal duties and obligations to the adopted child; and

(2) divested of all rights with respect to the child;

and the parent-child relationship is terminated after the adoption **unless the parent-child relationship was terminated by an earlier court action, operation of law, or otherwise.**

(b) The obligation to support the adopted person continues until the entry of the adoption decree. The entry of the adoption decree does not extinguish the obligation to pay past due child support owed for the adopted person before the entry of the adoption decree.

SECTION 25. IC 31-19-17-2, AS AMENDED BY P.L.129-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. A person, a licensed child placing agency, or a county office of family and children placing a child for adoption shall prepare **or cause to be prepared** a report summarizing the available medical, psychological, and educational records of the person or agency concerning the birth parents. The person, agency, or county office shall exclude from this report information that would identify the birth parents **unless the adoptive parents know the identity of the birth parents.** The person, agency, or county office shall give the report to:

(1) the adoptive parents:

(A) at the time the home study or evaluation concerning the suitability of the proposed home for the child is commenced; ~~or~~

(B) as soon as practical after the adoptive parents are matched with the birth mother; or

~~(B)~~ **(C)** with the consent of the adoptive parents, not more than thirty (30) days after the child is placed with the adoptive parents; and

(2) upon request **and without information that would identify the birth parents unless** an **adoptee already knows the identity of the birth parents, an** adoptee who:

(A) is at least twenty-one (21) years of age; and

(B) provides proof of identification

SECTION 26. IC 31-19-17-3, AS AMENDED BY P.L.1-2006, SECTION 497, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. The person, licensed child placing agency, or county office of family and children shall:

(1) exclude information that would identify the birth parents **unless the adoptive parent under subdivision (2)(A) or an adoptee under subdivision (2)(B) who requests the information knows the identity of the birth parents;** and

(2) release all available social, medical, psychological, and educational records concerning the child to:

(A) the adoptive parent; and

(B) upon request, an adoptee who:

(i) is at least twenty-one (21) years of age; and

(ii) provides proof of identification.

SECTION 27. IC 31-19-17-5, AS AMENDED BY P.L.1-2006, SECTION 499, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) This section applies to an adoption that is granted before July 1, 1993.

(b) Upon the request of an adoptee who:

(1) is at least twenty-one (21) years of age; and

(2) provides proof of identification;

a person, a licensed child placing agency, or a county office of family and children shall provide to the adoptee available information of social, medical, psychological, and educational records and reports concerning the adoptee. The person, licensed child placing agency, or county office of family and children shall exclude from the records information that would identify the birth parents **unless an adoptee already knows the identity of the birth parents.**

SECTION 28. IC 31-19-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The following persons may transmit identifying information and nonidentifying information to the state registrar for inclusion with the adoption history:

(1) An adoptee who is an adult.

(2) A birth parent.

(3) An adoptive parent.

(4) A pre-adoptive sibling **who is at least twenty-one (21) years of age**.

(5) The spouse or relative of a deceased adoptee if the relationship existed at the time of the adoptee's death.

(6) The spouse or relative of a deceased birth parent if the relationship existed at the time of the birth parent's death.

(b) The state registrar shall store all information received under this section in a manner that is readily recoverable.

(c) Any transmission of information received under this section must include an affirmation by the person that:

(1) the information is true or that the person believes the information to be true; and

(2) the person is a person described in subsection (a).

SECTION 29. IC 31-19-22-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. An attorney, a licensed child placing agency, or a county office of family and children who contacts an adoptee or a birth parent upon a request under section 7 of this chapter may not disclose identifying information ~~However,~~ **unless the:**

(1) adoptee who:

(A) is at least twenty-one (21) years of age gives written consent; or

(B) is less than twenty-one (21) years of age has the written consent of the adoptee's adoptive parents; and

(2) birth parent gives written consent;

to the release of identifying information by the attorney, licensed child placing agency, or county office of family and children. If both the adoptee who is at least twenty-one (21) years of age and the birth parent consent to the release of identifying information but do not provide the consent in writing, the attorney, agency, or county office of family and children may inform the adoptee or the

birth parent regarding the fact that an adoptee or a birth parent has consented to the release of identifying information under IC 31-19-21 (or IC 31-3-4-27 before its repeal). The attorney, licensed child placing agency, or county office of family and children may inquire as to whether the adoptee or birth parent, whose consent is still needed before identifying information may be released, is interested in participating in the adoption registry under IC 31-19-18 through IC 31-19-21, this chapter, and IC 31-19-23 through IC 31-19-24.

SECTION 30. IC 31-19-25-3, AS AMENDED BY P.L.145-2006, SECTION 261, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) An adoptee's birth parent may restrict access to identifying information concerning the birth parent by filing a written nonrelease form with the state registrar that evidences the birth parent's lack of consent to the release of identifying information under this section.

(b) The following persons may not release any identifying information concerning the birth parent to the adoptee if a nonrelease form is in effect at the time of the request for identifying information:

(1) The state registrar.

(2) The department.

(3) A county office of family and children.

(4) A licensed child placing agency.

(5) A professional health care provider.

(6) A court.

(c) The nonrelease form filed under this section:

(1) remains in effect during the period indicated by the person submitting the form;

(2) is renewable; and

(3) may be withdrawn at any time by the person who submitted the form.

(d) The nonrelease form is no longer in effect if the birth parent consents in writing to the release of identifying information and has not withdrawn that consent.

SECTION 31. IC 31-35-1-6, AS AMENDED BY P.L.146-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Except as provided in subsection (c), the parents must give their consent in open court unless the court makes findings of fact upon the record that:

(1) the parents gave their consent in writing before a person authorized by law to take acknowledgments; and

(2) the parents were:

(A) advised in accordance with section 12 of this chapter; and

(B) advised that if they choose to appear in open court, the only issue before the court is whether their consent was voluntary.

(b) If:

(1) the court finds the conditions under subsection (a)(1) and (a)(2) have been met; and

(2) a parent appears in open court;

a court may consider only the issue of whether the parent's consent was voluntary.

(c) The consent of a parent to the termination of the parent-child relationship under this chapter is not required if:

(1) consent to the termination of the parent-child relationship is implied under section 4.5 of this chapter, if the parent is the putative father;

(2) the parent's consent to the adoption of the child would not be required under:

(A) IC 31-19-9-8;

(B) IC 31-19-9-9; or

(C) IC 31-19-9-10; ~~or~~

(3) the child's biological father denies paternity of the child before or after the birth of the child if the denial of paternity:

(A) is in writing;

(B) is signed by the child's father in the presence of a notary public; and

(C) contains an acknowledgment that:

(i) the denial of paternity is irrevocable; and

(ii) the child's father will not receive notice of adoption or termination of parent-child relationship proceedings; **or**

(4) the child's biological father consents to the termination of the parent-child relationship before the birth of the child if the consent:

(A) is in writing;

(B) is signed by the child's father in the presence of a notary public; and

(C) contains an acknowledgment that:

(i) the consent to the termination of the parent-child relationship is irrevocable; and

(ii) the child's father will not receive notice of adoption or termination of parent-child relationship proceedings.

A child's father who denies paternity of the child under subdivision (3) **or consents to the termination of the parent-child relationship under subdivision (4)** may not challenge or contest the child's adoption or termination of the parent-child relationship.

(d) A child's mother may not consent to the termination of the parent-child relationship before the birth of the child.

P.L.59-2009
[S.376. Approved May 1, 2009.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 5-10-15-2, AS ADDED BY P.L.62-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. As used in this chapter, "at risk for occupational exposure" means that an individual incurs risk in performing the basic duties of the individual's employment, including:

(1) providing emergency medical treatment in a nonhealth care setting where there is a potential for contact with;

(2) working at the scene of an accident, a fire, or another rescue or public safety operation, or working in an emergency rescue vehicle or a public safety vehicle, during which the individual has contact with;

(3) engaging in the pursuit, apprehension, and arrest of law violators, during which the individual may be exposed to; or

(4) maintaining custody and physical restraint of prisoners or

inmates of a prison, a jail, or another criminal detention facility during which the individual may be exposed to;

a known carcinogen, or a substance or condition that adversely affects an individual's cardiovascular, **neurological,** or respiratory system.

SECTION 2. IC 5-10-15-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5.5. As used in this chapter, "exposure related Parkinson's disease" refers to Parkinson's disease that is caused by a toxin or head trauma:**

(1) known to increase the risk for the development of Parkinson's disease; and

(2) to which an individual is at risk for occupational exposure.

SECTION 3. IC 5-10-15-8, AS ADDED BY P.L.62-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. As used in this chapter, "substance or condition that adversely affects an individual's cardiovascular, **neurological,** or respiratory system" refers to a substance or condition the exposure to which is recognized by the National Institute for Occupational Safety and Health as creating a high risk for the development of heart, ~~or~~ lung, **or Parkinson's** disease.

SECTION 4. IC 5-10-15-9, AS ADDED BY P.L.62-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) An employee or former employee who:

(1) is diagnosed with an exposure related cancer, ~~or~~ exposure related heart or lung disease, **or exposure related Parkinson's disease** that:

(A) requires medical treatment; or

(B) results in total or partial disability; and(2) at the time of the diagnosis:

(A) is actively employed; or

(B) has terminated employment not more than sixty (60) months earlier;

is presumed to have a disability incurred in the line of duty.

(b) The presumption described in subsection (a) may be rebutted by competent evidence.

(c) A meeting or hearing held to rebut the presumption described in subsection (a) may be held as an executive session under IC 5-14-1.5-6.1(b)(1).

SECTION 5. IC 36-8-8-12.5, AS AMENDED BY P.L.62-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12.5. (a) This section applies only to a fund member who:

(1) is hired for the first time after December 31, 1989;

(2) chooses coverage by this section and section 13.5 of this chapter under section 12.4 of this chapter; or

(3) is described in section 12.3(c)(2) of this chapter.

(b) At the same hearing where the determination of whether the fund member has a covered impairment is made, the local board shall determine the following:

(1) Whether the fund member has a Class 1 impairment. A Class 1 impairment is a covered impairment that is the direct result of one (1) or more of the following:

(A) A personal injury that occurs while the fund member is on duty.

(B) A personal injury that occurs while the fund member is off duty and is responding to:

(i) an offense or a reported offense, in the case of a police officer; or

(ii) an emergency or reported emergency for which the fund member is trained, in the case of a firefighter.

(C) An occupational disease (as defined in IC 22-3-7-10). A covered impairment that is included within this clause and subdivision (2) shall be considered a Class 1 impairment.

(D) A health condition caused by an exposure risk disease that results in a presumption of disability or death incurred in the line of duty under IC 5-10-13.

(2) Whether the fund member has a Class 2 impairment. A Class 2 impairment is a covered impairment that is:

(A) a duty related disease. A duty related disease means a disease arising out of the fund member's employment. A disease shall be considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural

incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause; or

(B) a health condition caused by:

(i) an exposure related heart or lung disease; ~~or~~

(ii) an exposure related cancer; **or**

(iii) exposure related Parkinson's disease;

that results in a presumption of disability incurred in the line of duty under IC 5-10-15.

(3) Whether the fund member has a Class 3 impairment. A Class 3 impairment is a covered impairment that is not a Class 1 impairment or a Class 2 impairment.

P.L.60-2009

[S.414. Approved May 1, 2009.]

AN ACT to amend the Indiana Code concerning gaming.

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

SECTION 1. IC 4-32.2-3-4, AS AMENDED BY P.L.227-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The commission has the sole authority to license entities under this article to sell, distribute, or manufacture a licensed supply.

~~(b) Qualified organizations must obtain licensed supplies only from an entity licensed by the commission.~~

~~(c)~~ **(b)** The commission may not limit the number of qualified entities licensed under subsection (a).

~~(d)~~ **(c)** The commission may deny a license to an applicant for a license to sell, manufacture, or distribute licensed supplies if the

commission determines that at least one (1) of the following applies with respect to the applicant:

(1) The applicant has:

(A) violated a local ordinance, a state or federal statute, or an administrative rule or regulation and the violation would cause the commission to determine that the applicant, a key person, or a substantial owner of the applicant is not of good moral character or reputation; or

(B) committed any other act that would negatively impact the integrity of charity gaming in Indiana.

(2) The applicant has engaged in fraud, deceit, or misrepresentation.

(3) The applicant has failed to provide information required by this article or a rule adopted under this article.

SECTION 2. IC 4-32.2-3-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8. A rule adopted under IC 4-22-2 that requires:**

(1) a charity gaming patron to submit; or

(2) a qualified organization to obtain, record, or report; information that is inconsistent with IC 4-32.2-5-5(a), IC 4-32.2-5-24, or IC 4-32.2-10-5 is void.

SECTION 3. IC 4-32.2-5-5, AS AMENDED BY P.L.227-2007, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) A qualified organization shall maintain accurate records of all financial aspects of an allowable event under this article. A qualified organization shall make accurate reports of all financial aspects of an allowable event to the commission within the time established by the commission. The commission may prescribe forms for this purpose. **For purposes of this section, a qualified organization is not required to record the name, signature, driver's license number, or other identifying information of a prize winner unless the qualified organization is required to withhold adjusted gross income tax from the prize winner under IC 6-3-4-8.2(d).**

(b) The commission shall, by rule, require a qualified organization to deposit funds received from an allowable event in a separate and segregated account set up for that purpose. All expenses of the qualified organization with respect to an allowable event shall be paid from the separate account.

~~(b)~~ **(c)** The commission may require a qualified organization to submit any records maintained under this section for an independent audit by a certified public accountant selected by the commission. A qualified organization must bear the cost of any audit required under this section.

SECTION 4. IC 4-32.2-5-13, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. **(a)** An individual may not be an operator for more than ~~one (1)~~ **three (3)** qualified ~~organization~~ **organizations** during a calendar month.

(b) If an individual has previously served as an operator for another qualified organization, the commission may require additional information concerning the proposed operator to satisfy the commission that the individual is a bona fide member of the qualified organization.

SECTION 5. IC 4-32.2-5-14, AS AMENDED BY P.L.95-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) **Except as provided by subsection (c),** an operator or a worker may not directly or indirectly participate, other than in a capacity as an operator or a worker, in an allowable event that the operator or worker is conducting.

(b) A patron at a charity game night may deal the cards in a card game if:

(1) the card game in which the patron deals the cards is a game of euchre;

(2) the patron deals the cards in the manner required in the ordinary course of the game of euchre; and

(3) the euchre game is played under the supervision of the qualified organization conducting the charity game night in accordance with rules adopted by the commission under IC 4-32.2-3-3.

A patron who deals the cards in a euchre game conducted under this subsection is not considered a worker or an operator for purposes of this article.

(c) A worker at a festival event may participate as a player in any gaming activity offered at the festival event except as follows:

(1) A worker may not participate in any game during the time in which the worker is conducting or helping to conduct the

game.

(2) A worker who conducts or helps to conduct a pull tab, punchboard, or tip board event during a festival event may not participate as a player in a pull tab, punchboard, or tip board event conducted on the same calendar day.

SECTION 6. IC 4-32.2-5-16, AS AMENDED BY P.L.227-2007, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) Except as provided in section 12(c) of this chapter and subsection (b), a worker **at an allowable event** must be a member in good standing of ~~a~~ **the** qualified organization that is conducting ~~an~~ **the** allowable event for at least thirty (30) days at the time of the allowable event.

(b) A qualified organization may allow an individual who is not a member of the qualified organization to participate in an allowable event as a worker if the individual is a full-time employee of the qualified organization that is conducting the allowable event; or if:

(1) the individual is a member of another qualified organization; and

(2) the individual's participation is approved by the commission.

A qualified organization may apply to the commission on a form prescribed by the commission for approval of the participation of a nonmember under this subsection. A qualified organization may share the proceeds of an allowable event with the qualified organization in which a worker participating in the allowable event under this subsection is a member. The tasks that will be performed by an individual participating in an allowable event under this subsection and the amounts shared with the individual's qualified organization must be described in the application and approved by the commission.

(c) For purposes of:

(1) the licensing requirements of this article; and

(2) section 9 of this chapter;

a qualified organization that receives a share of the proceeds of an allowable event described in subsection (b) is not considered to be conducting an allowable event.

SECTION 7. IC 4-32.2-5-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 24. (a) Except as provided in subsections (b) and (c), the following apply to an allowable event:**

(1) A charity gaming patron is not required to submit to a qualified organization the patron's name, signature, driver's license number, or other identifying information.

(2) A qualified organization is not required to obtain a patron's name, signature, driver's license number, or other identifying information.

(b) A prize of two hundred fifty dollars ($250) or more may not be awarded to a winner of a pull tab, punchboard, or tip board game unless:

(1) the winner provides the winner's printed name, signature, and date of birth to the qualified organization conducting the pull tab, punchboard, or tip board game; and

(2) the qualified organization verifies the identity of the prize winner using any reasonable means the qualified organization considers necessary.

(c) If a qualified organization is required to report a patron's gambling winnings to the Internal Revenue Service for federal income tax purposes, the winning patron shall provide the qualified organization with the information necessary to comply with all applicable state and federal tax laws.

SECTION 8. IC 4-32.2-5-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **Sec. 25. (a) Except as provided in subsection (b), a qualified organization shall obtain licensed supplies from an entity licensed by the commission as a manufacturer or distributor.**

(b) Subsection (a) does not apply to a reusable licensed supply:

(1) constructed, purchased, or otherwise obtained by a qualified organization before January 1, 2009; or

(2) borrowed at any time from another qualified organization.

SECTION 9. IC 4-32.2-10-5, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. All taxes imposed on a licensed entity under this chapter shall be remitted to the department at the times and as directed by the department. The department is responsible for all administrative functions related to the receipt of funds. The department may require each licensed entity to file with the department reports of the licensed entity's receipts and transactions in the sale of pull tabs,

punchboards, and tip boards. The department shall prescribe the form of the reports and the information to be contained in the reports. **For purposes of this section, a qualified organization is not required to report the name, signature, or driver's license number of a prize winner unless the qualified organization is required to withhold adjusted gross income tax from the prize winner under IC 6-3-4-8.2(d).**

SECTION 10. **An emergency is declared for this act.**

P.L.61-2009
[S.481. Approved May 1, 2009.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-18-2-187.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 187.5. "Indiana birth registration system" or "IBRS", for purposes of IC 16-37, means the electronic system of recording births established under IC 16-37-1-3.1.**

SECTION 2. IC 16-18-2-187.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 187.6. "Indiana death registration system" or "IDRS", for purposes of IC 16-37, means the electronic system of recording deaths established under IC 16-37-1-3.1.**

SECTION 3. IC 16-18-2-276 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 276. "Person in attendance at birth", for purposes of **IC 16-37-1 and** IC 16-37-2, has the meaning set forth in IC 16-37-2-1.

SECTION 4. IC 16-18-2-277 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 277. "Person in charge

of interment", for purposes of **IC 16-37-1 and** IC 16-37-3, has the meaning set forth in IC 16-37-3-2.

SECTION 5. IC 16-37-1-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.1. (a) Beginning January 1, 2011, the state department shall establish the Indiana birth registration system (IBRS) for recording in an electronic format live births in Indiana.**

(b) Beginning January 1, 2011, the state department shall establish the Indiana death registration system (IDRS) for recording in an electronic format deaths in Indiana.

(c) Submission of records on births and deaths shall be entered by:

(1) funeral directors;

(2) physicians;

(3) coroners;

(4) medical examiners;

(5) persons in attendance at birth; and

(6) local health departments;

using the electronic system created by the state department under this section.

(d) A person in attendance at a live birth shall report a birth to the local health officer in accordance with IC 16-37-2-2.

(e) Death records shall be submitted as follows, using the Indiana death registration system:

(1) The person in charge of interment shall initiate the document process and electronically submit the certificate required under IC 16-37-3-5 to the physician last in attendance upon the deceased not later than five (5) days after the death.

(2) The physician last in attendance upon the deceased shall electronically certify to the local health department the cause of death on the certificate of death not later than five (5) days after receiving under IC 16-37-3-5 the electronic notification from the person in charge of interment.

(3) The local health officer shall submit the reports required under IC 16-37-1-5 to the state department not later than five (5) days after electronically receiving under IC 16-37-3-5 the completed certificate of death from the physician last in attendance.

SECTION 6. IC 16-37-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) ~~On the fourth day of each month~~ The local health officer, **on the fourth day of each month,** shall report to the state department concerning the births, deaths, and stillbirths that occurred within the local health officer's jurisdiction within the preceding month. **However, after December 31, 2010, the local health officer, beginning five (5) days after electronically receiving the form required for the Indiana birth registration system or the Indiana death registration system, shall use the Indiana birth registration system and the Indiana death registration system established under section 3.1 of this chapter to report the births and deaths that occur in the local health officer's jurisdiction, and shall report each birth or death to the state department not later than five (5) days after being informed of the birth or death.**

(b) If there are no births, deaths, or stillbirths to report, the local health officer shall indicate that information ~~on a form~~ **each month in a format** prescribed by the state department.

SECTION 7. IC 16-37-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A person in attendance at a live birth shall do the following:

(1) File with the local health officer the following:

(A) A certificate of birth.

(B) Any paternity affidavit executed under section 2.1(c)(1) of this chapter.

However, beginning January 1, 2011, the person in attendance at a live birth shall use the Indiana birth registration system established under IC 16-37-1-3.1 to electronically file a birth certificate or paternity affidavit under this subdivision.

(2) Advise the mother of a child born out of wedlock of:

(A) the availability of paternity affidavits under section 2.1 of this chapter; and

(B) the existence of the putative father registry established by IC 31-19-5-2.

(b) If there was no person in attendance at the birth, one (1) of the parents shall file with the local health officer the following:

(1) A certificate of birth.

(2) Any paternity affidavit executed under section 2.1 of this chapter.

(c) If:

(1) no person was in attendance at the birth and neither parent is able to prepare the certificate; or

(2) the local health officer does not receive a certificate of birth;

the local health officer shall prepare a certificate of birth from information secured from any person who has knowledge of the birth.

(d) A local health department shall inform the Title IV-D agency (as defined in IC 31-9-2-130) regarding each paternity affidavit executed under section 2.1 of this chapter that the local health department receives under this section.

(e) A paternity affidavit executed under section 2.1(c)(1) of this chapter shall be filed with the local health officer not more than five (5) days after the child's birth.

(f) An attorney or agency that arranges an adoption may at any time request that the state department search its records to determine whether a man executed a paternity affidavit under section 2.1 of this chapter in relation to a child who is or may be the subject of an adoption that the attorney or agency is arranging.

(g) Not more than ten (10) days after receiving a request from an attorney or agency under subsection (f), the state department shall submit an affidavit to the attorney or agency verifying whether a paternity affidavit has been filed under this section. If a paternity affidavit has been filed regarding a child who is the subject of a request under subsection (f), the state department shall release a copy of the paternity affidavit to the requesting attorney or agency.

SECTION 8. IC 16-37-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. **(a)** The person in charge of interment shall file a certificate of death or of stillbirth with the local health officer of the jurisdiction in which the death or stillbirth occurred.

(b) Notwithstanding subsection (a), beginning January 1, 2011, the person in charge of interment shall use the Indiana death registration system established under IC 16-37-1-3.1 to file a certificate of death with the local health officer of the jurisdiction in which the death occurred. The local health officer shall retain a copy of the certificate of death.

SECTION 9. IC 16-37-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. **(a)** The person in

charge of interment shall present a certificate of death to the physician last in attendance upon the deceased, who shall certify the cause of death upon the certificate of death or of stillbirth.

(b) Notwithstanding subsection (a), beginning January 1, 2011, using the Indiana death registration system established under IC 16-37-1-3.1, the person in charge of interment shall electronically provide a certificate of death to the physician last in attendance upon the deceased. The physician last in attendance upon the deceased shall electronically certify to the local health department the cause of death on the certificate of death, using the Indiana death registration system.

P.L.62-2009
[S.487. Approved May 1, 2009.]

AN ACT to amend the Indiana Code concerning utilities and transportation.

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

SECTION 1. IC 8-1-2.6-4, AS AMENDED BY P.L.27-2006, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A regulatory flexibility committee is established to monitor competition in the telecommunications industry.

(b) The committee is composed of the members of a house standing committee selected by the speaker of the house of representatives and a senate standing committee selected by the president pro tempore of the senate. In selecting standing committees under this subsection, the speaker and president pro tempore shall determine which standing committee of the house of representatives and the senate, respectively, has subject matter jurisdiction that most closely relates to the electricity, gas, energy policy, and telecommunications jurisdiction of the regulatory flexibility committee. The chairpersons of the standing

committees selected under this subsection shall co-chair the regulatory flexibility committee.

(c) The commission shall, by July 1 of each year, prepare for presentation to the regulatory flexibility committee a report that includes the following:

(1) An analysis of the effects of competition and technological change on universal service and on pricing of all telecommunications services offered in Indiana.

(2) An analysis of the status of competition and technological change in the provision of video service (as defined in IC 8-1-34-14) to Indiana customers, as determined by the commission in carrying out its duties under IC 8-1-34. The commission's analysis under this subdivision must include a description of:

(A) the number of multichannel video programming distributors offering video service to Indiana customers;

(B) the technologies used to provide video service to Indiana customers; and

(C) the effects of competition on the pricing and availability of video service in Indiana.

(3) Beginning with the report due July 1, 2007, and in each report due in an odd-numbered year after July 1, 2007:

(A) an identification of all telecommunications rules and policies that are eliminated by the commission under section 4.1 of this chapter during the two (2) most recent state fiscal years; and

(B) an explanation why the telecommunications rules and policies identified under clause (A) are no longer in the public interest or necessary to protect consumers.

(4) Beginning with the report due July 1, 2010, best practices concerning vertical location of underground facilities for purposes of IC 8-1-26. A report under this subdivision must address the viability and economic feasibility of technologies used to vertically locate underground facilities.

(d) In addition to reviewing the commission report prepared under subsection (c), the regulatory flexibility committee shall also issue a report and recommendations to the legislative council by November 1 of each year that is based on a review of the following issues:

(1) The effects of competition and technological change in the telecommunications industry and impact of competition on available subsidies used to maintain universal service.

(2) The status of modernization of the publicly available telecommunications infrastructure in Indiana and the incentives required to further enhance this infrastructure.

(3) The effects on economic development and educational opportunities of the modernization described in subdivision (2).

(4) The current methods of regulating providers, at both the federal and state levels, and the effectiveness of the methods.

(5) The economic and social effectiveness of current telecommunications service pricing.

(6) All other telecommunications issues the committee deems appropriate.

The report and recommendations issued under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

(e) The regulatory flexibility committee shall meet on the call of the co-chairpersons to study telecommunications issues described in subsection (d). The committee shall, with the approval of the commission, retain the independent consultants the committee considers appropriate to assist the committee in the review and study. The expenses for the consultants shall be paid by the commission.

SECTION 2. IC 8-1-26-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided by this section, this chapter does not apply to the following:

(1) Excavation ~~using only nonpowered hand tools.~~ **that is performed:**

(A) only with a hand tool;

(B) on property owned or controlled by the person performing the excavation; and

(C) to a depth not greater than twelve (12) inches.

(2) Excavation using only animals.

(3) Tilling of soil for agricultural purposes, such as plowing, planting, and combining.

(4) Surface coal mining and reclamation operations conducted under a permit issued by the natural resources commission under IC 14-34.

(5) Railroad right-of-way maintenance or operations.

(6) Underground probing to determine the extent of gas migration.

(b) This chapter does apply to blasting, setting drainage tile, subsoiling, and other subsurface activities.

(c) Sections 16, 19, 20, and 22 of this chapter apply to the construction and installation of railroad signal facilities and drainage facilities at public grade crossings.

SECTION 3. IC 8-1-26-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.3. As used in this chapter, "account" refers to the underground plant protection account established by section 24 of this chapter.**

SECTION 4. IC 8-1-26-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.5. As used in this chapter, "advisory committee" refers to the underground plant protection advisory committee established by section 23 of this chapter.**

SECTION 5. IC 8-1-26-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. As used in this chapter, "association" means an organization **that is:**

(1) formed in Indiana to provide for mutual receipt of notice of excavation or demolition for the organization's **members;** ~~member operators that have underground facilities in Indiana.~~

(2) known as the Indiana Underground Plant Protection Service (or its successor organization); and

(3) accessed by dialing the abbreviated dialing code 811, as designated by the Federal Communications Commission as the nationwide toll free number to be used by state One Call systems.

SECTION 6. IC 8-1-26-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. As used in this chapter, "excavate" means an operation for the movement, placement, or removal of earth, rock, or other materials in or on the ground by use of **tools or** mechanized equipment or by discharge of explosives, including augering, backfilling, **boring,** digging, ditching, drilling, **driving,** grading, **jacking,** plowing in, pulling in, ripping, scraping, trenching, and tunneling.

SECTION 7. IC 8-1-26-7 IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2009]: Sec. 7. As used in this chapter, "facility" means a line or system used for producing, storing, conveying, transmitting, or distributing communication, information, electricity, gas, petroleum, petroleum products, hazardous liquids, **carbon dioxide fluids,** water, steam, or sewerage. **The term includes pipeline facilities.**

SECTION 8. IC 8-1-26-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. As used in this chapter, "operator" means a person who owns or operates an underground facility, **other than an underground facility that:**

(1) is located on real property that the person owns or occupies; and

(2) the person operates for the person's benefits.

SECTION 9. IC 8-1-26-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. As used in this chapter, "person" means an individual, a corporation, a partnership, a limited liability company, an association, or other entity organized under the laws of any state. The term includes state, local, and federal agencies. **The term does not include the association.**

SECTION 10. IC 8-1-26-11.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 11.2. As used in this chapter, "pipeline facilities" has the meaning set forth in IC 8-1-22.5-1(d).**

SECTION 11. IC 8-1-26-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 11.5. As used in this chapter, "white lining" means the act of marking the route or boundary of a proposed excavation or demolition with white paint, flags, or stakes, or a combination of white paint, flags, and stakes.**

SECTION 12. IC 8-1-26-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. ~~(a) This section applies to recordings made with a county recorder before September 1, 2004.~~

~~(b) Except as provided in subsection (c),~~ **(a)** An operator that has underground facilities located in Indiana **must become a member of the association and** shall ~~record with the county recorder of each county in which the facilities are located a list containing~~ **provide the following information to the association:**

(1) The name of each township ~~in the~~ **and** county in which the operator has underground facilities, including those facilities that have been abandoned in place by the operator but not yet physically removed.

(2) The ~~list must include the~~ name of the operator. ~~and~~

(3) The name, title, address, and telephone number of the operator's representative designated to receive the ~~written or telephonic~~ notice of intent required by section 16 of this chapter.

~~(c)~~ **(b)** An operator shall ~~record~~ **report** any changes in the information contained in the list recorded under subsection ~~(b)~~ **(a)** with the ~~county recorder of the county in which these facilities are located~~ **association** within thirty (30) calendar days of the change. The document reflecting the changes shall be cross-referenced to the original ~~list recorded~~ **information reported** under subsection ~~(b).~~ **(a).**

~~(d) The county recorder shall charge a fee in accordance with IC 36-2-7-10.~~

~~(e) An association meeting the requirements of section 17 of this chapter shall be responsible for providing the information required in subsections (b) and (c) for the association's members and shall be responsible for paying the fee contained in subsection (d) for the association's members.~~

(c) A person other than an operator may be a member of the association.

(d) A person that is required, but fails, to maintain membership in the association after December 31, 2009, may be subject to a civil penalty in an amount recommended by the advisory committee and approved by the commission, not to exceed one hundred dollars ($100). Each day that a person that is required, but fails, to maintain membership in the association constitutes a separate violation for purposes of imposing a fine under this subsection.

SECTION 13. IC 8-1-26-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) Except as provided in section 19 of this chapter, before commencing an excavation or demolition operation described in section 14 of this chapter each person responsible for the excavation or demolition ~~must~~ **shall:**

(1) serve ~~written or telephonic~~ notice **on the association of the person's intent** to excavate or demolish; **and**

(2) perform white lining at the site of the excavation or demolition if the person responsible for the excavation or demolition is unable to provide to the association the physical location of the proposed excavation or demolition by one (1) of the following means:

(A) A street address.

(B) A legal description of the location.

(C) A highway location using highway mile markers or cross streets.

The notice **required under subdivision (1)** must be received at least two (2) full working days but not more than twenty (20) calendar days before the commencement of the work. **Upon receiving the notice, the association immediately shall notify each operator that has underground facilities located in the proposed area of excavation or demolition.** ~~However,~~ A person responsible for excavation or demolition may commence work before the elapse of two (2) full working days if all affected operators have notified the person that the location of all the affected operators' facilities have been marked or that the affected operators have no facilities in the location of the proposed excavation or demolition.

~~(b) For a notice served under this section before September 1, 2004, the notice must be served on each operator, or each operator's association, who has recorded a list required by section 15 of this chapter indicating that the operator has underground facilities located in the proposed area of excavation or demolition.~~

~~(c) After August 31, 2004, a notice under this section must be served on the association described in section 17(c) of this chapter.~~ **(b)** A county recorder who receives an inquiry from a person seeking to provide notice of an excavation or a demolition under this section shall refer the person to the association. ~~described in section 17(c) of this chapter.~~ After receiving a notice under this section, the association shall

~~(1) determine whether one (1) or more of the association's members have underground facilities located in the proposed area of excavation or demolition, based on recordings made under section 15 or 15.5 of this chapter; and~~

~~(2)~~ provide notice of the proposed excavation or demolition to ~~any member identified under subdivision (1) as having~~ **each member**

operator that has underground facilities located in the proposed area of excavation or demolition.

~~(d)~~ **(c)** A person responsible for demolition must give an operator a reasonable amount of time, as mutually determined by the operator, the person responsible for demolition, and the project owner, to remove or protect the operator's facilities before demolition of the structure is commenced.

~~(c)~~ **(d)** The ~~written or telephonic~~ notice required by subsection (a) must contain the following information:

(1) The name, address, and telephone number of the person serving the notice, and, if different, the person responsible for the excavation or demolition.

(2) The starting date, anticipated duration, and type of excavation or demolition operation to be conducted.

(3) The location of the proposed excavation or demolition.

(4) Whether or not explosives or blasting are to be used.

(5) The approximate depth of excavation.

(6) Whether the person responsible for the proposed excavation or demolition intends to perform white lining at the site of the proposed excavation or demolition.

(e) The person responsible for the excavation or demolition shall submit a separate locate request along with the notice provided under subsection (d)(3) to the association as follows:

(1) Within an incorporated area, for each one thousand five hundred (1,500) linear feet of proposed excavation or demolition.

(2) In an unincorporated area, for each two thousand five hundred (2,500) linear feet of proposed excavation or demolition.

(f) ~~If the notice required by this section is by telephone,~~ The ~~operator or~~ association shall maintain an adequate record of the notice **required by this section** for ~~three (3)~~ **seven (7)** years to document compliance with this chapter. A copy of the record shall be furnished to the person giving notice to excavate or demolish upon written request. ~~For a notice given by telephone after August 31, 2004, the association described in section 17(c) of this chapter is responsible for maintaining the record of notice required by this subsection.~~

(g) A person that:

(1) causes damage to a pipeline facility located in an area of excavation or demolition;

(2) is required to provide notice under this section for the excavation or demolition; and

(3) fails to provide the notice;

may be subject to a civil penalty in an amount recommended by the advisory committee and approved by the commission, not to exceed ten thousand dollars ($10,000).

(h) A person that:

(1) causes damage to a pipeline facility located in an area of excavation or demolition;

(2) is required to perform white lining under subsection (a)(2); and

(3) fails to perform white lining before an operator of a pipeline facility arrives at the site of the proposed excavation or demolition to mark the operator's pipeline facilities;

may be subject to a civil penalty in an amount recommended by the advisory committee and approved by the commission, not to exceed ten thousand dollars ($10,000).

SECTION 14. IC 8-1-26-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. ~~(a) Before September 1, 2004, operators, in any combination or group, may form and operate an association in Indiana to record for the association's members the information required by section 15 of this chapter and to provide for mutual receipt of notice of excavation or demolition operations under section 16 of this chapter. An association may provide the service on behalf of operators having underground facilities in Indiana and shall record with the county recorder of the county in which those facilities are located the following information:~~

~~(1) The telephone number and address of the association.~~

~~(2) A description of the geographical area served by the association.~~

~~(3) A list of the names and addresses of each operator receiving the service from the association.~~

~~(b) An association formed under this section must have the capability to serve any operator located in Indiana. Associations that qualify under this section include, without limitation, the "One Call" system that is managed by the Indiana Underground Plant Protection~~

~~Service.~~

~~(c) After August 31, 2004,~~ **(a)** An operator that has underground facilities located in Indiana must be a member of the Indiana Underground Plant Protection Service or its successor organization. ~~if~~ The articles of incorporation or the bylaws of the Indiana Underground Plant Protection Service or its successor organization **shall** do the following:

(1) Provide that the board of directors of the Indiana Underground Plant Protection Service or its successor organization is composed of:

(A) five (5) members representing electric utilities other than municipal electric utilities, including corporations organized or operating under IC 8-1-13 or corporations organized under IC 23-17, some of whose members are local district corporations (as described in IC 8-1-13-23);

(B) five (5) members representing investor owned gas utilities, including pipelines;

(C) five (5) members representing telecommunications providers, at least one (1) of whom is a provider of cable television service;

(D) five (5) members representing water or sewer utilities other than municipal water or sewer utilities; and

(E) five (5) members representing political subdivisions, including municipal utilities, which must include the political subdivision that owns the largest waterworks utility in Indiana.

(2) Require the affirmative vote of at least sixty percent (60%) of each category of members ~~in~~ **appointed under** subdivision (1) to approve an increase, a decrease, or any other adjustment to the membership dues, rates, tariffs, locate fees, or any other charges imposed by the Indiana Underground Plant Protection Service or its successor organization.

~~(d)~~ **(b)** The association ~~identified in subsection (c)~~ shall provide ~~the services described in subsection (a) by:~~

~~(1) recording for the association's members the information required by section 15.5 of this chapter; and~~

~~(2) providing~~ for mutual receipt of notice of excavation or demolition operations under section 16 of this chapter.

~~(e)~~ **(c)** The association ~~identified in subsection (c)~~ shall:

(1) annually update the association's ~~grid~~ **base** map data, including street addresses; and

(2) make reasonable efforts to reduce incorrect locate requests issued to the association's members.

(d) The association shall develop and implement guidelines to provide that, for purposes of providing notice to an operator under section 16 of this chapter, the time of receipt of a notice of an intent to excavate or demolish is determined as follows:

(1) For a notice that is received between the hours of 7 a.m. and 6 p.m. on a working day, at the time of receipt.

(2) For a notice that is received after 6 p.m. on a working day and before 7 a.m. on the following working day, at 7 a.m. on the following working day.

SECTION 15. IC 8-1-26-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. (a) Each operator ~~or association~~ notified under section 16 of this chapter shall, in two (2) full working days ~~of~~ **after** receiving the notice of intent provided in section 16 of this chapter, ~~(unless a shorter period is provided by agreement between the person responsible for the excavation or demolition and the operator),~~ supply to the person responsible for the excavation or demolition the following information, using maps when appropriate:

(1) The approximate location and description of all the operator's underground facilities that may be damaged as a result of the excavation or demolition.

(2) The location and description of all facility markers indicating the approximate location of the underground facilities.

(3) Any other information that would assist that person in locating and avoiding damage to the underground facilities, including providing adequate temporary markings indicating the approximate location of the underground facility and locations where permanent facility markers do not exist.

(b) Facility locate markings must consist of paint, flags, or stakes or any combination that mark the approximate location of the underground facilities. **The method of marking must be appropriate for the location of the underground facilities.**

(c) Color coding of facility locate markings indicating the type of underground facility must conform to the following color coding:

Facility and Type of Product	Specific Group Identifying Color
(1) Electric power distribution and transmission	Safety red
(2) Municipal electric systems	Safety red
(3) Gas distribution and transmission	High visibility safety yellow
(4) Oil distribution and transmission	High visibility safety yellow
(5) Dangerous materials, product lines, steam lines	High visibility safety yellow
(6) Telephone and telegraph systems	Safety alert orange
(7) Cable television	Safety alert orange
(8) Police and fire communications	Safety alert orange
(9) Water systems	Safety precaution blue
(10) Sewer systems	Safety green
(11) Proposed excavation	White

(d) Each operator ~~or association~~ notified under section 16 of this chapter shall, within two (2) full working days of receiving the notice of intent provided in section 16 of this chapter, **make a reasonable attempt to** provide notification to the person responsible for the excavation or demolition if the operator has no facilities in the location of the proposed excavation or demolition.

(e) This section does not apply to an operator making an emergency repair to its own underground facility.

(f) This subsection applies if all of the following occur:

(1) An operator of a pipeline facility is required to supply information, including facility locate markings, under subsection (a) to a person responsible for an excavation or demolition.

(2) The operator of the pipeline facility fails to supply the information described in subdivision (1) or provides incorrect facility locate markings.

(3) The operator's pipeline facility is damaged during the excavation or demolition for which the operator was required to supply the information described in subdivision (1).

The operator of the pipeline facility may be subject to a civil penalty in an amount recommended by the advisory committee and approved by the commission, not to exceed one thousand dollars ($1,000).

(g) Subsection (f) does not apply to an operator that:

(1) is repairing its own underground facilities; or

(2) fails to supply required information or provide facility locate markings due to factors beyond the control of the operator.

(h) A person that knowingly moves, removes, damages, or otherwise alters a facility locate marking supplied under this section may be subject to a civil penalty in an amount recommended by the advisory committee and approved by the commission, not to exceed ten thousand dollars ($10,000). This subsection does not apply to a person that moves, removes, damages, or otherwise alters a facility locate marking as part of the excavation or demolition for which the facility locate markings were supplied.

SECTION 16. IC 8-1-26-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 19. **(a)** A person responsible for emergency excavation or demolition to ameliorate an imminent danger to life, health, property, or loss of service is not required to comply with the notice requirements of section 16 of this chapter. However, that person shall:

(1) give, as soon as practicable, oral notice of the emergency excavation or demolition to ~~each operator having underground facilities located in the area or to an~~ **the** association; ~~described in section 17 of this chapter that serves an operator where the excavation or demolition is to be performed;~~ and

(2) request emergency assistance from each operator identified **by the association as having underground facilities located in the area of the emergency excavation or demolition** in locating and

providing immediate protection to the operator's underground facilities.

(b) This section applies to an operator making an emergency repair to its own underground facility.

(c) A person that knowingly provides false notice of an emergency excavation or demolition to the association under subsection (a) may be subject to a civil penalty in an amount recommended by the advisory committee and approved by the commission, not to exceed one thousand dollars ($1,000).

SECTION 17. IC 8-1-26-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20. **(a)** In addition to the notice required in section 16 of this chapter, a person responsible for an excavation or demolition operation under section 14 of this chapter shall do all of the following:

(1) Plan the excavation or demolition to avoid damage to or minimize interference with underground facilities in and near the construction area.

(2) Maintain a clearance between an underground facility, as marked by the operator, and the cutting edge or point of mechanized equipment. The clearance ~~under subdivision (2)~~ must be not less than two (2) feet on either side of the outer limits of the physical plant. However, if the clearance is less than two (2) feet, exposure of the underground facility may be accomplished only by the use of hand excavation, air cutting, or vacuum excavation.

(3) Notify the association if:

(A) there is evidence of an unmarked pipeline facility in the area of the excavation or demolition; or

(B) the markings indicating the location of an underground facility have become illegible.

(b) A person who:

(1) violates subsection (a); and

(2) causes damage to a pipeline facility in the area of the excavation or demolition;

may be subject to a civil penalty in an amount recommended by the advisory committee and approved by the commission, not to exceed ten thousand dollars ($10,000).

SECTION 18. IC 8-1-26-21 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) Except as provided in subsection (b), a person responsible for an excavation or a demolition operation under section 14 of this chapter that results in damage to an underground facility shall:

(1) immediately upon discovery of the damage, notify the operator of the facility **and the association** of the location and nature of the damage; and

(2) allow the operator **of the facility** reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of the facility.

(b) A person responsible for an excavation or a demolition operation under section 14 of this chapter that results in damage to an underground facility permitting the escape of flammable, toxic, or corrosive gas or liquid shall:

(1) immediately upon discovery of the damage, notify the operator **and the association** and local police and fire departments having jurisdiction; and

(2) take other action necessary to protect persons and property and to minimize the hazards until arrival of the operator's personnel or police and fire personnel.

SECTION 19. IC 8-1-26-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 23. (a) The underground plant protection advisory committee is established.**

(b) The advisory committee consists of the following seven (7) members appointed by the governor:

(1) One (1) member representing the association.

(2) One (1) member representing investor owned gas utilities.

(3) One (1) member representing operators of pipeline facilities or pipelines.

(4) One (1) member representing municipal gas utilities.

(5) Two (2) members representing commercial excavators.

(6) One (1) member representing providers of facility locate marking services.

(c) The term of a member is four (4) years. A member of the advisory committee serves at the pleasure of the governor. The governor shall fill a vacancy in the membership of the advisory committee for the unexpired term of the vacating member.

(d) The association and the commission shall provide staff support and meeting space to the advisory committee.

(e) The members of the advisory committee shall elect a chairperson. The advisory committee shall meet at the call of the chairperson.

(f) The affirmative vote of a majority of members appointed under subsection (b) is required to take action.

(g) The pipeline safety division shall investigate alleged violations of this chapter. If the pipeline safety division finds that a person has violated this chapter, the pipeline safety division shall forward its finding to the advisory committee.

(h) The advisory committee shall act in an advisory capacity to the commission concerning the implementation and enforcement of this chapter. In this capacity, and subject to subsections (i) and (j), the advisory committee may recommend the following penalties with respect to persons that the pipeline safety division has found to violate this chapter:

(1) Civil penalties consistent with this chapter.

(2) Participation in education or training programs developed and implemented by the commission.

(3) Warning letters.

(4) Development of a plan to avoid future violations of this chapter.

Before making a recommendation under this subsection, the advisory committee shall provide notice to the person found to be in violation of this chapter of an opportunity to appear before the advisory committee with respect to the violation.

(i) The advisory board may consider the following when making a recommendation under subsection (h):

(1) Whether the person found to be in violation of this chapter is a first time or repeat violator.

(2) Whether the person found to be in violation of this chapter is:

(A) a homeowner or tenant performing excavation or demolition:

(i) on the homeowner's or tenant's residential property; and

(ii) outside an operator's easement or right of way; or

(B) a business entity.

(3) The severity of the violation.

(j) If the advisory committee determines that:

(1) the person found to be in violation of this chapter is a first time violator described in subsection (i)(2)(A); and

(2) the violation did not result in physical harm to a person;

the advisory committee may not recommend a penalty described in subsection (h)(1) or (h)(4).

(k) Upon receiving a recommendation from the advisory committee under subsection (h), and after notice and opportunity for a public hearing, the commission shall do the following as applicable:

(1) Uphold or reverse the finding of a violation by the pipeline safety division under subsection (g).

(2) Approve or disapprove each recommendation of the advisory committee.

(3) Collect any civil penalties and deposit the penalties in the underground plant protection account.

SECTION 20. IC 8-1-26-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 24. (a) The underground plant protection account is established to provide funding for the following programs established and administered by the commission:**

(1) Public awareness programs concerning underground plant protection.

(2) Training and educational programs for contractors, excavators, locators, operators, and other persons involved in underground plant protection.

(3) Incentive programs for contractors, excavators, locators, operators, and other persons involved in underground plant protection to reduce the number of violations of this chapter.

(b) The commission shall administer the account.

(c) The treasurer of state shall invest money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

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

(e) The expenses of administering the account shall be paid from money in the account.

(f) The account consists of penalties deposited under section 23(i) of this chapter.

SECTION 21. IC 8-1-26-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 25. An operator of a pipeline facility that violates this chapter may be subject to a civil penalty imposed by the commission under IC 8-1-22.5 in addition to a penalty or fine imposed under this chapter.**

SECTION 22. IC 8-1-26-26 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 26. The commission shall adopt rules under IC 4-22-2 to carry out its responsibilities under this chapter.**

SECTION 23. IC 8-1-26-15.5 IS REPEALED [EFFECTIVE JULY 1, 2009].

P.L.63-2009

[H.1205. Approved May 1, 2009.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 4-15-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. **(a)** An employee may not be disciplined for absence from work if:

(1) the employee is a member of a volunteer fire department under IC 36-8-12;

(2) the employee has notified ~~his~~ **the employee's** immediate supervisor in writing that ~~he~~ **the employee** is a member of a volunteer fire department;

(3) the employee presents a written statement to ~~his~~ **the employee's** immediate supervisor from the chief or other officer in charge of the volunteer fire department that the employee was

engaged in emergency firefighting activity at the time of ~~his~~ **the employee's** absence from work; and

(4) the employee secures authorization from ~~his~~ **the employee's** supervisor to leave ~~his~~ **the employee's** duty station if the employee has already reported for work.

(b) An employee who:

(1) is a member of a volunteer fire department under IC 36-8-12; and

(2) is injured while the employee is engaged in emergency firefighting or other emergency response;

may not be disciplined as a result of the injury or an absence from work because of the injury if the employee complies with subsections (a) and (c). However, for each instance of emergency firefighting activity or other emergency response that results in an injury to an employee, this subsection applies only to the period of the employee's absence from work that does not exceed six (6) months from the date of the injury.

(c) The immediate supervisor of an employee described in subsection (b) may require the employee to provide evidence from a physician or other medical authority showing:

(1) treatment for the injury at the time of the absence; and

(2) a connection between the injury and the employee's emergency firefighting or other emergency response activities.

(d) To the extent required by federal or state law, information obtained under subsection (c) by an immediate supervisor must be:

(1) retained in a separate medical file created for the employee; and

(2) treated as a confidential medical record.

(e) The state personnel department shall administer an absence from employment under subsection (b) in a manner consistent with the federal Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), as amended and in effect on January 1, 2009.

SECTION 2. IC 36-8-12-10.5, AS AMENDED BY P.L.43-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10.5. (a) This section does not apply to an employee of the state subject to IC 4-15-10-7.

(b) This section applies to an employee of a political subdivision who:

(1) is a volunteer firefighter or volunteer member; and

(2) has notified the employee's employer in writing that the employee is a volunteer firefighter or volunteer member.

(c) The political subdivision employer may not discipline an employee:

(1) for being absent from employment by reason of responding to a fire or emergency call that was received before the time that the employee was to report to employment; ~~or~~

(2) for leaving the employee's duty station to respond to a fire or an emergency call if the employee has secured authorization from the employee's supervisor to leave the duty station in response to a fire or an emergency call received after the employee has reported to work; **or**

(3) for:

(A) an injury; or

(B) an absence from work because of an injury;

that occurs while the employee is engaged in emergency firefighting or other emergency response.

However, for each instance of emergency firefighting activity or other emergency response that results in an injury to an employee, subdivision (3) applies only to the period of the employee's absence from work that does not exceed six (6) months from the date of the injury.

(d) The political subdivision employer may require an employee who has been absent from employment as set forth in subsection ~~(c)(1) or (c)(2)~~ **(c)** to present a written statement from the fire chief or other officer in charge of the volunteer fire department, or officer in charge of the volunteer emergency medical services association, at the time of the absence **or injury** indicating that the employee was engaged in emergency firefighting or emergency activity at the time of the absence **or injury.**

(e) The political subdivision employer may require an employee who is injured or absent from work as described in subsection (c)(3) to provide evidence from a physician or other medical authority showing:

(1) treatment for the injury at the time of the absence; and

(2) a connection between the injury and the employee's emergency firefighting or other emergency response activities.

(f) To the extent required by federal or state law, information obtained under subsection (e) by a political subdivision employer must be:

(1) retained in a separate medical file created for the employee; and

(2) treated as a confidential medical record.

~~(e)~~ **(g)** An employee who is disciplined by the employer in violation of subsection (c) may bring a civil action against the employer in the county of employment. In the action, the employee may seek the following:

(1) Payment of back wages.

(2) Reinstatement to the employee's former position.

(3) Fringe benefits wrongly denied or withdrawn.

(4) Seniority rights wrongly denied or withdrawn.

An action brought under this subsection must be filed within one (1) year after the date of the disciplinary action.

~~(f)~~ **(h)** A public servant who permits or authorizes an employee of a political subdivision under the supervision of the public servant to be absent from employment as set forth in subsection (c) is not considered to have committed a violation of IC 35-44-2-4(b).

SECTION 3. IC 36-8-12-10.7, AS ADDED BY P.L.43-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10.7. (a) This section applies to an employee of a private employer who:

(1) is a volunteer firefighter or volunteer member; and

(2) has notified the employee's employer in writing that the employee is a volunteer firefighter or volunteer member.

(b) Except as provided in subsection (c), the employer may not discipline an employee:

(1) for being absent from employment by reason of responding to a fire or emergency call that was received before the time that the employee was to report to employment; ~~or~~

(2) for leaving the employee's duty station to respond to a fire or emergency call if the employee has secured authorization from the employee's supervisor to leave the duty station in response to a fire or an emergency call received after the employee has reported to work; **or**

(3) for:

(A) an injury; or

(B) an absence from work because of an injury;

that occurs while the employee is engaged in emergency firefighting or other emergency response.

However, for each instance of emergency firefighting activity or other emergency response that results in an injury to an employee, subdivision (3) applies only to the period of the employee's absence from work that does not exceed six (6) months from the date of the injury.

(c) After the employer has received the notice required under subsection (a)(2), the employer may reject the notification from the employee on the grounds that the employee is an essential employee to the employer. If the employer has rejected the notification of the employee:

(1) subsection (b) does not apply to the employee; and

(2) the employee must promptly notify the:

(A) fire chief or other officer in charge of the volunteer fire department; or

(B) the officer in charge of the volunteer emergency medical services association;

of the rejection of the notice of the employee who is a volunteer firefighter or a volunteer member.

(d) The employer may require an employee who has been absent from employment as set forth in subsection (b) to present a written statement from the fire chief or other officer in charge of the volunteer fire department, or officer in charge of the emergency medical services association, at the time of the absence **or injury** indicating that the employee was engaged in emergency firefighting or emergency activity at the time of the absence **or injury.**

(e) The employer may require an employee who is injured or absent from work as described in subsection (b)(3) to provide evidence from a physician or other medical authority showing:

(1) treatment for the injury at the time of the absence; and

(2) a connection between the injury and the employee's emergency firefighting or other emergency response activities.

(f) To the extent required by federal or state law, information obtained under subsection (e) by an employer must be:

(1) retained in a separate medical file created for the

employee; and

(2) treated as a confidential medical record.

SECTION 4. IC 36-8-12-10.9, AS ADDED BY P.L.43-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10.9. (a) The employer may require an employee who will be absent from employment as set forth in:

(1) section 10.5(c)(1); or

(2) section 10.7(b)(1);

of this chapter to notify the employer before the scheduled start time for the absence from employment to be excused by the employer.

(b) The employer is not required to pay salary or wages to an employee who has been absent from employment as set forth in section 10.5(c) or 10.7(b) of this chapter for the time away from the employee's duty station. The employee may seek remuneration for the absence from employment by the use of:

(1) vacation leave;

(2) personal time; ~~or~~

(3) compensatory time off; **or**

(4) in the case of an absence from employment as set forth in section 10.5(c)(3) or 10.7(b)(3) of this chapter, sick leave.

(c) An employer shall administer an absence from employment as set forth in section 10.5(c)(3) or 10.7(b)(3) in a manner consistent with the federal Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), as amended and in effect on January 1, 2009.

P.L.64-2009
[H.1219. Approved May 1, 2009.]

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

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

SECTION 1. IC 26-3-7-2, AS AMENDED BY P.L.2-2008, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. The following definitions apply throughout this chapter:

(1) "Agency" refers to the Indiana grain buyers and warehouse licensing agency established under section 1 of this chapter.

(2) "Anniversary date" means the date that is ninety (90) calendar days after the fiscal year end of a business licensed under this chapter.

(3) "Bin" means a bin, tank, interstice, or other container in a warehouse in which bulk grain may be stored.

(4) "Buyer-warehouse" means a person that operates both as a warehouse licensed under this chapter and as a grain buyer.

(5) "Claimant" means a person that is unable to secure satisfaction of the financial obligations due from a licensee under this chapter for grain that has been delivered to the licensee for sale or for storage under a bailment.

(6) "Deferred pricing" or "price later" means a purchase by a buyer in which title to the grain passes to the buyer and the price to be paid to the seller is not determined:

(A) at the time the grain is received by the buyer; or

(B) within ten (10) days of receipt.

(7) "Depositor" means any of the following:

(A) A person that delivers grain to a licensee under this chapter for storage or sale.

(B) A person that:

(i) owns or is the legal holder of a ticket or receipt issued by a licensee for grain received by the licensee; and

(ii) is the creditor of the issuing licensee for the value of the grain received in return for the ticket or receipt.

(C) A licensee that stores grain that the licensee owns solely, jointly, or in common with others in a warehouse owned or controlled by the licensee or another licensee.

(8) "Designated representative" means the person or persons designated by the director to act instead of the director in assisting in the administration of this chapter.

(9) "Director" means the director of the Indiana grain buyers and warehouse licensing agency appointed under section 1 of this chapter.

(10) "Facility" means a location or one (1) of several locations in Indiana that are operated as a warehouse or by a grain buyer.(11) "Failure" means any of the following:

(A) The inability of a licensee to financially satisfy claimants.

(B) Public declaration of a licensee's insolvency.

(C) Revocation or suspension of a licensee's license, if the licensee has outstanding indebtedness owed to claimants.

(D) Nonpayment of a licensee's debts in the ordinary course of business, if there is not a good faith dispute.

(E) Voluntary surrender of a licensee's license, if the licensee has outstanding indebtedness to claimants.

(12) "Grain" means corn for all uses, popcorn, wheat, oats, barley, rye, sorghum, soybeans, oil seeds, other agricultural commodities as approved by the agency, and seed as defined in this section. The term does not include canning crops for processing, sweet corn, or flint corn.

(13) "Grain assets" means any of the following:

(A) All grain owned or stored by a licensee, including grain that:

(i) is in transit following shipment by a licensee; and

(ii) has not been paid for.

(B) All proceeds, due or to become due, from the sale of a licensee's grain.

(C) Equity, less any secured financing directly associated with the equity, in hedging or speculative margin accounts of a

licensee held by a commodity or security exchange, or a dealer representing a commodity or security exchange, and any money due the licensee from transactions on the exchange, less any secured financing directly associated with the money due the licensee from the transactions on the exchange.

(D) Any other unencumbered funds, property, or equity in funds or property, wherever located, that can be directly traced to the sale of grain by a licensee. However, funds, property, or equity in funds or property may not be considered encumbered unless:

(i) the encumbrance results from valuable consideration paid to the licensee in good faith by a secured party; and

(ii) the encumbrance did not result from the licensee posting the funds, property, or equity in funds or property as additional collateral for an antecedent debt.

(E) Any other unencumbered funds, property, or equity in assets of the licensee.

(14) "Grain bank grain" means grain owned by a depositor for use in the formulation of feed and stored by the warehouse to be returned to the depositor on demand.

(15) "Grain buyer" means a person who is engaged in the business of buying grain from producers. The term does not include a buyer of grain who:

(A) buys less than fifty thousand (50,000) bushels of grain annually;

(B) buys grain for the sole purpose of feeding the person's own livestock or poultry and derives a major portion of the person's income from selling that livestock or poultry; or

(C) does not offer storage, deferred pricing, delayed payment, or contracts or other instruments that are linked to the commodity futures or commodity options market.

(16) "Grain standards act" means the United States Grain Standards Act, approved August 11, 1916 (39 Stat. 482; 7 U.S.C. 71-87 as amended).

(17) "License" means a license issued under this chapter.

(18) "Official grain standards of the United States" means the standards of quality or condition for grain, fixed and established by the secretary of agriculture under the grain standards act.

(19) "Person" means an individual, partnership, corporation, association, or other form of business enterprise.

(20) "Receipt" means a warehouse receipt issued by a warehouse licensed under this chapter.

(21) "Seed", notwithstanding IC 15-15-1, means grain set apart to be used primarily for the purpose of producing new plants.

(22) "Ticket" means a scale weight ticket, a load slip, or other evidence, other than a receipt, given to a depositor upon initial delivery of grain to a facility.

(23) "Warehouse act" means the United States Warehouse Act, approved August 11, 1916 (39 Stat. 486; 7 U.S.C. 241-273 as amended).

(24) "Warehouse" ~~means a person that operates a facility or group of facilities in which grain is or may be stored for hire or which is used for grain bank storage and which is operated under one (1) ownership and run from a single office.~~ **means any building or other protected enclosure in one (1) general location licensed or required to be licensed under this chapter in which grain is or may be:**

(A) stored for hire;

(B) used for grain bank storage; or

(C) used to store company owned grain;

and the building or other protected enclosure is operated under one (1) ownership and run from a single office.

(25) "Warehouse operator" means a person that operates a facility or group of facilities in which grain is or may be stored for hire or which is used for grain bank storage and which is operated under one (1) ownership and run from a single office.

SECTION 2. IC 26-3-7-2.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.2. For purposes of determining whether a building or other protected enclosure constitutes a single warehouse that requires a single license under this chapter, the director may consider the following:**

(1) The presence of a full weighing facility at geographically diverse warehouse facilities.

(2) The traditional method of record keeping with respect to

the separate facilities.

(3) The hours, number of personnel, and activities of the separate facilities.

(4) Any other factor considered relevant.

In the absence of contradictory information, any warehouses owned and operated by the same person that are located within close proximity of each other are presumed to constitute a single warehouse.

SECTION 3. IC 26-3-7-4.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4.1. (a) The agency shall mail by first class mail a renewal application, which must include a listing of all the licensee's facilities, to each licensee before the end of the licensee's fiscal year. The renewal application form must be completed and returned to the agency not later than ninety (90) days after the end of the licensee's fiscal year. The licensee must forward, with the renewal application, the following:**

(1) Current reviewed level financial statement.

(2) Updated financial profile form supplied by the agency.

(3) Appropriate license fee.

(b) A renewal application must contain the information as required under rules adopted by the agency. The licensee shall receive an annual renewal license application form appropriate to the license issued to the licensee. The annual renewal license application forms are for a:

(1) grain bank;

(2) warehouse;

(3) grain buyer; or

(4) buyer-warehouse.

SECTION 4. IC 26-3-7-6, AS AMENDED BY P.L.207-2007, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The agency may issue the following licenses:

(1) A grain bank license may be issued to a person that:

(A) stores only grain bank grain;

(B) has a storage capacity of not more than fifty thousand (50,000) bushels of grain; and

(C) purchases less than fifty thousand (50,000) bushels of

grain per year.

(2) A warehouse license may be issued to a person that:

(A) stores grain for hire; and

(B) purchases less than fifty thousand (50,000) bushels of grain per year.

(3) A grain buyer license may be issued to a person that:

(A) purchases annually at least fifty thousand (50,000) bushels of grain that are not for the sole purpose of feeding the person's own livestock or poultry;

(B) does not store grain for hire; and

(C) offers deferred pricing, delayed payments, or contracts linked to the commodity futures or commodity options market in connection with grain purchases.

(4) A buyer-warehouse license may be issued to a person that operates both as a warehouse and as a grain buyer.

(b) An applicant shall file with the director a separate application for each license or amendment of a license at the times, on the forms, and containing the information that the director prescribes.

(c) An initial application for a license must be accompanied by a license fee as follows:

(1) For a grain bank or for a warehouse or buyer-warehouse with a storage capacity of less than two hundred fifty thousand (250,000) bushels, two hundred fifty dollars ($250) for the first facility and fifty dollars ($50) for each additional facility.

(2) For a warehouse or a buyer-warehouse with a storage capacity of at least two hundred fifty thousand (250,000) bushels but less than one million (1,000,000) bushels, five hundred dollars ($500) for the first facility and fifty dollars ($50) for each additional facility.

(3) For a warehouse or a buyer-warehouse with a storage capacity of at least one million (1,000,000) bushels but less than ten million (10,000,000) bushels, seven hundred fifty dollars ($750) for the first facility and fifty dollars ($50) for each additional facility.

(4) For a warehouse or buyer-warehouse with a storage capacity greater than ten million (10,000,000) bushels, one thousand dollars ($1,000) for the first facility and fifty dollars ($50) for each additional facility.

(5) For a grain buyer**,** including a grain buyer that is also licensed as a warehouse under the warehouse act, five hundred dollars ($500) for the first facility and fifty dollars ($50) for each additional facility.

The director may prorate the initial application fee for a license that is issued at least thirty (30) days after the anniversary date of the licensee's business.

(d) Before the anniversary date of the license, the licensee shall pay an annual fee in an amount equal to the amount required under subsection (c). **The director may prorate the annual application fee for a license that is modified at least thirty (30) days after the anniversary date of the licensee's license.**

(e) A licensee or an applicant for an initial license must have a minimum current asset to current liability ratio of one to one (1:1) or better.

(f) An applicant for an initial license shall submit with the person's application a review level financial statement or better financial statement that reflects the applicant's financial situation on a date not more than fifteen (15) months before the date on which the application is submitted. ~~Not more than ninety (90) days after the end of a licensee's fiscal year, the licensee shall file with the agency a current review level financial statement or better financial statement that reflects the licensee's financial situation for the fiscal year just ended.~~ A financial statement submitted under this section must:

(1) be prepared by an independent accountant certified under IC 25-2.1;

(2) comply with generally accepted accounting principles; and

(3) contain:

(A) an income statement;

(B) a balance sheet;

(C) a statement of cash flow;

(D) a statement of retained earnings;

(E) the preparer's notes; and

(F) other information the agency may require.

The director may adopt rules under IC 4-22-2 to allow the agency to accept other substantial supporting documents instead of those listed to determine the financial solvency of the applicant if the director determines that providing the listed documents creates a financial or

other hardship on the applicant or licensee.

(g) An application for a license implies a consent to be inspected.

(h) A person that:

(1) does not operate a facility used to store grain for hire;

(2) purchases:

(A) less than fifty thousand (50,000) bushels of grain per year; or

(B) only grain used for the production of the person's own livestock or poultry; and

(3) does not purchase grain by:

(A) offering deferred pricing;

(B) offering delayed payment; or

(C) offering other contracts;

that are linked to the commodity futures or commodity options market;

is not required to be licensed.

(i) Fees collected under this section shall be deposited in the grain buyers and warehouse licensing agency license fee fund established by section 6.3 of this chapter.

SECTION 5. IC 26-3-7-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6.1. (a) Not more than ninety (90) days after the end of a licensee's fiscal year, the licensee shall file with the agency a current review level financial statement or better financial statement that reflects the licensee's financial situation for the previous fiscal year. A financial statement submitted under this section must:**

(1) be prepared by an independent accountant certified under IC 25-2.1;

(2) comply with generally accepted accounting principles; and

(3) contain:

(A) an income statement;

(B) a balance sheet;

(C) a statement of cash flow;

(D) a statement of retained earnings;

(E) the preparer's notes; and

(F) other information the agency requires.

The director may adopt rules under IC 4-22-2 to allow the agency

to accept other substantial supporting documents instead of those listed to determine the financial solvency of the applicant if the director determines that providing the listed documents creates a financial or other hardship on the applicant or licensee.

(b) If the licensee has failed to timely file the financial statement as required in subsection (a), the agency may assess a fine as follows:

(1) Twenty percent (20%) of the licensee's renewal fee for a financial statement that is at least one (1) and less than sixteen (16) days late.

(2) Forty percent (40%) of the licensee's renewal fee for a financial statement that is more than fifteen (15) and less than thirty-one (31) days late.

(3) Sixty percent (60%) of the licensee's renewal fee for a financial statement that is more than thirty (30) and less than forty-six (46) days late.

(4) Eighty percent (80%) of the licensee's renewal fee for a financial statement that is more than forty-five (45) and less than sixty-one (61) days late.

(5) One hundred percent (100%) of the licensee's renewal fee for a financial statement that is more than sixty (60) days late.

SECTION 6. IC 26-3-7-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.5. **The names and respective counties of licensees may be disclosed.** Unless in accordance with a judicial order, the director, the agency, its counsel, auditors, or its other employees or agents shall not divulge any **other** information disclosed by the applications or reports filed or inspections performed under the provisions of this chapter, except to agents and employees of the agency or to any other legal representative of the state or federal government otherwise empowered to see or review the information. The director may disclose the information only in the form of an information summary or profile, or statistical study based upon data provided with respect to more than one (1) warehouse, grain buyer, or buyer-warehouse that does not identify the warehouse, grain buyer, or buyer-warehouse to which the information applies.

SECTION 7. IC 26-3-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) The minimum amount of bond, letter of credit, or cash deposit required from a

licensee is as follows:

(1) For a grain bank license or a warehouse license:

(A) ten thousand dollars ($10,000); and

(B) ten cents ($0.10) multiplied by the licensed bushel storage capacity of the grain bank or warehouse.

(2) For a grain buyer, including a grain buyer that is also a licensee under the warehouse act:

(A) ten thousand dollars ($10,000); or

(B) five-tenths percent (0.5%) of the total amount the grain buyer paid for grain purchased from producers during the grain buyer's most recent fiscal year;

whichever is greater.

(3) For a buyer-warehouse:

(A) an amount equal to the sum of:

(i) ten thousand dollars ($10,000); and

(ii) ten cents ($0.10) multiplied by the licensed bushel storage capacity of the buyer-warehouse's facility; or

(B) five-tenths percent (0.5%) of the total amount the buyer-warehouse paid for grain purchased from producers during the buyer-warehouse's most recent fiscal year;

whichever is greater.

(b) Except as provided in subsections (g) and (h), the amount of bond, letter of credit, or cash deposit required by this chapter may not exceed one hundred thousand dollars ($100,000) per license and may not exceed a total of five hundred thousand dollars ($500,000) per person.

(c) The licensed bushel storage capacity is the maximum number of bushels of grain that the licensee's facility could accommodate as determined by the director or the director's designated representative and shall be increased or reduced in accordance with the amount of space being used for storage from time to time.

(d) Instead of a bond or cash deposit, an irrevocable letter of credit in the prescribed amount may be provided with the director as the beneficiary. The director shall adopt rules under IC 4-22-2 to establish acceptable form, substance, terms, and conditions for letters of credit. The director may not release a party from the obligations of the letter of credit within eighteen (18) months of the termination of the licensee's license.

(e) The director shall adopt rules under IC 4-22-2 to provide for the receipt and retention of cash deposits. However, the director shall not return a cash deposit to a licensee until the director has taken reasonable precautions to assure that the licensee's obligations and liabilities have been or will be met.

(f) If a person is licensed or is applying for licenses to operate two (2) or more facilities in Indiana, the person may give a single bond, letter of credit, or cash deposit to satisfy the requirements of this chapter and the rules adopted under this chapter to cover all the person's facilities in Indiana.

(g) If a licensee has a deficiency in the minimum positive net worth required under section 16(a)(2)(B), 16(a)(3)(B), 16(a)(4)(B), or 16(a)(5)(B) of this chapter, the licensee shall add to the amount of bond, letter of credit, or cash deposit determined under subsection (a) an amount equal to the deficiency **or provide another form of surety as permitted under the rules of the agency.**

(h) Except as provided in subsections (i) and (j), a licensee may not correct a deficiency in the minimum positive net worth required by section 16(a)(1), 16(a)(2)(A), 16(a)(3)(A), 16(a)(4)(A), or 16(a)(5)(A) of this chapter by adding to the amount of bond, letter of credit, or cash deposit required by subsection (a).

(i) A buyer-warehouse that has a bushel storage capacity of less than one million (1,000,000) bushels or purchases less than one million (1,000,000) bushels of grain per year may correct a deficiency in minimum positive net worth by adding to the amount of bond, letter of credit, or cash deposit determined under subsection (a) if the buyer-warehouse has a minimum positive net worth of at least fifteen thousand dollars ($15,000), not including the amount added to the bond, letter of credit, or cash deposit.

(j) A buyer-warehouse that has a bushel storage capacity of at least one million (1,000,000) bushels, or purchases at least one million (1,000,000) bushels of grain per year, may correct a deficiency in minimum positive net worth by adding to the amount of bond, letter of credit, or cash deposit determined under subsection (a) if the buyer-warehouse has a minimum positive net worth of at least fifty thousand dollars ($50,000), not including the amount added to the bond, letter of credit, or cash deposit.

(k) If the director or the director's designated representative finds

that conditions exist that warrant requiring additional bond or cash deposit, there shall be added to the amount of bond or cash deposit as determined under the other provisions of this section, a further amount to meet the conditions.

(l) The director may accept, instead of a single cash deposit, letter of credit, or bond, a deposit consisting of any combination of cash deposits, letters of credit, or bonds in an amount equal to the licensee's obligation under this chapter. The director shall adopt rules under IC 4-22-2 to establish standards for determining the order in which the forms of security on deposit must be used to pay proven claims if the licensee defaults.

(m) The director may require additional bonding that the director considers necessary.

SECTION 8. IC 26-3-7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) A licensee shall have and maintain a current asset to current liability ratio of one to one (1:1) and shall maintain, as evidenced by the financial statement required by section 6 of this chapter, the following minimum positive net worth:

(1) For a grain bank, minimum positive net worth is at least ten thousand dollars ($10,000).

(2) For a warehouse, minimum positive net worth is at least equal to the sum of:

(A) fifteen thousand dollars ($15,000); and

(B) ten cents ($0.10) multiplied by the bushel storage capacity of the warehouse.

(3) For a grain buyer, minimum positive net worth is:

(A) ten thousand dollars ($10,000); or

(B) five cents ($0.05) multiplied by the total number of bushels of grain purchased by the grain buyer during the grain buyer's most recent fiscal year;

whichever is greater.

(4) For a buyer-warehouse that has a bushel storage capacity of less than one million (1,000,000) bushels or purchases less than one million (1,000,000) bushels of grain per year, minimum positive net worth is:

(A) the sum of:

(i) fifteen thousand dollars ($15,000); and

(ii) ten cents ($0.10) multiplied by the bushel storage capacity of the buyer-warehouse; or

(B) five cents ($0.05) multiplied by the total number of bushels of grain purchased by the buyer-warehouse during the buyer-warehouse's most recent fiscal year;

whichever is greater.

(5) For a buyer-warehouse that has a bushel storage capacity of at least one million (1,000,000) bushels or purchases at least one million (1,000,000) bushels of grain per year, minimum positive net worth is:

(A) the sum of:

(i) fifty thousand dollars ($50,000); and

(ii) ten cents ($0.10) multiplied by the bushel storage capacity of the buyer-warehouse; or

(B) five cents ($0.05) multiplied by the total number of bushels of grain purchased by the buyer-warehouse during the buyer-warehouse's most recent fiscal year;

whichever is greater.

(b) Except as provided in section 10 of this chapter, if a licensee is required to show additional net worth to comply with this section, the licensee may satisfy the requirement by adding to the amount of the bond, letter of credit, or cash deposit required under section 10 of this chapter an amount equal to the additional net worth required **or provide another form of surety as permitted under the rules of the agency.**

(c) The director may adopt rules under IC 4-22-2 to provide that a narrative market appraisal that demonstrates assets sufficient to comply with this section may satisfy the minimum positive net worth requirement.

SECTION 9. IC 26-3-7-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 30. All receipt forms shall be supplied by the director except where the director, in writing, approves the form and gives permission to a ~~warehouseman~~ **warehouse operator** to have receipts printed. Requests for receipts shall be on forms furnished by the director and shall be accompanied by payment to cover the estimated cost of printing, packaging, and shipping, as determined by the director. Where privately printed, the printer shall furnish the director an affidavit showing the amount of the receipts

printed, and the serial numbers thereof. All receipts remaining unused shall be recovered by the director or the director's designated representative if the license required by this chapter is terminated or suspended.

P.L.65-2009
[H.1343. Approved May 1, 2009.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-20-37 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 37. Dropout Prevention

Sec. 1. As used in this chapter, "fund" refers to the dropout prevention program fund established by section 3 of this chapter.

Sec. 2. As used in this chapter, "program" refers to a dropout prevention program established by a school corporation.

Sec. 3. (a) The dropout prevention program fund is established to provide:

(1) money for the department; and

(2) grants to school corporations or a local nonprofit fiscal agent acting as intermediary on behalf of multiple school corporations;

to establish and operate programs to identify students who are at risk of dropping out of school and to provide appropriate interventions for those students.

(b) The department shall administer the fund.

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

(d) The fund consists of:

(1) gifts, donations, and bequests;

(2) appropriations from the general assembly;

(3) grants, including federal grants and grants from private entities;

(4) income derived from investing the assets of the fund;

(5) funds from any other source; and

(6) a combination of the resources described in subdivisions (1), (2), (3), (4), and (5).

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

(f) Money in the fund from sources other than state appropriations at the end of a state fiscal year does not revert to the state general fund.

Sec. 4. The department may use money from the fund to provide assistance to school corporations in:

(1) identifying students who are at risk of dropping out of school; and

(2) developing strategies and appropriate interventions to prevent identified students from dropping out of school.

Sec. 5. (a) To be eligible for a grant under this chapter, a school corporation or two (2) or more school corporations under a joint agreement must submit, before the application deadline, a properly completed grant application provided by the department.

(b) The applying school corporation must include at least the following information in the school corporation's application:

(1) A detailed description of the proposed program.

(2) The extent to which the applying school corporation intends to include appropriate community resources not directly affiliated with the applying school corporation in the program.

(3) The estimated cost of implementing the program.

(4) Documented support for the program by the superintendent of each participating school corporation.

(5) The goals established for increasing the graduation rate and decreasing the dropout rate in each participating school corporation.

(6) Accurate baseline data on the graduation rate and dropout rate for each participating school corporation for the

preceding three (3) consecutive years.

(7) Accountability metrics for the program that demonstrate how the program's success is measured. Metrics may include the following:

(A) Attendance and truancy rates of at-risk student populations.

(B) Course credits earned by at-risk students.

(C) The number of students who are on schedule to complete high school within four (4) years.

(8) Any other pertinent information required by the department.

Sec. 6. The department shall approve a program based on at least the following criteria:

(1) The relative need for the establishment of a dropout prevention program as outlined by the applying school corporation.

(2) The overall quality of the applying school corporation's program proposal, including the extent to which the applying school corporation demonstrates a willingness to include as a part of the program appropriate community resources not directly affiliated with the applying school corporation.

(3) The availability of money in the fund.

Sec. 7. (a) Not later than June 1 of each school year, each participating school corporation shall submit to the department a written report, on forms developed by the department, outlining the activities undertaken as part of the school corporation's program.

(b) Not later than November 1 of each year, the department shall submit a comprehensive report to the governor and the general assembly on dropout prevention programs, including the department's conclusions on the impact of different types of programs in increasing the graduation rate in a school corporation. A report submitted under this subsection to the general assembly must be in an electronic format under IC 5-14-6.

P.L.66-2009
[H.1419. Approved May 1, 2009.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-26-5-32 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 32. The governing body of each school corporation shall work with parents to:**

(1) develop; and

(2) review periodically;

an evidence based plan for improving student behavior and discipline in the school corporation after receiving a model plan developed by the department.

SECTION 2. IC 20-31-5-6, AS ADDED BY P.L.1-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) A plan must contain the following components for the school:

(1) A list of the statutes and rules that the school wishes to have suspended from operation for the school.

(2) A description of the curriculum and information concerning the location of a copy of the curriculum that is available for inspection by members of the public.

(3) A description and name of the assessments that will be used in the school in addition to ISTEP program assessments.

(4) A plan to be submitted to the governing body and made available to all interested members of the public in an easily understood format.

(5) A provision to maximize parental participation in the school, which may include providing parents with:

(A) access to learning aids to assist students with school work at home;

(B) information on home study techniques; and

(C) access to school resources.

(6) For a secondary school, a provision to do the following:

(A) Offer courses that allow all students to become eligible to receive an academic honors diploma.

(B) Encourage all students to earn an academic honors diploma or complete the Core 40 curriculum.

(7) A provision to maintain a safe and disciplined learning environment for students and teachers **that complies with the governing body's plan for improving student behavior and discipline developed under IC 20-26-5-32.**

(8) A provision for the coordination of technology initiatives and ongoing professional development activities.

(b) If, for a purpose other than a plan under this chapter, a school has developed materials that are substantially similar to a component listed in subsection (a), the school may substitute those materials for the component listed in subsection (a).

SECTION 3. IC 20-33-8-12, AS ADDED BY P.L.242-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) **Except as provided under IC 20-33-8-16,** the governing body of a school corporation must do the following:

(1) Establish written discipline rules, which **must include a graduated system of discipline and** may include:

(A) appropriate dress codes; and

(B) if applicable, an agreement for court assisted resolution of school suspension and expulsion cases;

for the school corporation.

(2) Give general publicity to the discipline rules within a school where the discipline rules apply by actions such as:

(A) making a copy of the discipline rules available to students and students' parents; or

(B) delivering a copy of the discipline rules to students or the parents of students.

This publicity requirement may not be construed technically and is satisfied if the school corporation makes a good faith effort to disseminate to students or parents generally the text or substance of a discipline rule.

(b) The:

(1) superintendent of a school corporation; and

(2) principals of each school in a school corporation;

may adopt regulations establishing lines of responsibility and related guidelines in compliance with the discipline policies of the governing body.

(c) The governing body of a school corporation may delegate:

(1) rulemaking;

(2) disciplinary; and

(3) other authority;

as reasonably necessary to carry out the school purposes of the school corporation.

(d) Subsection (a) does not apply to rules or directions concerning the following:

(1) Movement of students.

(2) Movement or parking of vehicles.

(3) Day to day instructions concerning the operation of a classroom or teaching station.

(4) Time for commencement of school.

(5) Other standards or regulations relating to the manner in which an educational function must be administered.

However, this subsection does not prohibit the governing body from regulating the areas listed in this subsection.

SECTION 4. IC 20-33-8-25, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 25. (a) This section applies to an individual who:

(1) is a member of the administrative staff, a teacher, or other school staff member; and

(2) has students under the individual's charge.

(b) An individual may take disciplinary action **instead of or** in addition to suspension and expulsion that is necessary to ensure a safe, orderly, and effective educational environment. Disciplinary action under this section may include the following:

(1) Counseling with a student or group of students.

(2) Conferences with a parent or group of parents.

(3) Assigning additional work.

(4) Rearranging class schedules.

(5) Requiring a student to remain in school after regular school hours:

(A) to do additional school work; or

(B) for counseling.

(6) Restricting extracurricular activities.

(7) Removal of a student by a teacher from that teacher's class for a period not to exceed:

(A) five (5) class periods for middle, junior high, or high school students; or

(B) one (1) school day for elementary school students;

if the student is assigned regular or additional school work to complete in another school setting.

(8) Assignment by the principal of:

(A) a special course of study;

(B) an alternative educational program; or

(C) an alternative school.

(9) Assignment by the principal of the school where the recipient of the disciplinary action is enrolled of not more than one hundred twenty (120) hours of service with a nonprofit organization operating in or near the community where the school is located or where the student resides. The following apply to service assigned under this subdivision:

(A) A principal may not assign a student under this subdivision unless the student's parent approves:

(i) the nonprofit organization where the student is assigned; and

(ii) the plan described in clause (B)(i).

A student's parent may request or suggest that the principal assign the student under this subdivision.

(B) The principal shall make arrangements for the student's service with the nonprofit organization. Arrangements must include the following:

(i) A plan for the service that the student is expected to perform.

(ii) A description of the obligations of the nonprofit organization to the student, the student's parents, and the school corporation where the student is enrolled.

(iii) Monitoring of the student's performance of service by the principal or the principal's designee.

(iv) Periodic reports from the nonprofit organization to the

principal and the student's parent or guardian of the student's performance of the service.

(C) The nonprofit organization must obtain liability insurance in the amount and of the type specified by the school corporation where the student is enrolled that is sufficient to cover liabilities that may be incurred by a student who performs service under this subdivision.

(D) Assignment of service under this subdivision suspends the implementation of a student's suspension or expulsion. A student's completion of service assigned under this subdivision to the satisfaction of the principal and the nonprofit organization terminates the student's suspension or expulsion.

(10) Removal of a student from school sponsored transportation.

(11) Referral to the juvenile court having jurisdiction over the student.

(c) As used in this subsection, "physical assault" means the knowing or intentional touching of another person in a rude, insolent, or angry manner. When a student physically assaults a person having authority over the student, the principal of the school where the student is enrolled shall refer the student to the juvenile court having jurisdiction over the student. However, a student with disabilities (as defined in IC 20-35-7-7) who physically assaults a person having authority over the student is subject to procedural safeguards under 20 U.S.C. 1415.

SECTION 5. [EFFECTIVE JULY 1, 2009] **(a) As used in this SECTION, "department" refers to the department of education established by IC 20-19-3-1.**

(b) Not later than June 1, 2010, the department shall develop and make available to school corporations a model evidence based plan for improving discipline and behavior within schools. The department shall consult with the division of child services, the division of mental health and addiction, parent organizations, and state educational institutions in developing a model plan.

(c) A model plan developed under subsection (b) must include guidelines for accomplishing the following results:

(1) Improving safe school planning and classroom management using positive behavioral supports, parental involvement, and other effective disciplinary tools.

(2) Providing improved mental health services in or through schools.

(3) Reviewing zero tolerance policies to ensure:

(A) compliance with applicable laws; and

(B) that students are not inappropriately referred to juvenile justice agencies.

(4) Providing assistance to parents concerning access to family strengthening programs.

(5) Improving communication, coordination, and collaboration among schools, including special education programs, parents, and juvenile justice agencies.

(6) Improving methods and procedures for school suspensions and referrals to alternative schools.

(7) Providing for the collection, review, and reporting on an annual basis of school behavioral and disciplinary problems, arrests, and referrals to the juvenile justice system, disaggregated on the basis of race and ethnicity, under guidelines for determining the existence of disproportionality in discipline or inappropriately high rates of suspension or expulsion.

(d) Not later than July 1, 2011, a governing body must work with parents to develop and submit to the department a plan for improving behavior and discipline in the school corporation after receiving a model plan developed by the department.

(e) The department, in collaboration with the department of child services, the division of mental health and addiction, state educational institutions, and parent organizations, shall provide assistance to a school corporation in the implementation of the school corporation's plan developed under subsection (d) to ensure that teachers and administrators receive appropriate professional development to prepare them to carry out the plan for supporting student behavior and discipline.

(f) Each school shall annually report the information under subsection (c)(7) to the department.

(g) This SECTION expires June 30, 2011.

P.L.67-2009
[H.1547. Approved May 1, 2009.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 5-10.2-10 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 10. Divestment From States That Sponsor Terror

Sec. 1. The requirements for mandatory divestment contained in this chapter are separate and distinct from the requirements for mandatory divestment contained in IC 5-10.2-9.

Sec. 2. As used in this chapter, "active business operations" means all business operations that are not inactive business operations.

Sec. 3. As used in this chapter, "board" refers to the following:

(1) The board of trustees of the Indiana state teachers' retirement fund.

(2) The board of trustees of the public employees' retirement fund.

Sec. 4. As used in this chapter, "business operations" means engaging in any commerce in any form in a state that sponsors terror.

Sec. 5. (a) As used in this chapter, "company" means any of the following:

(1) A sole proprietorship.

(2) An organization.

(3) An association.

(4) A corporation.

(5) A partnership.

(6) A joint venture.

(7) A limited partnership.

(8) A limited liability partnership.

(9) A limited liability company.

(10) A business association.

(b) The term includes all wholly owned subsidiaries, majority owned subsidiaries, parent companies, and affiliates of such entities or business associations that exist for profit making purposes.

Sec. 6. As used in this chapter, "cost of divestment" means the sum of the following:

(1) The costs associated with the sale, redemption, divestment, or withdrawal of an investment.

(2) The costs associated with the acquisition and maintenance of a replacement investment.

(3) A cost not described in subdivision (1) or (2) that is incurred by the fund in connection with a divestment transaction.

Sec. 7. As used in this chapter, "direct holdings" means all securities of a company held directly by a fund or in an account in which the fund owns all shares or interests.

Sec. 8. As used in this chapter, "fund" refers to the following:

(1) The Indiana state teachers' retirement fund.

(2) The public employees' retirement fund.

Sec. 9. As used in this chapter, "inactive business operations" means the mere continued holding or renewal of rights to property previously operated to generate revenues but not presently deployed for that purpose.

Sec. 10. As used in this chapter, "indirect holdings" means all securities of a company that are:

(1) held in an account or a fund; and

(2) managed by one (1) or more persons:

(A) who are not employed by the fund; and

(B) in which the fund owns shares or interests together with other investors not subject to this chapter.

Sec. 10.2. (a) As used in this chapter, "military equipment" means weapons, arms, or military defense supplies provided directly or indirectly to any force of a state sponsor of terror. The term includes any equipment that readily may be used for military purposes, including:

(1) radar systems; or

(2) military grade transport vehicles.

(b) The term does not include weapons, arms, or military defense supplies sold to peacekeeping forces that may be dispatched to a state sponsor of terror by the United Nations or the African Union.

Sec. 10.4. (a) As used in this chapter, "mineral extraction activities" means the exploration, extraction, processing, transporting, or wholesale sale of elemental minerals or associated metals or oxides, including:

(1) gold;

(2) copper;

(3) chromium;

(4) chromite;

(5) diamonds;

(6) iron;

(7) iron ore;

(8) silver;

(9) tungsten;

(10) uranium; and

(11) zinc.

(b) The term includes the facilitation of mineral extraction activities, including the provision of supplies or services in support of mineral extraction activities.

Sec. 10.6. (a) As used in this chapter, "oil related activities" includes:

(1) the export of oil;

(2) the extraction of or production of oil;

(3) the exploration for oil;

(4) the ownership of rights to oil blocks;

(5) the refining or processing of oil;

(6) the transportation of oil;

(7) the selling or trading of oil; or

(8) the construction or maintenance of a pipeline, a refinery, or another oil field infrastructure.

(b) The term includes the facilitation of oil related activities, including the provision of supplies or services in support of oil related activities. The mere retail sale of gasoline and related consumer products is not considered an oil related activity.

Sec. 10.8. As used in this chapter, "power production activities"

means any business operation that involves a project commissioned by a state sponsor of terror whose purpose is to facilitate power generation and delivery. The term includes the following:

(1) Establishing power generating plants or hydroelectric dams.

(2) Selling or installing components for power generating plants or hydroelectric dams.

(3) Providing service contracts related to the installation or maintenance of power generating plants or hydroelectric dams.

(4) Facilitating power production activities, including providing supplies or services in support of power production activities.

Sec. 11. As used in this chapter, "private market fund" means any:

(1) private equity fund;

(2) private equity fund of funds;

(3) venture capital fund;

(4) hedge fund;

(5) hedge fund of funds;

(6) real estate fund; or

(7) investment vehicle;

that is not publicly traded.

Sec. 12. As used in this chapter, "scrutinized business operations" means business operations that have caused a company to become a scrutinized company.

Sec. 13. (a) As used in this chapter, "scrutinized company" means a company that meets any of the following criteria:

(1) Both of the following apply to the company:

(A) The company has business operations that involve contracts with or the provision of supplies or services to:

(i) a state sponsor of terror;

(ii) companies in which a state sponsor of terror has any direct or indirect equity share;

(iii) consortiums or projects commissioned by a state sponsor of terror; or

(iv) companies involved in consortiums or projects commissioned by a state sponsor of terror.

(B) Either:

(i) more than ten percent (10%) of the company's revenues or assets is linked to a state sponsor of terror involve oil related activities or mineral extraction activities; or

(ii) more than ten percent (10%) of the company's revenues or assets is linked to a state sponsor of terror involve power production activities.

(2) The company supplies military equipment to a state sponsor of terror, unless the company implements safeguards to prevent the use of the equipment by forces actively participating in an armed conflict in a state sponsor of terror. This subdivision does not apply to companies involved in the sale of military equipment solely to any internationally recognized peacekeeping force or humanitarian organization.

(b) The term does not include a social development company.

Sec. 14. (a) As used in this chapter, "social development company" means a company that is:

(1) licensed by the United States Department of Treasury under the Federal Trade Sanction Reform and Export Enhancement Act of 2000 (P.L. 106-387); or

(2) lawfully operating under the laws of another country whose primary purpose in a state sponsor of terror is to provide humanitarian goods or services.

(b) A company described in subsection (a)(2) includes a company whose primary purpose is to provide:

(1) food;

(2) medicine or medical equipment;

(3) agricultural supplies or infrastructure;

(4) educational opportunities;

(5) journalism related activities;

(6) spiritual related activities or materials;

(7) information or information materials;

(8) general consumer goods; or

(9) services of a purely clerical or reporting nature;

to aid the inhabitants of a state sponsor of terror.

Sec. 15. As used in this chapter, "state sponsor of terror" means a country determined by the Secretary of State of the United States to have repeatedly provided support for acts of international terrorism.

Sec. 16. As used in this chapter, "substantial action" means adopting, publicizing, and implementing a formal plan to cease scrutinized business operations within one (1) year and to refrain from any new business operations.

Sec. 17. (a) Not later than March 30, 2010, each board shall make a good faith effort to identify all scrutinized companies in which the fund administered by the board has direct or indirect holdings.

(b) In carrying out its responsibilities under subsection (a), each board may use existing research or contract with a research firm.

(c) A board or a research firm with which the board contracts under subsection (b) may take any of the following actions:

(1) Review publicly available information regarding companies with business operations in states that sponsor terror.

(2) Contact other institutional investors that have divested from or invest in companies with business operations in states that sponsor terror.

(3) Contact asset managers that are contracted by the fund and that invest in companies with business operations in states that sponsor terror.

(d) Not later than the first meeting of the board after March 30, 2010, each board shall compile the names of all scrutinized companies into a scrutinized company list and indicate whether each scrutinized company has active or inactive business operations in a state sponsor of terror.

(e) Each board shall update its scrutinized company list at least on an annual basis based on evolving information from sources described in subsections (b) and (c).

(f) If the Secretary of State of the United States determines that a country is a state sponsor of terror after June 30, 2009, each board shall add any additional scrutinized company resulting from the Secretary of State's determination when each board updates its scrutinized company list under subsection (e).

Sec. 18. After a board creates or updates the scrutinized company list under section 17 of this chapter, the board shall immediately identify the companies on the scrutinized company list in which the fund administered by the board has direct or indirect holdings.

Sec. 19. (a) Each fund shall send to each scrutinized company:

(1) that is identified under section 18 of this chapter as one in which the fund has direct or indirect holdings; and

(2) that has only inactive business operations;

a written notice concerning the provisions of this chapter and a statement encouraging the company to continue to refrain from initiating active business operations in a state sponsor of terror until the company is able to avoid scrutinized business operations altogether.

(b) Each fund shall continue to correspond on a semiannual basis with scrutinized companies:

(1) in which the fund has direct or indirect holdings; and

(2) that have only inactive business operations.

Sec. 20. (a) Each fund shall send to each scrutinized company:

(1) that is identified under section 18 of this chapter as one in which the fund has direct or indirect holdings; and

(2) that has active business operations;

a written notice concerning the contents of this chapter and a statement indicating that the fund's holdings in the company may become subject to divestment by the fund.

(b) A notice sent under this section must:

(1) offer the company the opportunity to clarify the company's state sponsor of terror related activities; and

(2) encourage the company to:

(A) cease its scrutinized business operations; or

(B) convert the company's operations to inactive business operations in order to avoid divestment by the fund of the fund's holdings in the company;

not later than one hundred eighty (180) days after the date of the notice.

Sec. 21. (a) If, within one hundred eighty (180) days after a fund first sends written notice to a company under section 20 of this chapter, the company ceases scrutinized business operations, the company shall be removed from the fund's scrutinized company list, and sections 22, 23, 24, and 25 of this chapter do not apply to the company unless the company resumes scrutinized business operations.

(b) If, within one hundred eighty (180) days after a fund first sends written notice to a company under section 20 of this chapter,

the company converts its scrutinized active business operations to inactive business operations, the company is subject to section 19 of this chapter.

Sec. 22. (a) Except as provided in sections 24 and 25 of this chapter, if a company continues to have scrutinized active business operations one hundred eighty (180) days after a fund first sends written notice to the company under section 20 of this chapter, the fund shall sell, redeem, divest, or withdraw all publicly traded securities of the company that are held by the fund, as follows:

(1) At least fifty percent (50%) of the securities shall be removed from the fund's assets under management within three (3) years after the company's appearance on the scrutinized company list.

(2) At least seventy-five percent (75%) of the securities shall be removed from the fund's assets under management within four (4) years after the company's appearance on the scrutinized company list.

(3) One hundred percent (100%) of the securities shall be removed from the fund's assets under management within five (5) years after the company's appearance on the scrutinized company list.

(b) If a company that ceased scrutinized active business operations following engagement under section 20 of this chapter resumes scrutinized active business operations, the company shall immediately be placed on the scrutinized company list and shall remain on the scrutinized company list while the company continues to have active business operations. A fund that has holdings in the company shall send a written notice to the company as described in section 20 of this chapter indicating that the company has been placed on the scrutinized company list and is subject to divestment. The fund shall sell, redeem, divest, or withdraw all publicly traded securities of the company as provided in subsection (a) based on the date the company is placed back on the scrutinized company list.

(c) A board is not required to divest the board's holdings in a passively managed commingled fund that includes a scrutinized company with active business operations in a state sponsor of terror if the estimated cost of divestment of the commingled fund is greater than ten percent (10%) of the total value of the

scrutinized companies with active business operations held in the commingled fund. The board shall include any commingled fund that includes a scrutinized company that is exempted from divestment under this subsection in the board's report submitted to the legislative council under section 26 of this chapter.

Sec. 23. Except as provided in sections 24 and 25 of this chapter, a fund shall not acquire securities of companies on the scrutinized company list that have active business operations.

Sec. 24. If the government of the United States declares that a company on the scrutinized company list with active business operations in a state sponsor of terror is excluded from any federal sanctions relating to a state sponsor of terror, the company is not subject to divestment or investment prohibition under this chapter.

Sec. 25. Notwithstanding any provision to the contrary, sections 22 and 23 of this chapter do not apply to indirect holdings in a private market fund that includes a scrutinized company with active business operations in a state sponsor of terror.

Sec. 25.5. Notwithstanding any provision to the contrary, sections 22 and 23 of this chapter do not apply to indirect holdings in actively managed investment funds. However, if a fund has indirect holdings in actively managed investment funds containing the securities of scrutinized companies with active business operations, the fund shall submit letters to the managers of the investment funds requesting that the managers remove the scrutinized companies with active business operations from the fund or create a similar actively managed fund with indirect holdings without scrutinized companies with active business operations. If the manager creates a similar fund, the fund shall replace all applicable investments with investments in the similar fund in a period consistent with prudent investing standards.

Sec. 26. (a) On or before November 1, 2010, and thereafter as directed by the legislative council, each board shall submit a report in an electronic format under IC 5-14-6 to the legislative council. Notwithstanding IC 5-14-6-4(b)(2), the submission of a report under this subsection to the executive director of the legislative services agency fulfills the board's requirement to send a copy of the report to each member of the general assembly using the member's senate or house of representatives electronic mail address.

(b) A report submitted by the board of a fund under this section must include at least the following information, as of the date of the report:

(1) A copy of the fund's scrutinized company list.

(2) A summary of correspondence between the fund and companies under sections 19 and 20 of this chapter.

(3) All investments sold, redeemed, divested, or withdrawn by the fund in compliance with section 22 of this chapter.

(4) All commingled funds that are exempted from divestment under section 22 of this chapter.

(5) All companies whose securities the fund is prohibited from acquiring under section 23 of this chapter.

(6) Any progress made under section 21 of this chapter.

Sec. 27. The provisions of this chapter regarding any country determined to be a state sponsor of terror cease to apply to that country on the earlier of the following:

(1) The date the Secretary of State of the United States removes the country from its official list of state sponsors of terrorism.

(2) The date Congress or the President of the United States, through legislation or executive order, declares that mandatory divestment of the type provided for in this chapter interferes with the conduct of foreign policy of the United States.

Sec. 28. With respect to actions taken in compliance with this chapter, including all good faith determinations regarding companies on the scrutinized company list, a fund is exempt from any conflicting statutory or common law obligations, including any obligations with respect to choice of asset managers, investment funds, or investments for fund securities portfolios.

Sec. 29. (a) Both:

(1) the state and its officers, agents, and employees; and

(2) each fund and its board members, executive director, officers, agents, and employees;

are immune from civil liability for any act or omission related to the removal of an asset from the fund under this chapter.

(b) In addition to the immunity provided under subsection (a), both:

(1) the officers, agents, and employees of the state; and

(2) the board members, executive director, officers, agents, and employees of a fund;

are entitled to indemnification from the fund for all losses, costs, and expenses, including reasonable attorney's fees, associated with defending against any claim or suit relating to an act authorized under this chapter.

Sec. 30. The provisions of this chapter are severable in the manner provided in IC 1-1-1-8(b).

SECTION 2. IC 34-30-2-11.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 11.4. IC 5-10.2-10-29 (Concerning the state and certain public pension funds for divestment of fund assets authorized by law).**

SECTION 3. [EFFECTIVE JULY 1, 2009] **(a) This SECTION applies to IC 5-10.2-10, as added by this act.**

(b) The definitions in IC 5-10.2 apply throughout this SECTION.

(c) The general assembly finds the following:

(1) Mandatory divestment by the funds of the funds' holdings in certain companies is a measure that should be employed only under extraordinary circumstances.

(2) States that are designated as a state sponsor of terror by the Secretary of State of the United States are providing military, financial, political, diplomatic, and organizational aid to known terrorist groups.

(3) Support for terrorism and the acquisition of weapons of mass destruction represent a grave threat to the security of the United States and to the citizens of the state of Indiana.

(4) The threat from terrorism to the security of the United States and to the citizens of the state of Indiana constitutes the extraordinary circumstances necessary for mandatory divestment by the funds of the funds' holdings in scrutinized companies with active business operations in a state sponsor of terror.

P.L.68-2009
[S.270. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning labor and safety.

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

SECTION 1. IC 16-31-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The commission is composed of ~~eleven (11)~~ **thirteen (13)** members. The governor shall appoint the members for four (4) year terms as follows:

(1) One (1) must be appointed from a volunteer fire department that provides emergency medical service.

(2) One (1) must be appointed from a full-time municipal fire or police department that provides emergency medical service.

(3) One (1) must be a nonprofit provider of emergency ambulance services organized on a volunteer basis other than a volunteer fire department.

(4) One (1) must be a provider of private ambulance services.

(5) One (1) must be a state certified paramedic.

(6) One (1) must be a licensed physician who:

(A) has a primary interest, training, and experience in emergency medical services; and

(B) is currently practicing in an emergency medical services facility.

(7) One (1) must be a chief executive officer of a hospital that provides emergency ambulance services.

(8) One (1) must be a registered nurse who has supervisory or administrative responsibility in a hospital emergency department.

(9) One (1) must be a licensed physician who:

(A) has a primary interest, training, and experience in trauma care; and

(B) is practicing in a trauma facility.

(10) One (1) must be a state certified emergency medical service

technician.

(11) One (1) must be an individual who:

(A) represents the public at large; and

(B) is not in any way related to providing emergency medical services.

(12) One (1) must be a program director (as defined in 836 IAC 4-2-2(12)(B)(iii)) for a commission certified advanced life support training institution.

(13) One (1) must be the deputy executive director appointed under IC 10-19-5-3 to manage the division of preparedness and training of the department of homeland security or the designee of the deputy executive director.

(b) The chief executive officer of a hospital appointed under subsection (a)(7) may designate another administrator of the hospital to serve for the chief executive officer on the commission.

(c) Not more than ~~six (6)~~ **seven (7)** members may be from the same political party.

SECTION 2. IC 16-31-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The definitions in this section apply throughout this chapter.

~~(b) "Medical director" means a licensed physician who provides emergency medical dispatch medical direction to the emergency medical dispatch agency and works with the local emergency medical services medical director, if not the same person.~~

~~(c) "Emergency medical dispatcher" means a person who is trained to provide emergency medical dispatch services and who is certified under this chapter.~~

~~(d)~~ **(b)** "Emergency medical dispatching" means the reception, evaluation, processing, and provision of dispatch life support, management of requests for emergency medical assistance, and participation in ongoing evaluation and improvement of the emergency medical dispatch process. This process includes identifying the nature of the request, prioritizing the severity of the request, dispatching the necessary resources, providing medical aid and safety instructions to the callers, and coordinating the responding resources as needed, but does not include call routing itself.

~~(e)~~ **(c)** "Emergency medical dispatch agency" means any person that provides emergency medical dispatching for emergency medical

assistance that is certified under this chapter.

SECTION 3. IC 16-31-3.5-3, AS AMENDED BY P.L.22-2005, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. ~~(a) After December 31, 2006, an individual may not furnish, operate, conduct, maintain, or advertise services as an emergency medical dispatcher or otherwise be engaged as an emergency medical dispatcher unless that individual is certified by the commission as an emergency medical dispatcher.~~

~~(b)~~ After December 31, ~~2006,~~ **2009,** a person may not furnish, operate, conduct, maintain, or advertise services as an emergency medical dispatcher or otherwise be engaged as an emergency medical dispatch agency unless certified by the commission as an emergency medical dispatch agency.

SECTION 4. IC 16-31-3.5-5, AS AMENDED BY P.L.22-2005, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) To be certified as an emergency medical dispatch agency, a person must:

(1) meet the standards established by the commission; and

(2) pay the fee established by the commission.

(b) An emergency medical dispatch agency certificate expires on the expiration date established when it is issued, which must be at least two (2) years after the date of its issuance. To renew a certificate, an emergency medical dispatch agency must:

(1) meet the renewal requirements established by the commission; and

(2) pay the fee established by the commission.

(c) The emergency medical dispatch agency must be operated in a safe, efficient, and effective manner in accordance with commission approved standards that include the following requirements:

(1) **Before functioning alone in an online capacity,** all personnel providing emergency medical dispatch services must be certified as emergency medical dispatchers ~~by~~ **through a training program that is:**

(A) approved by the commission; ~~before functioning alone in an online capacity.~~ **and**

(B) used by the department.

(2) The protocols, procedures, standards, and policies used by an emergency medical dispatch agency to dispatch emergency

medical aid must comply with the requirements established by the commission.

~~(3) The commission must require the emergency medical dispatch agency to appoint a dispatch medical director to provide supervision and oversight over the medical aspects of the operation of the emergency medical dispatch agency.~~

(d) The commission may require the submission of periodic reports from an emergency medical dispatch agency. The emergency medical dispatch agency must submit the reports in the manner and with the frequency required by the commission.

(e) An emergency medical dispatch agency shall report to the commission whenever an action occurs that may justify the revocation or suspension of a certificate issued by the commission.

SECTION 5. IC 22-15-6-2, AS AMENDED BY P.L.1-2006, SECTION 397, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The division shall conduct a program of periodic inspections of regulated boilers and pressure vessels.

(b) The division or a boiler and pressure vessel inspector acting under section 4 of this chapter shall issue a regulated boiler and pressure vessel operating permit to an applicant who qualifies under this section.

(c) Except as provided in subsection (f), a permit issued under this section expires one (1) year after it is issued. The permit terminates if it was issued by an insurance company acting under section 4 of this chapter and the applicant ceases to insure the boiler or pressure vessel covered by the permit against loss by explosion with an insurance company authorized to do business in Indiana.

(d) To qualify for a permit or to renew a permit under this section, an applicant must do the following:

(1) Demonstrate through an inspection that the regulated boiler or pressure vessel covered by the application complies with the rules adopted by the rules board.

(2) Pay the fee set under IC 22-12-6-6(a)(8).

(e) ~~After June 30, 2004,~~ An inspection under subsection (d)(2) shall be conducted as follows:

(1) An inspection for an initial permit shall be conducted by:

(A) the division; or

(B) an owner or user inspection agency.

(2) An inspection for a renewal permit shall be conducted by one (1) of the following:

(A) An insurance company inspection agency, if the vessel is insured under a boiler and pressure vessel insurance policy and the renewal inspection is not conducted by an owner or user inspection agency.

(B) An owner or user inspection agency.

(C) The division, if:

(i) the owner or user of a vessel is not licensed as an owner or user inspection agency and the vessel is not insured under a boiler and pressure vessel insurance policy; **or**

(ii) the regulated boiler or pressure vessel operating permit has lapsed.

(f) The rules board may, by rule adopted under IC 4-22-2, specify a period between inspections of more than one (1) year. However, the rules board may not set an inspection period of greater than five (5) years for regulated pressure vessels or steam generating equipment that is an integral part of a continuous processing unit.

SECTION 6. IC 22-15-7-4, AS AMENDED BY P.L.1-2006, SECTION 404, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The commission shall adopt rules under IC 4-22-2 to define appropriate training for a person who inspects regulated amusement devices.

(b) The rules required under this section must, at a minimum, provide the following:

(1) The adoption by reference of:

(A) ASTM F 698 (1994 edition) ("Specification for Physical Information to be Provided to Amusement Rides and Devices");

(B) ASTM F 770 (1993 edition) ("Practice for Operation Procedures for Amusement Rides and Devices");

(C) ASTM F 846 (1992 edition) ("Guide for Testing Performance of Amusement Rides and Devices");

(D) ASTM F 853 (1993 edition) ("Practice for Maintenance Procedures for Amusement Rides and Devices");

(E) ASTM F 893 (1987 edition) ("Guide for Inspection of Amusement Rides and Devices");

(F) ASTM F 1305 (1994 edition) ("Standard Guides for the Classification of Amusement Ride and Device Related Injuries and Illnesses"); or

(G) any subsequent published editions of the ASTM standards described in clauses (A) through (F).

(2) A requirement that inspectors employed or contracted by the division:

(A) have and maintain at least:

(i) a Level 1 certification from the National Association of Amusement Ride Safety Officials **or an equivalent organization approved by the commission; or**

(ii) an equivalent certification under a process or system approved by the commission; and

(B) conduct inspections that conform to the rules of the commission.

(3) A requirement that regulated amusement devices be operated and maintained in accordance with the rules of the commission.

(4) ~~After July 1, 2005,~~ The commission's chief inspector or supervisor of regulated amusement device inspectors must have and maintain ~~at least: (A)~~ a Level I certification. ~~if the chief inspector or supervisor has not more than five (5) years of service as the chief inspector or a supervisor; and~~

~~(B) a Level II certification if the chief inspector or supervisor has more than five (5) years of service as the chief inspector or a supervisor.~~

SECTION 7. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 16-31-3.5-4; IC 16-31-3.5-4.5; IC 16-31-3.5-6.

P.L.69-2009
[S.546. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning natural and cultural resources and to make an appropriation.

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

SECTION 1. IC 14-8-2-77, AS AMENDED BY P.L.120-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 77. "Division" has the following meaning:

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

(2) For purposes of IC 14-20-1 **and IC 14-20-16,** the meaning set forth in IC 14-20-1-2.

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

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

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

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

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

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

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

SECTION 2. IC 14-13-6-23, AS ADDED BY HEA 1032-2009, SECTION 3. IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 23. (a) The Wabash River heritage corridor fund is established for the purpose of:

(1) providing grants to aid the sustainable development of property under the Wabash River heritage corridor commission master plan and purposes of the commission; and

(2) paying costs incurred in fulfilling the directives of the Wabash River heritage corridor commission master plan, including multicounty projects.

However, the commission may not use money in the fund for the upper Wabash River basin commission established by IC 14-30-4-6.

(b) The fund shall be administered by the director under the direction of the commission.

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

(d) The fund consists of the following:

(1) Appropriations made by the general assembly.

(2) Interest as provided in subsection (e).

(3) Funds deposited under ~~IC 14-38-1-13(c).~~ **IC 14-38-1-13(d).**

(4) Money donated to the fund.

(5) Money transferred to the fund from other funds.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

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

(g) Money in the fund is annually appropriated to the department of natural resources for its use in fulfilling the purposes of this section.

SECTION 3. IC 14-15-3-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. A person operating a boat shall observe the following traffic rules when applicable:

(1) When two (2) boats are approaching each other "head and head", or nearly so, each boat shall bear to the right and pass the other boat on the boat's left side.

(2) When two (2) boats are approaching each other obliquely or at right angles, the boat on the right has the right-of-way. **However, when:**

(A) one (1) boat is under sail or is nonmotorized, the sailboat or nonmotorized boat has the right-of-way; and

(B) two (2) boats are under sail or are nonmotorized, the boat on the right has the right-of-way.

(3) A boat operated on a river or a channel shall bear to the right.

(4) A boat may overtake and pass another boat on either side if

the passing can be done with safety and within the assured clear distance ahead, but the boat overtaken has the right-of-way.

(5) A boat leaving a dock, a pier, a wharf, or the shore has the right-of-way over all boats approaching the dock, pier, wharf, or shore.

SECTION 4. IC 14-15-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. As used in this chapter, "intoxicated" means under the influence of:

(1) alcohol;

(2) a controlled substance;

(3) any drug (as defined in IC 9-13-2-49.1) other than alcohol or a controlled substance; or

(4) any combination of alcohol, controlled substances, or drugs;

so that there is an impaired condition of thought and action and the loss of normal control of an individual's faculties. ~~to such an extent as to endanger any person.~~

SECTION 5. IC 14-15-8-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. **(a)** At a proceeding concerning an offense under this chapter, evidence of the ~~amount by weight of~~ alcohol **concentration** that was in the blood ~~or breath~~ of the person charged with the offense;

(1) at the time of the alleged violation; **or**

(2) within the time allowed for testing under section 12 of this chapter;

as shown by an analysis of the person's ~~(1)~~ breath, ~~(2)~~ blood, ~~(3)~~ urine, or ~~(4)~~ other bodily substance is admissible.

(b) If, in a prosecution for an offense under this chapter, evidence establishes that:

(1) a chemical test was performed on a test sample taken from the person charged with the offense within the period of time allowed for testing under section 12 of this chapter; and

(2) the person charged with the offense had an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:

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

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

the trier of fact shall presume that the person charged with the offense had an alcohol concentration equivalent to at least

eight-hundredths (0.08) gram of alcohol per one hundred (100) milliliters of the person's blood or per two hundred ten (210) liters of the person's breath at the time the person operated the motorboat. However, this presumption is rebuttable.

SECTION 6. IC 14-20-16 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 16. Governors' Portraits Collection

Sec. 1. (a) The governors' portraits collection is placed in the custody of the division. The collection shall be permanently displayed in public areas of the state house under the supervision of the division, which is charged with its care and maintenance.

(b) The director of the division shall inspect each painting in the collection annually in the company of one (1) or more experts in the field of art conservation selected by the director of the division.

(c) After the inauguration of each governor, the director of the division, with the concurrence of the governor, shall select and commission an artist to paint the governor's portrait. The portrait must be hung in the permanent collection immediately following the completion and acceptance of the portrait by the director of the division and the governor.

(d) The division shall include in its budget requests the amount the division considers necessary to:

(1) provide for the proper care, maintenance, and display of the governors' portraits collection; and

(2) commission the painting of an oil portrait of each governor for the collection.

The division may use appropriated funds or any other funds provided for these purposes.

(e) The director of the division, in discharging the duties under this section, shall use the appropriate cultural and technical resources of the state, including the Indiana historical bureau and the Indiana department of administration.

Sec. 2. (a) The governors' portraits fund is established as a dedicated fund to be administered by the division. Money in the fund may be expended by the director of the division exclusively for the preservation and exhibition of the state owned portraits of former governors of Indiana.

(b) The proceeds from the sale of items as directed by law or by

the director of the division, from gifts of money or the proceeds from the sale of gifts donated to the fund and from investment earnings from any portion of the fund, shall be deposited in the governors' portraits fund.

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

(d) All money accruing to the governors' portraits fund is continuously allotted and appropriated for the purposes specified in this section.

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

SECTION 7. IC 14-22-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. A person may not take or possess for any purpose, during the closed season, a migratory bird or the nest, eggs, or increase of a migratory bird without having

~~(1)~~ a permit or license issued by the director under this article. ~~or~~

~~(2) a permit issued by the authorized department of the United States government;~~

~~authorizing the permittee to take or possess for any purpose a migratory bird or the nest, eggs, or increase of a migratory bird during the closed season.~~

SECTION 8. IC 14-22-8-2, AS AMENDED BY P.L.66-2008, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. As used in this chapter, "game bird" means pheasant, quail, grouse, **mourning dove,** and wild turkey.

SECTION 9. IC 14-22-12-1, AS AMENDED BY SEA 545-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The department may issue the following licenses and, except as provided in section 1.5 of this chapter and subject to subsection (b), shall charge the following minimum license fees to hunt, trap, or fish in Indiana:

(1) A resident yearly license to fish, eight dollars and seventy-five cents ($8.75).

(2) A resident yearly license to hunt, eight dollars and seventy-five cents ($8.75).

(3) A resident yearly license to hunt and fish, thirteen dollars and seventy-five cents ($13.75).

(4) A resident yearly license to trap, eight dollars and seventy-five cents ($8.75).
(5) A nonresident yearly license to fish, twenty-four dollars and seventy-five cents ($24.75).
(6) A nonresident yearly license to hunt, sixty dollars and seventy-five cents ($60.75).
(7) A nonresident yearly license to trap, one hundred seventeen dollars and seventy-five cents ($117.75). However, a license may not be issued to a resident of another state if that state does not give reciprocity rights to Indiana residents similar to those nonresident trapping privileges extended in Indiana.
(8) A resident or nonresident license to fish, including for trout and salmon, for one (1) day only, four dollars and seventy-five cents ($4.75).
(9) A nonresident license to fish, excluding for trout and salmon, for seven (7) days only, twelve dollars and seventy-five cents ($12.75).
(10) A nonresident license to hunt for five (5) consecutive days only, twenty-five dollars and seventy-five cents ($25.75).
(11) A resident or nonresident yearly stamp to fish for trout and salmon, six dollars and seventy-five cents ($6.75).
(12) A resident yearly license to take a deer with a shotgun, muzzle loading gun, rifle, or handgun, thirteen dollars and seventy-five cents ($13.75).
(13) A resident yearly license to take a deer with a muzzle loading gun, thirteen dollars and seventy-five cents ($13.75).
(14) A resident yearly license to take a deer with a bow and arrow, thirteen dollars and seventy-five cents ($13.75).
(15) A nonresident yearly license to take a deer with a shotgun, muzzle loading gun, rifle, or handgun, one hundred twenty dollars and seventy-five cents ($120.75).
(16) A nonresident yearly license to take a deer with a muzzle loading gun, one hundred twenty dollars and seventy-five cents ($120.75).
(17) A nonresident yearly license to take a deer with a bow and arrow, one hundred twenty dollars and seventy-five cents ($120.75).
(18) A resident license to take an extra deer by a means, in a

location, and under conditions established by rule adopted by the department under IC 4-22-2, five dollars ($5).

(19) A nonresident license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, ten dollars ($10).

(20) A resident yearly license to take a turkey, fourteen dollars and seventy-five cents ($14.75).

(21) A nonresident yearly license to take a turkey, one hundred fourteen dollars and seventy-five cents ($114.75). However, if the state of residence of the nonresident applicant requires that before a resident of Indiana may take turkey in that state the resident of Indiana must also purchase another license in addition to a nonresident license to take turkey, the applicant must also purchase a nonresident yearly license to hunt under this section.

(22) A resident license to take an extra turkey by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, fourteen dollars and seventy-five cents ($14.75).

(23) A nonresident license to take an extra turkey by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, one hundred fourteen dollars and seventy-five cents ($114.75). However, if the state of residence of the nonresident applicant requires that before a resident of Indiana may take a turkey in that state the resident of Indiana must also purchase another license in addition to a nonresident license to take a turkey, the applicant must also purchase a nonresident yearly license to hunt under this section.

(24) A resident youth yearly consolidated license to hunt, trap, and fish, six dollars ($6). This license is subject to the following:

(A) An applicant must be less than eighteen (18) years of age.

(B) The license is in lieu of the resident yearly license to hunt, trap, and fish and all other yearly licenses, stamps, or permits to hunt, trap, and fish for a specific species or by a specific means.

(25) A nonresident youth yearly license to hunt, seventeen dollars ($17). The applicant must be less than eighteen (18) years of age.

(26) A nonresident youth yearly license to trap, seventeen

dollars ($17). The applicant must be less than eighteen (18) years of age.

(27) A nonresident youth yearly license to take a turkey, twenty-five dollars ($25). The applicant must be less than eighteen (18) years of age. However, if the state of residence of the nonresident applicant requires that before a resident of Indiana may take a turkey in that state the resident of Indiana must also purchase another license in addition to a nonresident license to take a turkey, the applicant must also purchase a nonresident youth yearly license to hunt under this section.

(28) A nonresident youth license to take an extra turkey by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, twenty-five dollars ($25). The applicant must be less than eighteen (18) years of age. However, if the state of residence of the nonresident applicant requires that before a resident of Indiana may take a turkey in that state the resident of Indiana must also purchase another license in addition to a nonresident license to take a turkey, the applicant must also purchase a nonresident youth yearly license to hunt under this section.

(29) A nonresident youth yearly license to take a deer with a shotgun, muzzle loading gun, or rifle, twenty-four dollars ($24). The applicant must be less than eighteen (18) years of age.

(30) A nonresident youth yearly license to take a deer with a muzzle loading gun, twenty-four dollars ($24). The applicant must be less than eighteen (18) years of age.

(31) A nonresident youth yearly license to take a deer with a bow and arrow, twenty-four dollars ($24). The applicant must be less than eighteen (18) years of age.

(32) A nonresident youth license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, twenty-four dollars ($24). The applicant must be less than eighteen (18) years of age.

~~(25)~~ **(33)** A resident senior yearly license to fish, three dollars ($3). This license is subject to the following:

(A) An applicant must be at least sixty-four (64) years of age and born after March 31, 1943.

(B) The license is in lieu of the resident yearly license to fish and all other yearly licenses, stamps, or permits to fish for a specific species or by a specific means.

~~(26)~~ **(34)** A resident senior "fish for life" license, seventeen dollars ($17). This license is subject to the following:

(A) An applicant must be at least sixty-four (64) years of age and must have been born after March 31, 1943.

(B) The license applies each year for the remainder of the license holder's life.

(C) The license is in lieu of the resident senior yearly license to fish and all other yearly licenses, stamps, or permits to fish for a specific species or by a specific means.

(35) A voluntary resident senior yearly license to fish, three dollars ($3). This license is subject to the following:

(A) An applicant must have been born before April 1, 1943.

(B) The license is instead of the resident yearly license to fish and all other yearly licenses, stamps, and permits to fish for a specific species or by a specific means.

(b) The commission may set license fees to hunt, trap, or fish above the minimum fees established under subsection (a).

SECTION 10. IC 14-22-34-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 19. The costs of the programs established under this chapter may not be paid with money dedicated to fish and game purposes. **However, transfers may be made from money dedicated for fish and game purposes to the nongame fund established under section 20 of this chapter.**

SECTION 11. IC 14-24-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The division shall issue a certificate following an inspection that discloses that the nursery stock is apparently free from pests and pathogens.

(b) The certificate shall be prepared on a commission form and must state the following:

(1) That the nursery stock has been inspected by the division.

(2) That to the best knowledge and belief of the nurseryman, the nursery stock is free from pests and pathogens.

(c) A copy of the certificate must be attached to each package of

nursery stock before shipment of the stock by a nurseryman.

(d) A certificate issued under this section expires September 30 following the date of issuance.

(e) The division shall communicate to nurserymen that methyl bromide soil fumigation is preferred to produce pest and disease free forest seedlings. Fumigation with methyl bromide of seedling beds before seeding is an official control treatment to assure pest free nursery stock.

SECTION 12. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 4-23-7.2-8; IC 4-23-7.2-9.

SECTION 13. [EFFECTIVE JULY 1, 2009] **(a) Any money remaining on June 30, 2009, in the governors' portraits fund under IC 4-23-7.2-9, as repealed by this act, is transferred on July 1, 2009, to the governors' portraits fund established by IC 14-20-16-2, as added by this act.**

(b) This SECTION expires July 2, 2009.

P.L.70-2009
[H.1021. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-13-2-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 24. "Church bus" ~~for purposes of IC 9-29-5-9,~~ has the meaning set forth in IC 9-29-5-9(a).

SECTION 2. IC 9-19-13-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.5. (a) Except for a vehicle utilized in a funeral procession, a vehicle that is not described by section 4 of this chapter may not display a red lamp.

(b) **Except as provided in subsection (c),** a person who:

(1) purchases or otherwise acquires a vehicle with equipment

described by section 4 of this chapter; and

(2) is not authorized to display a red lamp upon the vehicle;

shall immediately remove the red lamp from the vehicle.

(c) A person who:

(1) purchases or otherwise acquires a vehicle with equipment described by section 4 of this chapter; and

(2) uses the vehicle as a church bus;

is not required to remove the red lamp from the vehicle if the person renders the red lamp inoperable.

SECTION 3. IC 9-21-8-52, AS AMENDED BY P.L.1-2005, SECTION 103, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 52. (a) A person who operates a vehicle and who recklessly:

(1) drives at such an unreasonably high rate of speed or at such an unreasonably low rate of speed under the circumstances as to:

(A) endanger the safety or the property of others; or

(B) block the proper flow of traffic;

(2) passes another vehicle from the rear while on a slope or on a curve where vision is obstructed for a distance of less than five hundred (500) feet ahead;

(3) drives in and out of a line of traffic, except as otherwise permitted; **or**

(4) speeds up or refuses to give one-half (1/2) of the roadway to a driver overtaking and desiring to pass; ~~or~~

~~(5) passes a school bus stopped on a roadway when the arm signal device specified in IC 9-21-12-13 is in the device's extended position;~~

commits a Class B misdemeanor.

(b) A person who operates a vehicle and who recklessly passes a school bus stopped on a roadway when the arm signal device specified in IC 9-21-12-13 is in the device's extended position commits a Class B misdemeanor. However, the offense is a Class A misdemeanor if it causes bodily injury to a person.

~~(b)~~ **(c)** If an offense under subsection (a) **or (b)** results in damage to the property of another person **or bodily injury to another person,** the court shall recommend the suspension of the current driving license of the person for a fixed period of:

(1) not less than thirty (30) days; and

(2) not more than one (1) year.

SECTION 4. IC 20-27-9-16, AS ADDED BY P.L.1-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. **(a) Except as provided in subsection (b),** whenever a school bus is purchased for and is being used for any purpose except to transport students, the purchaser shall:

(1) remove the flasher lights;

(2) remove the stop arm; and

(3) paint the bus any color except the national standard school bus chrome yellow.

(b) Whenever a school bus is purchased for use, and is being used, as a church bus (as defined in IC 9-29-5-9(a)), the purchaser:

(1) may retain the flasher lights if the purchaser renders the flasher lights inoperable;

(2) may retain the stop arm if the purchaser renders the stop arm inoperable; and

(3) shall paint the bus any color except the national standard school bus chrome yellow.

SECTION 5. [EFFECTIVE JULY 1, 2009] **IC 9-21-8-52, as amended by this act, applies only to crimes committed after June 30, 2009.**

P.L.71-2009

[H.1033. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 4-13.6-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) After reviewing the proposals submitted and after receiving a recommendation from the budget committee, the department may approve an energy cost savings

contract with a qualified provider that best meets the needs of the governmental body if the department reasonably expects the cost of the qualified energy savings project recommended in the proposal would not exceed the amount to be saved in:

(1) energy costs;

(2) operational costs; or

(3) both energy and operational costs;

not later than ~~ten (10)~~ **twenty (20)** years after the date installation is completed if the recommendations in the proposal are followed.

(b) An energy cost savings contract must include a guarantee from the qualified provider to the state that:

(1) energy cost savings;

(2) operational cost savings; or

(3) both energy and operational cost savings;

will meet or exceed the cost of the qualified energy project not later than ~~ten (10)~~ **twenty (20)** years after the date installation is completed.

SECTION 2. IC 8-1-8.8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. The group shall conduct an annual study on the use, availability, and economics of using renewable energy resources in Indiana. Each year, the group shall submit a report on the study to the commission for inclusion in the commission's annual report to the regulatory flexibility committee described in IC 8-1-2.5-9 and IC 8-1-2.6-4. The report must include suggestions from the group to encourage the development and use of renewable energy resources and technologies appropriate for use in Indiana. **In formulating the suggestions, the group shall evaluate potential renewable energy generation opportunities from biomass and algae production systems.**

SECTION 3. IC 15-11-2-3, AS ADDED BY P.L.120-2008, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. The department shall do the following:

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

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

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

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

(D) The Indiana dairy industry development board for

purposes of administering the duties of the director under IC 15-18-5.

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

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

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

(H) The division.

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

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

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

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

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

(A) Promoting value added agricultural resources.

(B) Marketing Indiana agriculture to businesses internationally.

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

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

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

(F) Facilitating the use of biomass and algae production systems to generate renewable energy.

SECTION 4. IC 36-1-12-1, AS AMENDED BY P.L.168-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided in this section, this chapter applies to all public work performed or contracted for by:

(1) political subdivisions; and

(2) their agencies;

regardless of whether it is performed on property owned or leased by the political subdivision or agency.

(b) This chapter does not apply to an officer or agent who, on behalf of a municipal utility, maintains, extends, and installs services of the

utility if the necessary work is done by the employees of the utility.

(c) This chapter does not apply to hospitals organized or operated under IC 16-22-1 through IC 16-22-5 or IC 16-23-1, unless the public work is financed in whole or in part with cumulative building fund revenue.

(d) This chapter does not apply to tax exempt Indiana nonprofit corporations leasing and operating a city market owned by a political subdivision.

(e) As an alternative to this chapter, the governing body of a ~~school corporation~~ **political subdivision or its agencies** may **do the following:**

(1) Enter into a design-build contract as permitted under IC 5-30.

(2) Participate in a utility efficiency program or ~~may~~ enter into a guaranteed savings contract as permitted under IC 36-1-12.5.

(f) This chapter does not apply to a person that has entered into an operating agreement with a political subdivision or an agency of a political subdivision under IC 5-23.

SECTION 5. IC 36-1-12.5-1, AS AMENDED BY P.L.168-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) As used in this chapter, "conservation measure":

(1) means:

(A) a ~~school~~ facility alteration;

(B) an alteration of a structure (as defined in IC 36-1-10-2);

(C) a technology upgrade; or

(D) with respect to an installation described in subdivision (2)(G) or (2)(H), an alteration of a structure or system;

designed to provide billable revenue increases or reduce energy or water consumption costs, wastewater costs, or other operating costs; and

(2) includes the following:

(A) Providing insulation of the ~~school~~ facility or structure and systems in the ~~school~~ facility or structure.

(B) Installing or providing for window and door systems, including:

(i) storm windows and storm doors;

(ii) caulking or weatherstripping;

(iii) multi-glazed windows and doors;

(iv) heat absorbing or heat reflective glazed and coated windows and doors;

(v) additional glazing;

(vi) the reduction in glass area; and

(vii) other modifications that reduce energy consumption.

(C) Installing automatic energy control systems.

(D) Modifying or replacing heating, ventilating, or air conditioning systems.

(E) Unless an increase in illumination is necessary to conform to Indiana laws or rules or local ordinances, modifying or replacing lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility or structure.

(F) Providing for other conservation measures that provide billable revenue increases or reduce energy or water consumption, reduce operating costs, or reduce wastewater costs, including future:

(i) labor costs;

(ii) costs or revenues for contracted services; and

(iii) related capital expenditures.

(G) Installing equipment upgrades that improve accuracy of billable revenue generating systems.

(H) Installing automated, electronic, or remotely controlled systems or measures that reduce direct personnel costs.

(b) The term does not include an alteration of a water or wastewater structure or system that increases the capacity of the structure or system.

SECTION 6. IC 36-1-12.5-5, AS AMENDED BY P.L.168-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) The governing body may enter into an agreement with a public utility to participate in a utility efficiency program or enter into a guaranteed savings contract with a qualified provider to increase the political subdivision's billable revenues or reduce the school corporation's or the political subdivision's energy or water consumption, wastewater usage costs, or operating costs if, after review of the report described in section 6 of this chapter, the governing body finds:

(1) in the case of conservation measures other than those that are part of a project related to the alteration of a water or wastewater structure or system, that the amount the governing body would spend on the conservation measures under the contract and that are recommended in the report is not likely to exceed the amount to be saved in energy consumption costs and other operating costs over ~~ten (10)~~ **twenty (20)** years from the date of installation if the recommendations in the report were followed;

(2) in the case of conservation measures that are part of a project related to the alteration of a water or wastewater structure or system, that the amount the governing body would spend on the conservation measures under the contract and that are recommended in the report is not likely to exceed the amount of increased billable revenues or the amount to be saved in energy and water consumption costs, wastewater usage costs, and other operating costs over ~~fifteen (15)~~ **twenty (20)** years from the date of installation if the recommendations in the report were followed; and

(3) in the case of a guaranteed savings contract, the qualified provider provides a written guarantee as described in subsection (d)(3).

(b) Before entering into an agreement to participate in a utility efficiency program or a guaranteed savings contract under this section, the governing body must publish notice under subsection (c) indicating:

(1) that the governing body is requesting public utilities or qualified providers to propose conservation measures through:

(A) a utility efficiency program; or

(B) a guaranteed savings contract; and

(2) the date, the time, and the place where proposals must be received.

(c) The notice required by subsection (b) must:

(1) be published in two (2) newspapers of general circulation in the county where the school corporation or the political subdivision is located;

(2) be published two (2) times with at least one (1) week between publications and with the second publication made at least thirty (30) days before the date by which proposals must be received; and

(3) meet the requirements of IC 5-3-1-1.

(d) An agreement to participate in a utility efficiency program or guaranteed savings contract under this section must provide that:

(1) in the case of conservation measures other than those that are part of a project related to the alteration of a water or wastewater structure or system, all payments, except obligations upon the termination of the agreement or contract before the agreement or contract expires, may be made to the public utility or qualified provider (whichever applies) in installments, not to exceed the lesser of ~~ten (10)~~ **twenty (20)** years or the average life of the conservation measures installed from the date of final installation;

(2) in the case of conservation measures that are part of a project related to the alteration of a water or wastewater structure or system, all payments, except obligations upon the termination of the agreement or contract before the agreement or contract expires, may be made to the public utility or qualified provider (whichever applies) in installments, not to exceed the lesser of ~~fifteen (15)~~ **twenty (20)** years or the average life of the conservation measures installed from the date of final installation;

(3) in the case of the guaranteed savings contract:

(A) the:

(i) savings in energy and water consumption costs, wastewater usage costs, and other operating costs; and

(ii) increase in billable revenues;

due to the conservation measures are guaranteed to cover the costs of the payments for the measures; and

(B) the qualified provider will reimburse the school corporation or political subdivision for the difference between the guaranteed savings and the actual savings; and

(4) payments are subject to annual appropriation by the fiscal body of the school corporation or political subdivision and do not constitute an indebtedness of the school corporation or political subdivision within the meaning of a constitutional or statutory debt limitation.

(e) An agreement or a contract under this chapter is subject to IC 5-16-7.

SECTION 7. IC 36-1-12.5-7, AS AMENDED BY P.L.168-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]: Sec. 7. (a) If the governing body enters into an installment payment contract for the purchase and installation of conservation measures under this chapter that are part of a project that is not related to the alteration of a water or wastewater structure or system, the balance of the payments must be paid in installments not to exceed the lesser of ~~ten (10)~~ **twenty (20)** years or the average life of the conservation measure installed from the date of final installation. Payments under an installment payment contract are subject to annual appropriation by the fiscal body of the school corporation or political subdivision and do not constitute an indebtedness of the school corporation or political subdivision within the meaning of a constitutional or statutory debt limitation.

(b) If the governing body enters into an installment payment contract for the purchase and installation of conservation measures under this chapter that are part of a project that is related to the alteration of a water or wastewater structure or system, the balance of the payments must be paid in installments not to exceed the lesser of ~~fifteen (15)~~ **twenty (20)** years or the average life of the conservation measure installed from the date of final installation. Payments under an installment payment contract are subject to annual appropriation by the fiscal body of the school corporation or political subdivision and do not constitute an indebtedness of the school corporation or political subdivision within the meaning of a constitutional or statutory debt limitation.

(c) With respect to a conservation measure described in section 1(a)(2)(G) or 1(a)(2)(H) of this chapter, annual revenues or savings from a guaranteed savings contract may be less than annual payments on the contract if during the length of the contract total savings and increased billable revenues occur as provided for by the contract.

(d) The financing of a guaranteed savings contract may be provided by:

(1) the vendor under the guaranteed savings contract; or

(2) a third party financial institution or company.

P.L.72-2009
[H.1063. Approved May 6, 2009.]

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

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

SECTION 1. IC 31-36-3-2, AS ADDED BY P.L.133-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. **An emergency shelter, a shelter care facility, or a program that provides services or items that are directly related to providing shelter to individuals who:**

(1) are homeless; or

(2) have a low income;

~~A child~~ may ~~receive~~ **provide** shelter and services or items that are directly related to providing shelter to ~~the~~ **a** child ~~from:~~

~~(1) an emergency shelter;~~

~~(2) a shelter care facility; or~~

~~(3) a program that provides services or items that are directly related to providing shelter to individuals who are homeless or have a low income;~~

without the notification, consent, or permission of the child's parent, guardian, or custodian.

SECTION 2. IC 34-30-25 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 25. Immunity for Youth Shelters

Sec. 1. As used in this chapter, "necessary services" means the following:

(1) Engaging in outreach services to locate and assist runaway or homeless youths.

(2) Providing food and access to overnight shelter to a runaway or homeless youth.

(3) Counseling a runaway or homeless youth to address immediate psychological or emotional problems.

(4) Screening a runaway or homeless youth for basic health needs and referring a runaway or homeless youth to public and private agencies for health care.

(5) Providing long term planning, placement, and follow-up services to a runaway or homeless youth.

(6) Referring a runaway or homeless youth to any other assistance or services offered by public and private agencies.

Sec. 2. As used in this chapter, "runaway or homeless youth" means an individual who:

(1) is:

(A) at least twelve (12) years of age; and

(B) less than eighteen (18) years of age;

(2) is unemancipated;

(3) is mentally competent; and

(4) lives in a situation described in:

(A) 42 U.S.C. 11434a(2)(B)(ii); or

(B) 42 U.S.C. 11434a(2)(B)(iii);

with or without the consent or knowledge of the individual's parent, guardian, or custodian.

Sec. 3. As used in this chapter, "youth shelter" means an entity that:

(1) is not operated for profit; and

(2) provides, at a minimum, necessary services to runaway or homeless youths.

Sec. 4. Except as provided in section 5 of this chapter, a youth shelter and the director, employees, agents, and volunteers of a youth shelter are immune from civil liability resulting from any act or omission related to:

(1) admitting a runaway or homeless youth to;

(2) caring for a runaway or homeless youth at; or

(3) releasing a runaway or homeless youth from;

the youth shelter.

Sec. 5. This chapter does not grant immunity from civil liability to a person who commits an act that amounts to gross negligence or willful and wanton misconduct.

P.L.73-2009
[H.1077. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-28-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This chapter provides the procedure for filing and releasing a common law lien.

(b) This chapter does not create a common law lien. A common law lien does not exist against the property of a public official for the performance or nonperformance of the public official's official duty. A person asserting a common law lien must prove the existence of the lien as prescribed by the common law of Indiana.

(c) Unless a common law lien becomes void at an earlier date under section 6(b) of this chapter, a common law lien is void if the common law lienholder fails to commence a suit on the common law lien within one hundred eighty (180) days after the date the common law lien is recorded under this chapter.

SECTION 2. IC 32-28-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A person who wishes to record a common law lien must file with the county recorder of a county in which the real or personal property against which the common law lien is to be held is located a statement of the person's intention to hold a common law lien against the real or personal property. **The statement must be recorded not later than sixty (60) days after the date of the last service provided by the person who wishes to record the lien.**

(b) A statement of intention to hold a common law lien must meet all of the following requirements:

(1) Except as provided in subsection (d), the person filing the statement must swear or affirm that the facts contained in the statement are true to the best of the person's knowledge.

(2) The statement must be filed in duplicate.

(3) The statement must set forth:

(A) the amount claimed to be owed by the property owner to the lienholder;

(B) the name and address of the lienholder;

(C) the name of the property owner;

(D) the last address of the property owner as shown on the property tax records of the county;

(E) the legal description and street and number, if any, of the real property against which the common law lien is filed;

(F) a full description of the personal property against which the common law lien is filed, including the location of the personal property; and

(G) the legal basis upon which the person asserts the right to hold the common law lien.

(c) The recorder shall send by first class mail one (1) of the duplicate statements filed under subsection (b) to the property owner at the address listed in the statement within three (3) business days after the statement is recorded. The county recorder shall record the date the statement is mailed to the property owner under this subsection. The county recorder shall collect a fee of two dollars ($2) from the lienholder for each statement that is mailed under this subsection.

(d) The statement of intention to hold a common law lien required under subsection (b) may be verified and filed on behalf of a client by an attorney registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court.

SECTION 3. IC 32-33-16-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. This chapter does not apply to a special tool under IC 32-33-20.**

SECTION 4. IC 32-33-20 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 20. Special Tool Liens

Sec. 1. As used in this chapter, "customer" means a person who:

(1) causes a special tool builder to design, develop, manufacture, assemble for sale, or otherwise make a special

tool; or

(2) causes an end user to use a special tool.

Sec. 2. As used in this chapter, "end user" means a person who uses a special tool as part of the person's manufacturing process.

Sec. 3. As used in this chapter, "special tool" means tools, dies, jigs, gauges, gauging fixtures, special machinery, cutting tools, injection molds, or metal castings used in the design, development, manufacture, assembly or fabrication of parts.

Sec. 4. As used in this chapter, "special tool builder" means a person who designs, develops, manufactures, or assembles special tools for sale.

Sec. 5. (a) This section does not apply if an end user retains title to and possession of a special tool.

(b) Unless otherwise agreed in writing, if a customer does not claim possession of a special tool from an end user within three (3) years after the date the special tool is last used by the end user, at the option of the end user, all rights, title, and interest in the special tool may be transferred by operation of law to the end user for the purpose of destroying the special tool.

(c) After the three (3) year period described in subsection (b) expires, if an end user chooses to have all rights, title, and interest in a special tool transferred to the end user, the end user shall send written notice by registered mail, return receipt requested, to:

(1) an address designated in writing by the customer; or

(2) if the customer has not designated an address in writing, to the customer's last known address;

that indicates the end user intends to terminate the customer's rights, title, and interest in the special tool by having all rights, title, and interest in the special tool transferred to the end user under this section.

(d) If a customer does not:

(1) claim possession of the special tool within one hundred twenty (120) days after the date the end user receives the return receipt of the notice sent under subsection (c); or

(2) make other arrangements with the end user for storage of the special tool within one hundred twenty (120) days after the date the end user receives the return receipt of the notice sent under subsection (c);

all rights, title, and interest of the customer in the special tool are

transferred by operation of law to the end user for the purpose of destroying the special tool.

(e) This section may not be construed to:

(1) affect a right of a customer under a:

(A) federal patent or copyright law; or

(B) state or federal law concerning unfair competition; or

(2) grant a customer rights, title, or interest in a special tool.

Sec. 6. (a) An end user has a lien, dependent on possession, on any special tool in the end user's possession belonging to a customer for the amount due the end user from the customer for:

(1) metal fabrication work performed with the special tool; or

(2) making or improving the special tool.

(b) An end user may retain possession of the special tool until the amount due is paid.

Sec. 7. (a) Before enforcing a lien created under section 6 of this chapter, the end user must give written notice to the customer that is:

(1) delivered personally; or

(2) sent by registered mail to the last known address of the customer.

(b) The notice required under subsection (a) must:

(1) state that a lien is claimed for the amount due for:

(A) metal fabrication work; or

(B) making or improving the special tool; and

(2) include a demand for payment.

Sec. 8. If an end user has not been paid the amount due within ninety (90) days after the date the notice is received by the customer as provided in section 7 of this chapter, the end user may sell the special tool at a public auction if:

(1) the special tool is still in the end user's possession; and

(2) the end user complies with section 9 of this chapter.

Sec. 9. (a) Before an end user may sell a special tool, the end user must notify:

(1) the customer; and

(2) any person whose security interest in the special tool is perfected by filing;

by registered mail, return receipt requested, that the end user intends to sell the special tool.

(b) The notice required under subsection (a) must include the

following information:

(1) The end user's intention to sell the special tool sixty (60) days after the date the customer receives the notice.

(2) A description of the special tool to be sold.

(3) The date, time, and place of the sale.

(4) An itemized statement for the amount due.

(5) A statement that the product produced by the special tool complies with the quality and quantity ordered.

(c) If:

(1) there is no return of the receipt of the mailing; or

(2) the postal service returns the notice as being undeliverable;

the end user shall publish notice of the end user's intention to sell the special tool in a newspaper of general circulation in the place where the special tool is being held for sale by the end user and in the place of the customer's last known address. The notice must include a description of the special tool and the name of the customer.

(d) If a customer disagrees that the product produced by the special tool complies with the quality and quantity ordered, the customer shall notify the end user in writing by registered mail, return receipt requested, that the product produced by the special tool did not meet the quality or quantity of product ordered. An end user who receives a notice under this subsection may not sell the special tool until the dispute is resolved.

Sec. 10. (a) The proceeds of a sale of a special tool under section 8 of this chapter shall be paid as follows:

(1) The proceeds shall be paid first to the prior lienholder who has a perfected lien in an amount sufficient to satisfy the lienholder's interest.

(2) Any remainder after payment is made under subdivision (1) shall be paid to the end user who possesses a lien under this chapter in an amount sufficient to extinguish that interest.

(3) Any remainder after payment is made under subdivision (2) shall be paid to the customer.

(b) A sale may not be made under this chapter if it would violate a right a customer has under federal patent or copyright law.

Sec. 11. (a) A special tool builder has an unperfected purchase money security interest under IC 26-1-9.1 on a special tool that the

special tool builder fabricates, repairs, or modifies.

(b) The amount of the lien is the amount that a customer or end user owes the special tool builder for the fabrication, repair, or modification of the special tool.

(c) A special tool builder may perfect its purchase money security interest in a special tool by filing a financing statement in accordance with IC 26-1-9.1-317(e).

Sec. 12. To enforce a lien that attaches under section 11 of this chapter, a special tool builder must give notice of the lien in writing to the customer and the end user. The notice must:

(1) be delivered personally or by certified mail, return receipt requested, to the last known address of the customer and to the last known address of the end user; and

(2) state:

(A) that a lien is claimed;

(B) the amount that the special tool builder claims it is owed for fabrication, repair, or modification of the special tool; and

(C) a demand for payment.

Sec. 13. (a) Subject to section 14 of this chapter, if a special tool builder has not been paid the amount claimed in the notice required under section 12 of this chapter within ninety (90) days after the date the notice required under section 12 of this chapter has been received by the customer and the end user, the special tool builder:

(1) has a right to possession of the special tool; and

(2) may enforce the right to possession of the special tool by judgment, foreclosure, or any available judicial procedure.

(b) The special tool builder may do one (1) or more of the following:

(1) Take possession of the special tool. The special tool builder may take possession without judicial process if possession can be taken without breach of the peace.

(2) Sell the special tool in a public auction.

(c) A special tool builder is entitled to court costs and reasonable attorney's fees for expenses incurred under this section.

Sec. 14. (a) Before a special tool builder may enforce its security interest in a special tool for which the special tool builder claims a security interest under this chapter and for which the required

notice has been sent under section 12 of this chapter, the special tool builder must notify the customer, the end user, and all other persons that have a perfected security interest in the special tool by certified mail, return receipt requested, of all the following:

(1) The special tool builder's intention to sell the special tool sixty (60) days after the receipt of the notice.

(2) A description of the special tool to be sold.

(3) The last known location of the special tool.

(4) The time and place of the sale.

(5) An itemized statement of the amount due.

(6) A statement that the special tool was accepted and the acceptance was not subsequently rejected.

(b) If:

(1) there is no return of the receipt of the mailing; or

(2) the postal service returns the notice as being undeliverable;

the special tool builder shall publish notice of the special tool builder's intention to sell the special tool in a newspaper of general circulation in the place where the special tool was last known to be located, in the place of the customer's last known address, and in the place of the end user's last known address. The published notice must include a description of the special tool and the name of the customer and the end user.

(c) If a customer or an end user against whom the lien is asserted disagrees that the special tool was accepted or that the acceptance was not subsequently rejected, the customer or end user shall notify the special tool builder in writing by certified mail, return receipt requested, that the special tool was not accepted or that the acceptance was subsequently rejected. A special tool builder who receives notice under this subsection may not sell the special tool until the dispute is resolved.

Sec. 15. (a) The proceeds of a sale of a special tool under section 13 of this chapter shall be paid as follows:

(1) The proceeds shall be paid first to the prior lienholder who has a perfected lien in an amount sufficient to satisfy the lienholder's interest.

(2) Any remainder after payment is made under subdivision (1) shall be paid to the special tool builder who possesses a lien under this chapter in an amount sufficient to extinguish that

interest.

(3) Any remainder after payment is made under subdivision (2) shall be paid to the customer.

(b) A sale may not be made or possession may not be obtained under section 13 of this chapter if the sale or possession would violate any right a customer or an end user has under federal patent, bankruptcy, or copyright law.

SECTION 5. **An emergency is declared for this act.**

P.L.74-2009
[H.1090. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 27-8-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) This section does not apply to cases covered by section 10 or 11 of this chapter.

(b) In any case arising from a permittee's use of a motor vehicle for which the owner of the vehicle has motor vehicle insurance coverage, the owner's motor vehicle insurance coverage is considered primary if both of the following apply:

(1) The vehicle, at the time damage occurred, was operated with the permission of the owner of the motor vehicle.

(2) The use was within the scope of the permission granted.

(c) The permittee may not recover under any other motor vehicle insurance coverage available to the permittee until the limit of all coverage provided by the owner's policy is first exhausted.

(d) In a case arising from an owner's use of a motor vehicle for which the owner of the vehicle has motor vehicle insurance coverage, the owner's motor vehicle insurance policy is considered primary for any claim made by a passenger in the motor vehicle.

(e) A passenger in a motor vehicle at the time a case described in subsection (b) or (d) arises may not recover under any other motor vehicle insurance coverage available to the passenger until the limit of all coverage provided by the owner's policy is first exhausted.

SECTION 2. [EFFECTIVE JULY 1, 2009] **(a) IC 27-8-9-7, as amended by this act, applies to a case arising after June 30, 2009.**

(b) This SECTION expires July 1, 2014.

P.L.75-2009

[H.1096. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-5.5-5, AS AMENDED BY P.L.144-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The department of local government finance shall prescribe a sales disclosure form for use under this chapter. The form prescribed by the department of local government finance must include at least the following information:

(1) The key number (as defined in IC 6-1.1-1-8.5) of each parcel.

(2) With respect to each parcel, whether the entire parcel is being conveyed.

(3) The address of each improved parcel.

(4) The date of the execution of the form.

(5) The date the property was transferred.

(6) Whether the transfer includes an interest in land or improvements, or both.

(7) Whether the transfer includes personal property.

(8) An estimate of the value of any personal property included in the transfer.

(9) The name, address, and telephone number of:

(A) each transferor and transferee; and

(B) the person that prepared the form.

(10) The mailing address to which the property tax bills or other official correspondence should be sent.

(11) The ownership interest transferred.

(12) The classification of the property (as residential, commercial, industrial, agricultural, vacant land, or other).

(13) Subject to subsection (c), the total price actually paid or required to be paid in exchange for the conveyance, whether in terms of money, property, a service, an agreement, or other consideration, but excluding tax payments and payments for legal and other services that are incidental to the conveyance.

(14) The terms of seller provided financing, such as interest rate, points, type of loan, amount of loan, and amortization period, and whether the borrower is personally liable for repayment of the loan.

(15) Any family or business relationship existing between the transferor and the transferee.

(16) A legal description of each parcel subject to the conveyance.

(17) Whether the transferee is using the form to claim ~~the following~~ **one (1) or more deductions under IC 6-1.1-12-44** for property taxes first due and payable in a calendar year after 2008.

~~(A) One (1) or more deductions under IC 6-1.1-12-44.~~

~~(B) The homestead credit under IC 6-1.1-20.9-3.5.~~

(18) If the transferee uses the form to claim the ~~homestead credit~~ **standard deduction** under ~~IC 6-1.1-20.9-3.5,~~ **IC 6-1.1-12-37,** the name of any other county and township in which the transferee of residential real property owns or is buying residential real property.

(19) Other information as required by the department of local government finance to carry out this chapter.

If a form under this section includes the telephone number or the Social Security number of a party, the telephone number or the Social Security number is confidential.

(b) The instructions for completing the form described in subsection (a) must include the information described in IC 6-1.1-12-43(c)(1).

(c) If the conveyance includes more than one (1) parcel as described

in section 3(h) of this chapter, the form:

(1) is not required to include the price referred to in subsection (a)(13) for each of the parcels subject to the conveyance; and

(2) may state a single combined price for all of those parcels.

SECTION 2. IC 6-1.1-12-2, AS AMENDED BY P.L.144-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 2. (a) Except as provided in section 17.8 of this chapter and subject to section 45 of this chapter, ~~a person who desires to claim~~ **to qualify for** the deduction provided by section 1 of this chapter ~~must~~ **a statement must be filed under subsection (b) or (c).**

(b) To apply for the deduction under section 1 of this chapter, the person recording the mortgage, contract, or memorandum with the county recorder may file a written statement with the county recorder containing the information described in subsection (e)(1), (e)(2), (e)(3), (e)(4), (e)(6), (e)(7), and (e)(8). The statement must be prepared on the form prescribed by the department of local government finance and be signed by the property owner or contract purchaser under the penalties of perjury. The form must have a place for the county recorder to insert the record number and page where the mortgage, contract, or memorandum is recorded. Upon receipt of the form and the recording of the mortgage, contract, or memorandum, the county recorder shall insert on the form the record number and page where the mortgage is recorded and forward the completed form to the county auditor. The county recorder may not impose a charge for the county recorder's duties under this subsection. With respect to real property the statement must be filed with the county recorder during the year for which the person wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed with the county auditor during the twelve (12) months before March 31 of each year for which the individual wishes to obtain the deduction.

(c) Alternatively, to apply for a deduction under section 1 of this chapter, a person who desires to claim the deduction may file a statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the real

property, mobile home not assessed as real property, or manufactured home not assessed as real property is located. With respect to real property the statement must be filed during the year for which the person wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 31 of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. In addition to the statement required by this subsection, a contract buyer who desires to claim the deduction must submit a copy of the recorded contract or recorded memorandum of the contract, which must contain a legal description sufficient to meet the requirements of IC 6-1.1-5, with the first statement that the buyer files under this section with respect to a particular parcel of real property.

(d) Upon receipt of:

(1) the statement **under subsection (b); or**

(2) the statement under subsection (c) and the recorded contract or recorded memorandum of the contract;

the county auditor shall assign a separate description and identification number to the parcel of real property being sold under the contract.

~~(b)~~ **(e)** The statement referred to in ~~subsection (a)~~ **subsections (b) and (c)** must be verified under penalties for perjury. ~~and~~ The statement must contain the following information:

(1) The balance of the person's mortgage or contract indebtedness on the assessment date of the year for which the deduction is claimed.

(2) The assessed value of the real property, mobile home, or manufactured home.

(3) The full name and complete residence address of the person and of the mortgagee or contract seller.

(4) The name and residence of any assignee or bona fide owner or holder of the mortgage or contract, if known, and if not known, the person shall state that fact.

(5) The record number and page where the mortgage, contract, or memorandum of the contract is recorded.

(6) A brief description of the real property, mobile home, or manufactured home which is encumbered by the mortgage or sold

under the contract.

(7) If the person is not the sole legal or equitable owner of the real property, mobile home, or manufactured home, the exact share of the person's interest in it.

(8) The name of any other county in which the person has applied for a deduction under this section and the amount of deduction claimed in that application.

~~(c)~~ **(f)**The authority for signing a deduction application filed under this section may not be delegated by the real property, mobile home, or manufactured home owner or contract buyer to any person except upon an executed power of attorney. The power of attorney may be contained in the recorded mortgage, contract, or memorandum of the contract, or in a separate instrument.

(g) A closing agent, as defined in IC 6-1.1-12-43(a)(2), is not liable for any damages claimed by the property owner or contract purchaser because of:

(1) the closing agent's failure to provide the written statement described in subsection (b);

(2) the closing agent's failure to file the written statement described in subsection (b);

(3) any omission or inaccuracy in the written statement described in subsection (b) that is filed with the county recorder by the closing agent; or

(4) any determination made with respect to a property owner's or contract purchaser's eligibility for the deduction under section 1 of this chapter.

(h) The county recorder may not refuse to record a mortgage, contract, or memorandum because the written statement described in subsection (b):

(1) is not included with the mortgage, contract, or memorandum;

(2) does not contain the signatures required by subsection (b);

(3) does not contain the information described in subsection (e); or

(4) is otherwise incomplete or inaccurate.

SECTION 3. IC 6-1.1-12-44, AS ADDED BY P.L.144-2008, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 44. (a) A sales disclosure

form under IC 6-1.1-5.5:

(1) that is submitted:

(A) as a paper form; or

(B) electronically;

on or before December 31 of a calendar year to the county assessor by or on behalf of the purchaser of a homestead (as defined in ~~IC 6-1.1-20.9-1)~~ **section 37 of this chapter)** assessed as real property;

(2) that is accurate and complete;

(3) that is approved by the county assessor as eligible for filing with the county auditor; and

(4) that is filed:

(A) as a paper form; or

(B) electronically;

with the county auditor by or on behalf of the purchaser;

constitutes an application for the deductions provided by sections 26, 29, 33, ~~and~~ 34, **and 37** of this chapter with respect to property taxes first due and payable in the calendar year that immediately succeeds the calendar year referred to in subdivision (1).

(b) Except as provided in subsection (c), if:

(1) the county auditor receives in a calendar year a sales disclosure form that meets the requirements of subsection (a); and

(2) the homestead for which the sales disclosure form is submitted is otherwise eligible for a deduction referred to in subsection (a);

the county auditor shall apply the deduction to the homestead for property taxes first due and payable in the calendar year for which the homestead qualifies under subsection (a) and in any later year in which the homestead remains eligible for the deduction.

(c) Subsection (b) does not apply if the county auditor, after receiving a sales disclosure form from or on behalf of a purchaser under subsection (a)(4), determines that the homestead is ineligible for the deduction.

SECTION 4. [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] **IC 6-1.1-12-2 and IC 6-1.1-12-44, both as amended by this act, apply only to:**

(1) sales disclosure forms and mortgage deduction application forms filed after 2008; and

(2) property taxes first due and payable after 2009.

SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) The general assembly recognizes that the amendments to IC 6-1.1-5.5-5 by this act (effective upon passage) are also made in IC 6-1.1-5.5-5, as amended by HEA 1344-2009 (effective July 1, 2009).**

(b) The publisher of the Indiana Code shall publish IC 6-1.1-5.5-5, as amended by this act, in the Indiana Code, to be effective until July 1, 2009.

(c) The publisher of the Indiana Code shall publish IC 6-1.1-5.5-5, as amended by HEA 1344-2009, in the Indiana Code, to be effective July 1, 2009.

(d) This SECTION expires December 31, 2009.

SECTION 6. **An emergency is declared for this act.**

P.L.76-2009
[H.1130. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-24-6-2, AS AMENDED BY P.L.188-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 2. (a) The bureau shall adopt rules under IC 4-22-2 to regulate persons required to hold a commercial driver's license.

(b) The rules must carry out 49 U.S.C. 521, 49 U.S.C. 31104, 49 U.S.C. 31301 through 31306, 49 U.S.C. 31308 through 31317, and 49 CFR 383 through 384, and may not be more restrictive than the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law ~~106-159.113~~ **106-159, 113** Stat. 1748).

(c) Rules adopted under this section must include the following:

(1) Establishment of classes and periods of validation of commercial driver's licenses, **including the period set forth in**

IC 9-24-12-6(e).

(2) Standards for commercial driver's licenses, including suspension and revocation procedures.

(3) Requirements for documentation of eligibility for legal employment, as set forth in 8 CFR 274a.2, and proof of Indiana residence.

(4) Development of written or oral tests, driving tests, and fitness requirements.

(5) Defining the commercial driver's licenses by classification and the information to be contained on the licenses, including a unique identifier of the holder.

(6) Establishing fees for the issuance of commercial driver's licenses, including fees for testing and examination.

(7) Procedures for the notification by the holder of a commercial driver's license to the bureau and the driver's employer of pointable traffic offense convictions.

(8) Conditions for reciprocity with other states, including requirements for a written commercial driver's license test and operational skills test, and a hazardous materials endorsement written test and operational skills test, before a license may be issued.

(9) Other rules necessary to administer this chapter.

(d) 49 CFR 383 through 384 are adopted as Indiana law.

SECTION 2. IC 9-24-12-5, AS AMENDED BY P.L.156-2006, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. **(a) Except as provided in subsection (b),** an individual applying for renewal of an operator's, a motorcycle operator's, a chauffeur's, or a public passenger chauffeur's license must apply in person at a license branch and do the following:

(1) Pass an eyesight examination.

(2) Pass a written examination if:

(A) the applicant has at least six (6) active points on the applicant's driving record maintained by the bureau; or

(B) the applicant holds a valid operator's license, has not reached the applicant's twenty-first birthday, and has active points on the applicant's driving record maintained by the bureau.

(b) The bureau may adopt rules under IC 4-22-2 concerning the

ability of a holder of an operator's, a motorcycle operator's, a chauffeur's, or a public passenger chauffeur's license to renew the license by mail or by electronic service. If rules are adopted under this subsection, the rules must provide that an individual's renewal of a license by mail or by electronic service is subject to the following conditions:

(1) A valid computerized image of the individual must exist within the records of the bureau.

(2) The previous renewal of the individual's operator's, motorcycle operator's, chauffeur's, or public passenger chauffeur's license must not have been by mail or by electronic service.

(3) The application for or previous renewal of the individual's license must have included a test of the individual's eyesight approved by the bureau.

(4) If the individual were applying for the license renewal in person at a license branch, the individual would not be required under subsection (a)(2) to submit to a written examination.

(5) The individual must be a citizen of the United States, as shown in the records of the bureau.

(6) There must not have been any change in the:

(A) address; or

(B) name;

of the individual since the issuance or previous renewal of the individual's operator's, motorcycle operator's, chauffeur's, or public passenger chauffeur's license.

(7) The operator's, motorcycle operator's, chauffeur's, or public passenger chauffeur's license of the individual must not be:

(A) suspended; or

(B) expired;

at the time of the application for renewal.

(8) The individual must be less than seventy-five (75) years of age at the time of the application for renewal.

(c) An individual applying for the renewal of an operator's, a motorcycle operator's, a chauffeur's, or a public passenger chauffeur's license must apply in person at a license branch under subsection (a) if the individual is not entitled to apply by mail or by

electronic service under rules adopted under subsection (b).

SECTION 3. IC 9-24-9-2.5, AS ADDED BY P.L.184-2007, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.5. In addition to the information required from the applicant for a license or permit under sections 1 and 2 of this chapter, the bureau shall require an applicant to present to the bureau valid documentary evidence that the applicant:

(1) is a citizen or national of the United States;

(2) is an alien lawfully admitted for permanent ~~or temporary~~ residence in the United States;

(3) has conditional permanent resident status in the United States;

(4) has an approved application for asylum in the United States or has entered into the United States in refugee status;

(5) is an alien lawfully admitted for temporary residence in the United States;

~~(5)~~ **(6)** has a valid unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;

~~(6)~~ **(7)** has a pending application for asylum in the United States;

~~(7)~~ **(8)** has a pending or approved application for temporary protected status in the United States;

~~(8)~~ **(9)** has approved deferred action status; or

~~(9)~~ **(10)** has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.

SECTION 4. IC 9-24-11-3, AS AMENDED BY P.L.184-2007, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A license issued to an individual less than eighteen (18) years of age is a probationary license.

(b) An individual holds a probationary license subject to the following conditions:

(1) Except as provided in IC 31-37-3, the individual may not operate a motor vehicle during the curfew hours specified in IC 31-37-3-2.

(2) During the ninety (90) days following the issuance of the probationary license, the individual may not operate a motor vehicle in which there are passengers unless another individual who:

(A) is at least twenty-one (21) years of age; and

(B) holds a valid operator's license issued under this article;

is present in the front seat of the motor vehicle.

(3) The individual may operate a motor vehicle only if the individual and each occupant of the motor vehicle has a safety belt properly fastened about the occupant's body at all times when the motor vehicle is in motion.

(c) An individual who holds a probationary license issued under this section may receive an operator's license, a chauffeur's license, a public passenger chauffeur's license, or a commercial driver's license when the individual is at least eighteen (18) years of age.

(d) Except as provided in subsection (e), a probationary license issued under this section:

(1) expires at midnight of the twenty-first birthday of the holder; and

(2) may not be renewed.

(e) A probationary license issued under this section to an individual who complies with IC 9-24-9-2.5(5) through ~~IC 9-24-9-2.5(9)~~ **IC 9-24-9-2.5(10)** expires:

(1) at midnight one (1) year after issuance if there is no expiration date on the authorization granted to the individual to remain in the United States; or

(2) if there is an expiration date on the authorization granted to the individual to remain in the United States, the earlier of the following:

(A) At midnight of the date the authorization to remain in the United States expires.

(B) At midnight of the twenty-first birthday of the holder.

SECTION 5. IC 9-24-11-5, AS AMENDED BY P.L.184-2007, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Except as provided in subsection (i), a permit or license issued under this chapter must contain the following information:

(1) The full legal name of the permittee or licensee.

(2) The date of birth of the permittee or licensee.

(3) The address of the principal residence of the permittee or licensee.

(4) The hair color and eye color of the permittee or licensee.

(5) The date of issue and expiration date of the permit or license.

(6) The gender of the permittee or licensee.

(7) The unique identifying number of the permit or license.

(8) The weight of the permittee or licensee.

(9) The height of the permittee or licensee.

(10) A reproduction of the signature of the permittee or licensee.

(11) If the permittee or licensee is less than eighteen (18) years of age at the time of issuance, the dates on which the permittee or licensee will become:

(A) eighteen (18) years of age; and

(B) twenty-one (21) years of age.

(12) If the permittee or licensee is at least eighteen (18) years of age but less than twenty-one (21) years of age at the time of issuance, the date on which the permittee or licensee will become twenty-one (21) years of age.

(13) Except as provided in subsection (b) or (c), a digital photograph of the permittee or licensee.

(b) The following permits or licenses do not require a digital photograph:

(1) Temporary motorcycle learner's permit issued under IC 9-24-8.

(2) Motorcycle learner's permit issued under IC 9-24-8.

(c) The bureau may provide for the omission of a photograph or computerized image from any other license or permit if there is good cause for the omission. However, a license issued without a digital photograph must include the language described in subsection (f).

(d) The information contained on the permit or license as required by subsection (a)(11) or (a)(12) for a permittee or licensee who is less than twenty-one (21) years of age at the time of issuance shall be printed prominently on the permit or license.

(e) This subsection applies to a permit or license issued after January 1, 2007. If the applicant for a permit or license submits information to the bureau concerning the applicant's medical condition, the bureau shall place an identifying symbol on the face of the permit or license to indicate that the applicant has a medical condition of note. The bureau shall include information on the permit or license that briefly describes the medical condition of the holder of the permit or license. The information must be printed in a manner that alerts a

person reading the permit or license to the existence of the medical condition. The permittee or licensee is responsible for the accuracy of the information concerning the medical condition submitted under this subsection. The bureau shall inform an applicant that submission of information under this subsection is voluntary.

(f) Any license or permit issued by the state that does not require a digital photograph must include ~~the~~ **a** statement ~~"May~~ **that indicates the license or permit may** not be accepted by any federal agency for federal identification or any other federal purpose.

(g) A license or permit issued by the state to an individual who:

(1) has a valid, unexpired nonimmigrant visa or has nonimmigrant visa status for entry in the United States;

(2) has a pending application for asylum in the United States;

(3) has a pending or approved application for temporary protected status in the United States;

(4) has approved deferred action status; or

(5) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent residence status in the United States;

must be clearly identified as a temporary license or permit. A temporary license or permit issued under this subsection may not be renewed without the presentation of valid documentary evidence proving that the licensee's or permitee's temporary status has been extended.

(h) The bureau may adopt rules under IC 4-22-2 to carry out this section.

(i) For purposes of subsection (a), an individual certified as a program participant in the address confidentiality program under IC 5-26.5 is not required to provide the address of the individual's principal residence, but may provide an address designated by the office of the attorney general under IC 5-26.5 as the address of the individual's principal residence.

SECTION 6. IC 9-24-12-4, AS AMENDED BY P.L.184-2007, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Except as provided in subsections (b) and (c), the application for renewal of:

(1) an operator's license;

(2) a motorcycle operator's license;

(3) a chauffeur's license;

(4) a public passenger chauffeur's license; or

(5) an identification card;

under this article may be filed not more than twelve (12) months before the expiration date of the license or identification card held by the applicant.

(b) When the applicant complies with IC 9-24-9-2.5(5) through ~~IC 9-24-9-2.5(9),~~ **IC 9-24-9-2.5(10),** an application for renewal of a driver's license in subsection (a)(1), (a)(2), (a)(3), or (a)(4) may be filed not more than one (1) month before the expiration date of the license held by the applicant.

(c) When the applicant complies with IC 9-24-16-3.5(1)(E) through ~~IC 9-24-16-3.5(1)(I),~~ **IC 9-24-16-3.5(1)(J),** an application for renewal of an identification card in subsection (a)(5) may be filed not more than one (1) month before the expiration date of the identification card held by the applicant.

SECTION 7. IC 9-24-12-6, AS AMENDED BY P.L.184-2007, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 6. (a) As used in this section, "good cause" includes the following:

(1) Temporarily residing at least fifty (50) miles outside the boundaries of Indiana.

(2) Serving in the armed forces of the United States.

(b) The bureau may renew a valid Indiana operator's license held by an individual temporarily residing outside Indiana if the applicant does the following:

(1) Shows good cause why the license cannot be renewed within Indiana.

(2) Submits a completed application provided by the bureau and payment of the fee required in IC 9-29-9.

(3) Submits a written affidavit that affirms that no source document upon which the operator's license was issued has changed or been altered since the prior issuance of the operator's license.

(c) The Indiana operator's license of an individual who is temporarily residing outside Indiana remains valid for thirty (30) days beyond the expiration date of that license if the individual meets the

following conditions:

(1) Has applied for a renewal of the license.

(2) Has not been denied a renewal of the license by the bureau.

(d) Upon receiving an application for the renewal of an Indiana operator's license from an individual temporarily residing outside Indiana, the bureau shall do the following:

(1) Either renew or deny the renewal of the license within ten (10) days.

(2) Notify the individual of the decision.

(e) When the Indiana ~~operator's~~ **driver's** license of an individual who is temporarily residing outside Indiana because of service in the armed forces of the United States has expired, the **driver's** license remains valid for ninety (90) days following the ~~person's~~ **individual's** discharge from service in the armed forces **or postdeployment in the armed forces.** To obtain a renewed **driver's** license, the individual must do the following:

(1) Apply for a renewal of the ~~operator's~~ **driver's** license during the ninety (90) day period following the individual's discharge **or postdeployment in the armed forces.**

(2) Show proof of the individual's discharge from service in the armed forces **or status as postdeployment in the armed forces to the bureau** when applying for the renewal.

An individual who held a commercial driver's license that expired during service in the armed forces may renew the commercial driver's license as if the commercial driver's license had not expired but had remained valid during the period of service in the armed forces of the United States.

SECTION 8. IC 9-24-12-12, AS ADDED BY P.L.184-2007, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) This section applies to a driver's license issued under:

(1) IC 9-24-3;

(2) IC 9-24-4;

(3) IC 9-24-5; and

(4) IC 9-24-8.

(b) A driver's license listed in subsection (a) that is issued after December 31, 2007, to an applicant who complies with IC 9-24-9-2.5(5) through ~~IC 9-24-9-2.5(9)~~ **IC 9-24-9-2.5(10)** expires:

(1) at midnight one (1) year after issuance if there is no expiration date on the authorization granted to the individual to remain in the United States; or

(2) if there is an expiration date on the authorization granted to the individual to remain in the United States, the earlier of the following:

(A) At midnight of the date the authorization of the holder to be a legal permanent resident or conditional resident alien of the United States expires.

(B) At midnight of the birthday of the holder that occurs six (6) years after the date of issuance.

SECTION 9. IC 9-24-16-3, AS AMENDED BY P.L.184-2007, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) An identification card must have the same dimensions and shape as a driver's license, but the card must have markings sufficient to distinguish the card from a driver's license.

(b) Except as provided in subsection (g), the front side of an identification card must contain the expiration date of the identification card and the following information about the individual to whom the card is being issued:

(1) Full legal name.

(2) The address of the principal residence.

(3) Date of birth.

(4) Date of issue and date of expiration.

(5) Unique identification number.

(6) Gender.

(7) Weight.

(8) Height.

(9) Color of eyes and hair.

(10) Reproduction of the signature of the individual identified.

(11) Whether the individual is blind (as defined in IC 12-7-2-21(1)).

(12) If the individual is less than eighteen (18) years of age at the time of issuance, the dates on which the individual will become:

(A) eighteen (18) years of age; and

(B) twenty-one (21) years of age.

(13) If the individual is at least eighteen (18) years of age but less than twenty-one (21) years of age at the time of issuance, the date

on which the individual will become twenty-one (21) years of age.

(14) Digital photograph of the individual.

(c) The information contained on the identification card as required by subsection (b)(12) or (b)(13) for an individual who is less than twenty-one (21) years of age at the time of issuance shall be printed prominently on the permit or license.

(d) If the applicant for an identification card submits information to the bureau concerning the applicant's medical condition, the bureau shall place an identifying symbol on the face of the identification card to indicate that the applicant has a medical condition of note. The bureau shall include information on the identification card that briefly describes the medical condition of the holder of the card. The information must be printed in a manner that alerts a person reading the card to the existence of the medical condition. The applicant for an identification card is responsible for the accuracy of the information concerning the medical condition submitted under this subsection. The bureau shall inform an applicant that submission of information under this subsection is voluntary.

(e) An identification card issued by the state that does not require a digital photograph must include ~~the~~ **a** statement ~~"May~~ **that the identification card may** not be accepted by any federal agency for federal identification or any other federal purpose.

(f) An identification card issued by the state to an individual who:

(1) has a valid, unexpired nonimmigrant visa or has nonimmigrant visa status for entry in the United States;

(2) has a pending application for asylum in the United States;

(3) has a pending or approved application for temporary protected status in the United States;

(4) has approved deferred action status; or

(5) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent residence status in the United States;

must be clearly identified as a temporary identification card. A temporary identification card issued under this subsection may not be renewed without the presentation of valid documentary evidence proving that the holder of the identification card's temporary status has been extended.

(g) For purposes of subsection (b), an individual certified as a program participant in the address confidentiality program under IC 5-26.5 is not required to provide the address of the individual's principal residence, but may provide an address designated by the office of the attorney general under IC 5-26.5 as the address of the individual's principal residence.

SECTION 10. IC 9-24-16-3.5, AS ADDED BY P.L.184-2007, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3.5. In addition to the information required for the applicant for an identification card under section 3 of this chapter, the bureau shall require an applicant to present to the bureau:

(1) valid documentary evidence that the applicant:

(A) is a citizen or national of the United States;

(B) is an alien lawfully admitted for permanent ~~or temporary~~ residence in the United States;

(C) has conditional permanent resident status in the United States;

(D) has an approved application for asylum in the United States or has entered into the United States in refugee status;

(E) is an alien lawfully admitted for temporary residence in the United States;

~~(E)~~ **(F)** has a valid unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;

~~(F)~~ **(G)** has a pending application for asylum in the United States;

~~(G)~~ **(H)** has a pending or approved application for temporary protected status in the United States;

~~(H)~~ **(I)** has approved deferred action status; or

~~(I)~~ **(J)** has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States; and

(2) evidence of the Social Security number of the applicant. If federal law prohibits the issuance of a Social Security number to the applicant, the applicant must provide verification of the applicant's ineligibility to be issued a Social Security number.

SECTION 11. IC 9-24-16-4, AS AMENDED BY P.L.184-2007, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]: Sec. 4. (a) Except as provided in subsection (b), an identification card issued:

(1) before January 1, 2006, expires on the fourth birthday of the applicant following the date of issue; and

(2) after December 31, 2005, expires at midnight of the birthday of the holder that occurs six (6) years following the date of issuance.

(b) An identification card issued under this article after December 31, 2007, to an applicant who complies with section 3.5(1)(E) through ~~3.5(1)(I)~~ **3.5(1)(J)** of this chapter expires:

(1) at midnight one (1) year after issuance, if there is no expiration date on the authorization granted to the individual to remain in the United States; or

(2) if there is an expiration date on the authorization granted to the individual to remain in the United States, the earlier of the following:

(A) At midnight of the date the authorization of the holder to be a legal permanent resident or conditional resident alien of the United States expires.

(B) At midnight of the birthday of the holder that occurs six (6) years after the date of issuance.

SECTION 12. IC 9-24-16-5, AS AMENDED BY P.L.184-2007, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) An application for renewal of an identification card may be made not more than twelve (12) months before the expiration date of the card. However, when the applicant complies with section 3.5(1)(E) through ~~3.5(1)(I)~~ **3.5(1)(J)** of this chapter, an application for renewal of an identification card may be filed not more than one (1) month before the expiration date of the identification card held by the applicant. A renewal application received after the date of expiration is considered to be a new application.

(b) Except as provided in subsection (e), a renewed card issued:

(1) before January 1, 2006, becomes valid on the birth date of the holder and remains valid for four (4) years; and

(2) after December 31, 2005, is valid on the birth date of the holder and remains valid for six (6) years.

(c) If renewal has not been made within six (6) months after

expiration, the bureau shall destroy all records pertaining to the former cardholder.

(d) Renewal may not be granted if the cardholder was issued a driver's license subsequent to the last issuance of an identification card.

(e) A renewed identification card issued under this article after December 31, 2007, to an applicant who complies with section 3.5(1)(E) through ~~3.5(1)(I)~~ **3.5(1)(J)** of this chapter expires:

(1) at midnight one (1) year after issuance, if there is no expiration date on the authorization granted to the individual to remain in the United States; or

(2) if there is an expiration date on the authorization granted to the individual to remain in the United States, the earlier of the following:

(A) At midnight of the date the authorization of the holder to be a legal permanent resident or conditional resident alien of the United States expires.

(B) At midnight of the birthday of the holder that occurs six (6) years after the date of issuance.

P.L.77-2009

[H.1132. Approved May 6, 2009.]

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

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

SECTION 1. IC 5-2-1-2, AS AMENDED BY P.L.2-2007, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. For the purposes of this chapter, and unless the context clearly denotes otherwise, the following definitions apply throughout this chapter:

(1) "Law enforcement officer" means an appointed officer or

employee hired by and on the payroll of the state, any of the state's political subdivisions, or a public or private postsecondary educational institution whose board of trustees has established a police department under IC 21-17-5-2 or IC 21-39-4-2 who is granted lawful authority to enforce all or some of the penal laws of the state of Indiana and who possesses, with respect to those laws, the power to effect arrests for offenses committed in the officer's or employee's presence. However, the following are expressly excluded from the term "law enforcement officer" for the purposes of this chapter:

(A) A constable.

(B) A special officer whose powers and duties are described in IC 36-8-3-7 or a special deputy whose powers and duties are described in IC 36-8-10-10.6.

(C) A county police reserve officer who receives compensation for lake patrol duties under IC 36-8-3-20(f)(4).

(D) A conservation reserve officer who receives compensation for lake patrol duties under IC 14-9-8-27.

(E) An employee of the gaming commission whose powers and duties are described in IC 4-32.2-9.

(F) A correctional police officer described in IC 11-8-9.

(2) "Board" means the law enforcement training board created by this chapter.

(3) "Advisory council" means the law enforcement advisory council created by this chapter.

(4) "Executive training program" means the police chief executive training program developed by the board under section 9 of this chapter.

(5) "Law enforcement training council" means one (1) of the confederations of law enforcement agencies recognized by the board and organized for the sole purpose of sharing training, instructors, and related resources.

(6) "Training regarding the lawful use of force" includes classroom and skills training in the proper application of hand to hand defensive tactics, use of firearms, and other methods of:

(A) overcoming unlawful resistance; or

(B) countering other action that threatens the safety of the public or a law enforcement officer.

(7) "Hiring or appointing authority" means:

(A) the chief executive officer, board, or other entity of a police department or agency with authority to appoint and hire law enforcement officers; or

(B) the governor, mayor, board, or other entity with the authority to appoint a chief executive officer of a police department or agency.

SECTION 2. IC 5-2-1-9, AS AMENDED BY HEA 1198-2009, SECTION 14, AND AS AMENDED BY SEA 307-2009, SECTION 1, AND AS AMENDED BY HEA 1455-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. The rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, law enforcement training centers, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers appointed on other than a permanent basis shall complete

in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with:

(A) persons with mental illness, addictive disorders, mental retardation, and developmental disabilities; and

(B) missing endangered adults (as defined in IC 12-7-2-131.3);

to be provided by persons approved by the secretary of family and social services and the board.

(10) Minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice training programs for law enforcement officers. The course must cover the following topics:

(A) Examination of the human and sexual trafficking laws (IC 35-42-3.5).

(B) Identification of human and sexual trafficking.

(C) Communicating with traumatized persons.

(D) Therapeutically appropriate investigative techniques.

(E) Collaboration with federal law enforcement officials.

(F) Rights of and protections afforded to victims.

(G) Providing documentation that satisfies the Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B) requirements established under federal law.

(H) The availability of community resources to assist human and sexual trafficking victims.

(b) Except as provided in subsection (l), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1)

year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), (l), (r), and (s), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy or at a law enforcement training center under section 10.5 or 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) This subsection does not apply to:

(1) a gaming agent employed as a law enforcement officer by the Indiana gaming commission; or

(2) an:

(A) attorney; or

(B) investigator;

designated by the securities commissioner as a police officer of the state under IC 23-19-6-1(i).

Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a

pre-basic course for the purpose of training:

(1) law enforcement officers;

(2) police reserve officers (as described in IC 36-8-3-20); and

(3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, the lawful use of force, interacting with individuals with autism, and the operation of an emergency vehicle. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of at least forty (40) hours of course work. The board may prepare the classroom part of the pre-basic course using available technology in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including postsecondary educational institutions.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes the mandatory inservice training requirements established by rules adopted by the board. Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the board, and training concerning human and sexual trafficking. The board may approve courses offered by other public or private training entities, including postsecondary educational institutions, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to either of the following:

(1) An emergency situation.

(2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal

basic training program, subject to the following:

(1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.

(2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having not more than one (1) marshal and two (2) deputies.

(4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(6) The program must require training in interacting with individuals with autism.

(i) The board shall adopt rules under IC 4-22-2 to establish an executive training program. The executive training program must include training in the following areas:

(1) Liability.

(2) Media relations.

(3) Accounting and administration.

(4) Discipline.

(5) Department policy making.

(6) Lawful use of force.

(7) Department programs.

(8) Emergency vehicle operation.

(9) Cultural diversity.

(j) A police chief shall apply for admission to the executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the executive training program within six (6) months of the date the police chief initially takes office. However, if space in the executive training program is not available at a time that will allow completion of the executive training program within six (6) months of the date the police

chief initially takes office, the police chief must successfully complete the next available executive training program that is offered after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not continue to serve as the police chief until completion of the executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

(1) the police chief of any city;

(2) the police chief of any town having a metropolitan police department; and

(3) the chief of a consolidated law enforcement department established under IC 36-3-1-5.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the executive training program.

(l) A fire investigator in the division of fire and building safety appointed after December 31, 1993, is required to comply with the basic training standards established under this chapter.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

(n) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) has not been employed as a law enforcement officer for at least two (2) years and less than six (6) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement; and

(3) completed at any time a basic training course certified by the board before the officer is hired under subdivision (1).

(o) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) has not been employed as a law enforcement officer for at

least six (6) years and less than ten (10) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement;

(3) is hired under subdivision (1) in an upper level policymaking position; and

(4) completed at any time a basic training course certified by the board before the officer is hired under subdivision (1).

A refresher course established under this subsection may not exceed one hundred twenty (120) hours of course work. All credit hours received for successfully completing the police chief executive training program under subsection (i) shall be applied toward the refresher course credit hour requirements.

(p) Subject to subsection (q), an officer to whom subsection (n) or (o) applies must successfully complete the refresher course described in subsection (n) or (o) not later than six (6) months after the officer's date of hire, or the officer loses the officer's powers of:

(1) arrest;

(2) search; and

(3) seizure.

(q) A law enforcement officer who has worked as a law enforcement officer for less than twenty-five (25) years before being hired under subsection (n)(1) or (o)(1) is not eligible to attend the refresher course described in subsection (n) or (o) and must repeat the full basic training course to regain law enforcement powers. However, a law enforcement officer who has worked as a law enforcement officer for at least twenty-five (25) years before being hired under subsection (n)(1) or (o)(1) and who otherwise satisfies the requirements of subsection (n) or (o) is not required to repeat the full basic training course to regain law enforcement power but shall attend the refresher course described in subsection (n) or (o) and the pre-basic training course established under subsection (f).

(r) This subsection applies only to a gaming agent employed as a law enforcement officer by the Indiana gaming commission. A gaming agent appointed after June 30, 2005, may exercise the police powers described in subsection (d) if:

(1) the agent successfully completes the pre-basic course established in subsection (f); and

(2) the agent successfully completes any other training courses

established by the Indiana gaming commission in conjunction with the board.

(s) This subsection applies only to a securities enforcement officer designated as a law enforcement officer by the securities commissioner. A securities enforcement officer may exercise the police powers described in subsection (d) if:

(1) the securities enforcement officer successfully completes the pre-basic course established in subsection (f); and

(2) the securities enforcement officer successfully completes any other training courses established by the securities commissioner in conjunction with the board.

(t) As used in this section, "upper level policymaking position" refers to the following:

(1) If the authorized size of the department or town marshal system is not more than ten (10) members, the term refers to the position held by the police chief or town marshal.

(2) If the authorized size of the department or town marshal system is more than ten (10) members but less than fifty-one (51) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next rank and pay grade immediately below the police chief or town marshal.

(3) If the authorized size of the department or town marshal system is more than fifty (50) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next two (2) ranks and pay grades immediately below the police chief or town marshal.

(u) This subsection applies only to a correctional police officer employed by the department of correction. A correctional police officer may exercise the police powers described in subsection (d) if:

(1) the officer successfully completes the pre-basic course described in subsection (f); and

(2) the officer successfully completes any other training courses established by the department of correction in

conjunction with the board.

SECTION 3. IC 11-8-2-5, AS AMENDED BY P.L.246-2005, SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) The commissioner shall do the following:

(1) Organize the department and employ personnel necessary to discharge the duties and powers of the department.

(2) Administer and supervise the department, including all state owned or operated correctional facilities.

(3) Except for employees of the parole board, be the appointing authority for all positions in the department within the scope of IC 4-15-2 and define the duties of those positions in accord with IC 4-15-2.

(4) Define the duties of a deputy commissioner and a superintendent.

(5) Accept committed persons for study, evaluation, classification, custody, care, training, and reintegration.

(6) Determine the capacity of all state owned or operated correctional facilities and programs and keep all Indiana courts having criminal or juvenile jurisdiction informed, on a quarterly basis, of the populations of those facilities and programs.

(7) Utilize state owned or operated correctional facilities and programs to accomplish the purposes of the department and acquire or establish, according to law, additional facilities and programs whenever necessary to accomplish those purposes.

(8) Develop policies, programs, and services for committed persons, for administration of facilities, and for conduct of employees of the department.

(9) Administer, according to law, the money or other property of the department and the money or other property retained by the department for committed persons.

(10) Keep an accurate and complete record of all department proceedings, which includes the responsibility for the custody and preservation of all papers and documents of the department.

(11) Make an annual report to the governor according to subsection (c).

(12) Develop, collect, and maintain information concerning offenders, sentencing practices, and correctional treatment as the commissioner considers useful in penological research or in

developing programs.

(13) Cooperate with and encourage public and private agencies and other persons in the development and improvement of correctional facilities, programs, and services.

(14) Explain correctional programs and services to the public.

(15) As required under 42 U.S.C. 15483, after January 1, 2006, provide information to the election division to coordinate the computerized list of voters maintained under IC 3-7-26.3 with department records concerning individuals disfranchised under IC 3-7-46.

(b) The commissioner may:

(1) when authorized by law, adopt departmental rules under IC 4-22-2;

(2) delegate powers and duties conferred on the commissioner by law to a deputy commissioner or commissioners and other employees of the department;

(3) issue warrants for the return of escaped committed persons (an employee of the department or any person authorized to execute warrants may execute a warrant issued for the return of an escaped person); ~~and~~

(4) appoint personnel to be sworn in as correctional police officers; and

~~(4)~~ **(5)** exercise any other power reasonably necessary in discharging the commissioner's duties and powers.

(c) The annual report of the department shall be transmitted to the governor by September 1 of each year and must contain:

(1) a description of the operation of the department for the fiscal year ending June 30;

(2) a description of the facilities and programs of the department;

(3) an evaluation of the adequacy and effectiveness of those facilities and programs considering the number and needs of committed persons or other persons receiving services; and

(4) any other information required by law.

Recommendations for alteration, expansion, or discontinuance of facilities or programs, for funding, or for statutory changes may be included in the annual report.

SECTION 4. IC 11-8-2-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2009]: **Sec. 14. (a) The correctional peace officer's fund is established to provide monetary assistance, including tuition assistance, to a correctional employee or the family member of a correctional employee. Monetary assistance may be paid from the fund to the correctional employee or a family member of a correctional employee if:**

(1) the employee or employee's family member attends a postsecondary educational institution;

(2) the employee suffers a loss as the result of a natural disaster; or

(3) the employee is killed or injured in the line of duty.

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

(c) The fund consists of:

(1) grants;

(2) donations;

(3) employee contributions; and

(4) appropriations;

made to the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

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

(f) Money in the fund is continually appropriated to carry out the purposes of the fund.

SECTION 5. IC 11-8-9 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 9. Correctional Police Officers

Sec. 1. The commissioner may appoint an individual to serve as a correctional police officer. An individual appointed to serve as a correctional police officer may not exercise police powers until the individual successfully completes a program of instruction certified by the department and the law enforcement training board.

Sec. 2. An individual appointed as a correctional police officer under section 1 of this chapter shall take an appropriate oath of office in the form and manner prescribed by the commissioner. A

correctional police officer serves at the pleasure of the commissioner.

Sec. 3. Except as provided in section 4 of this chapter, a correctional police officer may:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property;

(3) carry a firearm; and

(4) exercise other police powers with respect to the enforcement of Indiana laws.

Sec. 4. (a) A correctional police officer may not make an arrest, conduct a search or a seizure of a person or property, or exercise other police powers unless the arrest, search, seizure, or exercise of other police powers is performed:

(1) in connection with an offense committed on the property of the department;

(2) in connection with an offense involving an offender who is committed to the department;

(3) in connection with an offense committed in the presence of the officer; or

(4) while assisting another law enforcement officer who has requested the assistance of the correctional police officer.

(b) The commissioner may additionally limit the exercise of the powers described in subsection (a).

SECTION 6. IC 35-33-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) An owner or agent of a store who has probable cause to believe that a theft has occurred or is occurring on or about the store and who has probable cause to believe that a specific person has committed or is committing the theft:

(1) may:

~~(1)~~ **(A)** detain the person and request the person to identify himself **or herself;**

~~(2)~~ **(B)** verify the identification;

~~(3)~~ **(C)** determine whether the person has in ~~his~~ **the person's** possession unpurchased merchandise taken from the store;

~~(4)~~ **(D)** inform the appropriate law enforcement officers; and

~~(5)~~ **(E)** inform the **person's** parents or others interested in the person's welfare that the person has been detained; **but**

(2) shall not ask the person to make a statement that acknowledges that the person committed the theft or conversion or waives any of the person's legal rights if:

(A) the person is less than eighteen (18) years of age; and

(B) the person has not been afforded an opportunity to have a meaningful consultation with his or her parent, guardian, custodian, or guardian ad litem.

(b) A statement acknowledging that a child committed theft or conversion in violation of subdivision (a)(2) cannot be admitted as evidence against the child on the issue of whether the child committed a delinquent act or a crime.

~~(b)~~ **(c)** The detention must:

(1) be reasonable and last only for a reasonable time; and

(2) not extend beyond the arrival of a law enforcement officer or two (2) hours, whichever first occurs.

SECTION 7. IC 35-41-1-17, AS AMENDED BY P.L.230-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) "Law enforcement officer" means:

(1) a police officer **(including a correctional police officer),** sheriff, constable, marshal, prosecuting attorney, special prosecuting attorney, special deputy prosecuting attorney, the securities commissioner, or the inspector general;

(2) a deputy of any of those persons;

(3) an investigator for a prosecuting attorney or for the inspector general;

(4) a conservation officer;

(5) an enforcement officer of the alcohol and tobacco commission; or

(6) an enforcement officer of the securities division of the office of the secretary of state.

(b) "Federal enforcement officer" means any of the following:

(1) A Federal Bureau of Investigation special agent.

(2) A United States Marshals Service marshal or deputy.

(3) A United States Secret Service special agent.

(4) A United States Fish and Wildlife Service special agent.

(5) A United States Drug Enforcement Agency agent.

(6) A Bureau of Alcohol, Tobacco, Firearms and Explosives agent.

(7) A United States Forest Service law enforcement officer.
(8) A United States Department of Defense police officer or criminal investigator.
(9) A United States Customs Service agent.
(10) A United States Postal Service investigator.
(11) A National Park Service law enforcement commissioned ranger.
(12) United States Department of Agriculture, Office of Inspector General special agent.
(13) A United States Citizenship and Immigration Services special agent.
(14) An individual who is:
(A) an employee of a federal agency; and
(B) authorized to make arrests and carry a firearm in the performance of the individual's official duties.

P.L.78-2009
[H.1162. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning environmental law.

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

SECTION 1. IC 13-11-2-50.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 50.5. "Degradation", for purposes of IC 13-18-3, means, with respect to a National Pollutant Discharge Elimination System permit, the following:
(1) With respect to an outstanding national resource water, any new or increased discharge of a pollutant or a pollutant parameter, except for a short term, temporary increase.
(2) With respect to an outstanding state resource water, ~~or an exceptional use water,~~ any new or increased discharge of a pollutant or pollutant parameter that results in a significant

lowering of water quality for that pollutant or pollutant parameter, unless:

(A) the activity causing the increased discharge:

(i) results in an overall improvement in water quality in the outstanding state resource water; ~~or exceptional use water;~~ and

(ii) meets the applicable requirements of 327 IAC 2-1-2(1) and (2) and 327 IAC 2-1.5-4(a) and (b); or

(B) the person proposing the increased discharge undertakes or funds a water quality improvement project in accordance with ~~IC 13-18-3-2(l)~~ **IC 13-18-3-2(k)** in the watershed of the outstanding state resource water ~~or exceptional use water~~ that:

(i) results in an overall improvement in water quality in the outstanding state resource water; ~~or exceptional use water;~~ and

(ii) meets the applicable requirements of 327 IAC 2-1-2(1) and (2) and 327 IAC 2-1.5-4(a) and (b).

SECTION 2. IC 13-11-2-71.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 71.2. "Environmental restrictive ordinance" means, with respect to land, any ordinance that:**

(1) is adopted by a municipal corporation (as defined in IC 36-1-2-10); and

(2) limits, regulates, or prohibits any of the following with respect to groundwater:

(A) Withdrawal.

(B) Human consumption.

(C) Any other use.

SECTION 3. IC 13-11-2-90 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 90. "Governmental entity", for purposes of **IC 13-18-3 and** IC 13-25-6, means the state or a political subdivision.

SECTION 4. IC 13-11-2-148, AS AMENDED BY P.L.221-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 148. (a) "Operator", for purposes of IC 13-18-10, means the person in direct or responsible charge or control of one (1) or more confined feeding operations.

(b) "Operator", for purposes of IC 13-18-11 and environmental

management laws, means the person in direct or responsible charge and supervising the operation of:

(1) a water treatment plant;

(2) a wastewater treatment plant; or

(3) a water distribution system.

(c) "Operator", for purposes of IC 13-20-6, means a corporation, a limited liability company, a partnership, a business association, a unit, or an individual who is a sole proprietor that is one (1) of the following:

(1) A broker.

(2) A person who manages the activities of a transfer station that receives municipal waste.

(3) A transporter.

(d) "Operator", for purposes of IC 13-23, except as provided in ~~subsection~~ **subsections** (e), **(g), and (h),** means a person:

(1) in control of; or

(2) having responsibility for;

the daily operation of an underground storage tank.

(e) "Operator", for purposes of IC 13-23-13, does not include the following:

(1) A person who:

(A) does not participate in the management of an underground storage tank;

(B) is otherwise not engaged in the:

(i) production;

(ii) refining; and

(iii) marketing;

of regulated substances; and

(C) holds evidence of ownership, primarily to protect the owner's security interest in the tank.

(2) A person who:

(A) does not own or lease, directly or indirectly, the facility or business at which the underground storage tank is located;

(B) does not participate in the management of the facility or business described in clause (A); and

(C) is engaged only in:

(i) filling;

(ii) gauging; or

(iii) filling and gauging;

the product level in the course of delivering fuel to an underground storage tank.

(3) A political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government that:

(A) acquires ownership or control of an underground storage tank on a brownfield because of:

(i) bankruptcy;

(ii) foreclosure;

(iii) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;

(iv) abandonment;

(v) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(vi) receivership;

(vii) transfer from another political subdivision or unit of federal or state government;

(viii) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

(ix) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired an interest in the property because of the political subdivision's or unit's function as sovereign; or

(x) any other means to conduct remedial actions on a brownfield; and

(B) is engaged only in activities in conjunction with:

(i) investigation or remediation of hazardous substances, petroleum, and other pollutants associated with a brownfield, including complying with land use restrictions and institutional controls; or

(ii) monitoring or closure of an underground storage tank;

unless existing contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the political subdivision or unit of federal or state government.

(f) For purposes of subsection (e)(3)(B), reckless, willful, or wanton

misconduct constitutes gross negligence.

(g) "Operator" does not include a person that after June 30, 2009, meets, for purposes of the determination under IC 13-23-13 of liability for a release from an underground storage tank, the exemption criteria under Section 107(q) of CERCLA (42 U.S.C. 9607(q)) that apply for purposes of the determination of liability for a release of a hazardous substance.

(h) "Operator" does not include a person that meets, for purposes of the determination under IC 13-23-13 of liability for a release from an underground storage tank, the exemption criteria under Section 107(r) of CERCLA (42 U.S.C. 9607(r)) that apply for purposes of the determination of liability for a release of a hazardous substance, except that the person acquires ownership of the facility after June 30, 2009.

SECTION 5. IC 13-11-2-149.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 149.5. "Outstanding national resource water", for purposes of section 50.5 of this chapter and IC 13-18-3, means a water designated as such by the general assembly after recommendations by the water pollution control board and the environmental quality service council under **IC 13-18-3-2(n) and** IC 13-18-3-2(o). ~~and IC 13-18-3-2(p).~~ The designation must describe the quality of the outstanding national resource water to serve as the benchmark of the water quality that shall be maintained and protected. Waters that may be considered for designation as outstanding national resource waters include water bodies that are recognized as:

(1) important because of protection through official action, such as:

(A) federal or state law;

(B) presidential or secretarial action;

(C) international treaty; or

(D) interstate compact;

(2) having exceptional recreational significance;

(3) having exceptional ecological significance;

(4) having other special environmental, recreational, or ecological attributes; or

(5) waters with respect to which designation as an outstanding national resource water is reasonably necessary for protection of

other water bodies designated as outstanding national resource waters.

SECTION 6. IC 13-11-2-150, AS AMENDED BY P.L.221-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 150. (a) "Owner", for purposes of IC 13-23 (except as provided in subsections (b), (c), ~~and (d))~~ **(d), (e), and (f))** means:

(1) for an underground storage tank that:

(A) was:

(i) in use on November 8, 1984; or

(ii) brought into use after November 8, 1984;

for the storage, use, or dispensing of regulated substances, a person who owns the underground storage tank; or

(B) is:

(i) in use before November 8, 1984; but

(ii) no longer in use on November 8, 1984;

a person who owned the tank immediately before the discontinuation of the tank's use; or

(2) a person who conveyed ownership or control of the underground storage tank to a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government because of:

(A) bankruptcy;

(B) foreclosure;

(C) tax delinquency, including a conveyance under IC 6-1.1-24 or IC 6-1.1-25;

(D) abandonment;

(E) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(F) receivership;

(G) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

(H) other circumstances in which a political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or

(I) any other means to conduct remedial actions on a brownfield;

if the person was a person described in subdivision (1) immediately before the person conveyed ownership or control of the underground storage tank.

(b) "Owner", for purposes of IC 13-23-13, does not include a person who:

(1) does not participate in the management of an underground storage tank;

(2) is otherwise not engaged in the:

(A) production;

(B) refining; and

(C) marketing;

of regulated substances; and

(3) holds indicia of ownership primarily to protect the owner's security interest in the tank.

(c) "Owner", for purposes of IC 13-23, does not include a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government that acquired ownership or control of an underground storage tank because of:

(1) bankruptcy;

(2) foreclosure;

(3) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;

(4) abandonment;

(5) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(6) receivership;

(7) transfer from another political subdivision or unit of federal or state government;

(8) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

(9) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function

as sovereign; or

(10) any other means to conduct remedial actions on a brownfield;

unless the political subdivision or unit of federal or state government causes or contributes to the release or threatened release of a regulated substance, in which case the political subdivision or unit of federal or state government is subject to IC 13-23 in the same manner and to the same extent as a nongovernmental entity under IC 13-23.

(d) "Owner", for purposes of IC 13-23, does not include a nonprofit corporation that acquired ownership or control of an underground storage tank to assist and support a political subdivision's revitalization and reuse of a brownfield for noncommercial purposes, including conservation, preservation, and recreation, unless the nonprofit corporation causes or contributes to the release or threatened release of a regulated substance, in which case the nonprofit corporation is subject to IC 13-23 in the same manner and to the same extent as any other nongovernmental entity under IC 13-23.

(e) "Owner" does not include a person that after June 30, 2009, meets, for purposes of the determination under IC 13-23-13 of liability for a release from an underground storage tank, the exemption criteria under Section 107(q) of CERCLA (42 U.S.C. 9607(q)) that apply for purposes of the determination of liability for a release of a hazardous substance.

(f) "Owner" does not include a person that meets, for purposes of the determination under IC 13-23-13 of liability for a release from an underground storage tank, the exemption criteria under Section 107(r) of CERCLA (42 U.S.C. 9607(r)) that apply for purposes of the determination of liability for a release of a hazardous substance, except that the person acquires ownership of the facility after June 30, 2009.

SECTION 7. IC 13-11-2-151, AS AMENDED BY P.L.221-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 151. (a) "Owner or operator", for purposes of IC 13-24-1, means the following:

(1) For a petroleum facility, a person who owns or operates the facility.

(2) For a petroleum facility where title or control has been conveyed because of:

(A) bankruptcy;

(B) foreclosure;

(C) tax delinquency, including a conveyance under IC 6-1.1-24 or IC 6-1.1-25;

(D) abandonment;

(E) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(F) receivership;

(G) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

(H) other circumstances in which a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government involuntarily acquired title or control because of the political subdivision's or unit's function as sovereign; or

(I) any other means to conduct remedial actions on a brownfield;

to a political subdivision or unit of federal or state government, a person who owned, operated, or otherwise controlled the petroleum facility immediately before title or control was conveyed.

(b) Subject to subsection (c), the term does not include a political subdivision or unit of federal or state government that acquired ownership or control of the facility through:

(1) bankruptcy;

(2) foreclosure;

(3) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;

(4) abandonment;

(5) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(6) receivership;

(7) transfer from another political subdivision or unit of federal or state government;

(8) acquiring an area needing redevelopment (as defined in

IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

(9) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or

(10) any other means to conduct remedial actions on a brownfield.

(c) The term includes a political subdivision or unit of federal or state government that causes or contributes to the release or threatened release of a regulated substance, in which case the political subdivision or unit of federal or state government is subject to IC 13-24-1:

(1) in the same manner; and

(2) to the same extent;

as a nongovernmental entity under IC 13-24-1.

(d) The term does not include a person who:

(1) does not participate in the management of a petroleum facility;

(2) is otherwise not engaged in the:

(A) production;

(B) refining; and

(C) marketing;

of petroleum; and

(3) holds evidence of ownership in a petroleum facility, primarily to protect the owner's security interest in the petroleum facility.

(e) The term does not include a nonprofit corporation that acquired ownership or control of a facility to assist and support a political subdivision's revitalization and reuse of a brownfield for noncommercial purposes, including conservation, preservation, and recreation, unless the nonprofit corporation causes or contributes to the release or threatened release of a regulated substance, in which case the nonprofit corporation is subject to IC 13-24-1 in the same manner and to the same extent as any other nongovernmental entity under IC 13-24-1.

(f) The term does not include a person that after June 30, 2009, meets, for purposes of the determination under IC 13-24-1 of liability for a release of petroleum, the exemption criteria under Section 107(q) of CERCLA (42 U.S.C. 9607(q)) that apply for purposes of the determination of liability for a release of a

hazardous substance.

(g) The term does not include a person that meets, for purposes of the determination under IC 13-24-1 of liability for a release of petroleum, the exemption criteria under Section 107(r) of CERCLA (42 U.S.C. 9607(r)) that apply for purposes of the determination of liability for a release of a hazardous substance, except that the person acquires ownership of the facility after June 30, 2009.

SECTION 8. IC 13-11-2-193.5, AS AMENDED BY P.L.18-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 193.5. "Restrictive covenant" means, with respect to land, any deed restriction, restrictive covenant, environmental covenant, environmental notice, or other restriction or obligation that:

(1) is executed before July 1, 2009, and:

~~(1)~~ **(A)** limits the use of the land or the activities that may be performed on or at the land or requires the maintenance of any engineering control on the land designed to protect human health or the environment;

~~(2)~~ **(B)** by its terms is intended to run with the land and be binding on successors;

~~(3)~~ **(C)** is recorded with the county recorder's office in the county in which the land is located; and

~~(4)~~ **(D)** explains how it can be modified or terminated; **or**

(2) is executed after June 30, 2009, and:

(A) limits the use of the land or the activities that may be performed on or at the land or requires the maintenance of any engineering control on the land designed to protect human health or the environment;

(B) by its terms is intended to run with the land and be binding on successors;

(C) is recorded with the county recorder's office in the county in which the land is located;

(D) explains how it can be modified or terminated;

(E) grants the department access to the land;

(F) requires notice to a transferee of:

(i) the land; or

(ii) an interest in the land;

of the existence of the restrictive covenant; and

(G) identifies the means by which the environmental files at the department that apply to the land can be located.

SECTION 9. IC 13-12-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The remediation and closure goals, objectives, and standards for ~~activities~~ **all remediation projects** conducted under IC 13-22, ~~and~~ IC 13-23, **IC 13-24, and IC 13-25-4** shall be consistent with the remediation objectives set forth in IC 13-25-5-8.5, **regardless of whether the remediation project begins before July 1, 2009, or after June 30, 2009.**

(b) The groundwater quality standards adopted under IC 13-18-17-5 shall allow, as appropriate, groundwater remediations to be consistent with the remediation objectives set forth in IC 13-25-5-8.5.

SECTION 10. IC 13-14-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. Except as provided in IC 13-14-6, the commissioner may proceed in court, by appropriate action, to:

(1) enforce any final order of the commissioner or of one (1) of the boards;

(2) collect any penalties or fees;

(3) procure or secure compliance with this title or any other law that the department has the duty or power to enforce;

(4) procure compliance with any standard or rule of one (1) of the boards; ~~or~~

(5) enforce a restrictive covenant (as defined in IC 13-11-2-193.5) **in accordance with the terms of the covenant if the covenant is:**

(A) executed before July 1, 2009;

(B) approved by the commissioner; and

(C) created in connection with any:

(i) remediation;

(ii) closure;

(iii) cleanup; ~~or~~

(iv) corrective action; **or**

(v) determination exercising enforcement discretion or of no further action being required;

approved by the department under this title; ~~in accordance with the terms of the covenant;~~ **or**

(6) enforce a restrictive covenant (as defined in IC 13-11-2-193.5) in accordance with the terms of the covenant if the covenant is:

(A) executed after June 30, 2009; and

(B) created in connection with any of the following approved by the department under this title:

(i) A remediation.

(ii) A closure.

(iii) A cleanup.

(iv) A corrective action.

(v) A determination exercising enforcement discretion or of no further action being required.

SECTION 11. IC 13-14-2-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8. (a) Subject to subsection (b), a restrictive covenant executed after June 30, 2009, is not subject to approval by the department.**

(b) The department shall:

(1) review; and

(2) approve, disapprove, or partially approve and partially disapprove;

activities and land use restrictions described in IC 13-11-2-193.5(1) that are proposed as part of a remediation, closure, cleanup, corrective action, or determination exercising enforcement discretion or of no further action being required to be included in a restrictive covenant.

SECTION 12. IC 13-15-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. **(a)** Whenever a permit is required by any rule of one (1) of the boards under IC 13-15-1 for the construction, installation, operation, or modification of any facility, equipment, or device, the permit may be issued only after the department staff has:

(1) approved the plans and specifications; and

(2) determined that the facility, equipment, or device meets the requirement of the rule**.**

(b) Notwithstanding subsection (a) and subject to subsection (c), a person to whom a permit has been issued may not start the construction, installation, operation, or modification of a facility,

equipment, or a device until the person has obtained any approval required by any:

(1) county;

(2) city; or

(3) town;

in which the facility, equipment, or device is located.

(c) Subsection (b) applies only to an approval required in an applicable ordinance, rule, or regulation in effect at the time the person submits the permit application to the issuing state agency.

SECTION 13. IC 13-15-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as provided in sections 2, 3, and 6 of this chapter, the commissioner shall approve or deny an application filed with the department after July 1, 1995, within the following number of days:

(1) Three hundred sixty-five (365) days for an application concerning the following:

(A) A new hazardous waste or solid waste landfill.

(B) A new hazardous waste or solid waste incinerator.

(C) A major modification of a solid waste landfill.

(D) A major modification of a solid waste incinerator.

(E) A new hazardous waste treatment or storage facility.

(F) A new Part B permit issued under 40 CFR 270 et seq. for an existing hazardous waste treatment or storage facility.

(G) A Class 3 modification under 40 CFR 270.42 to a hazardous waste landfill.

(2) **Except as provided in IC 13-18-3-2.1,** two hundred seventy (270) days for an application concerning the following:

(A) A Class 3 modification under 40 CFR 270.42 of a hazardous waste treatment or storage facility.

(B) A major new National Pollutant Discharge Elimination System permit.

(3) **Except as provided in IC 13-18-3-2.1,** one hundred eighty (180) days for an application concerning the following:

(A) A new solid waste processing or recycling facility.

(B) A minor new National Pollutant Discharge Elimination System individual permit.

(C) A permit concerning the land application of wastewater.

(4) **Except as provided in IC 13-18-3-2.1,** one hundred fifty

(150) days for an application concerning a minor new National Pollutant Discharge Elimination System general permit.

(5) One hundred twenty (120) days for an application concerning a Class 2 modification under 40 CFR 270.42 to a hazardous waste facility.

(6) Ninety (90) days for an application concerning the following:

(A) A minor modification to a solid waste landfill or incinerator permit.

(B) A wastewater facility or water facility construction permit.

(7) The amount of time provided for in rules adopted by the air pollution control board for an application concerning the following:

(A) An air pollution construction permit that is subject to 326 IAC 2-2 and 326 IAC 2-3.

(B) An air pollution facility construction permit (other than as defined in 326 IAC 2-2).

(C) Registration of an air pollution facility.

(8) Sixty (60) days for an application concerning the following:

(A) A Class 1 modification under 40 CFR 270.42 requiring prior written approval, to a hazardous waste:

(i) landfill;

(ii) incinerator;

(iii) treatment facility; or

(iv) storage facility.

(B) Any other permit not specifically described in this section for which the application fee exceeds forty-nine dollars ($49) and for which a time frame has not been established under section 3 of this chapter.

(b) When a person holding a valid permit concerning an activity of a continuing nature has made a timely and sufficient application for a renewal permit under the rules of one (1) of the boards, the commissioner shall approve or deny the application on or before the expiration date stated in the permit for which renewal is sought.

SECTION 14. IC 13-18-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The department shall prepare a list of impaired waters for the purpose of complying with federal regulations implementing Section 303(d) of the federal Clean Water Act (33 U.S.C. 1313(d)). In determining whether

a water body is impaired, the department shall consider all existing and readily available water quality data and related information. The department, before submitting the list to the United States Environmental Protection Agency, shall:

(1) publish the list in the Indiana Register;

(2) make the list available for public comment for at least ninety (90) days; and

(3) present the list to the board.

If the United States Environmental Protection Agency changes the list, the board shall publish the changes in the Indiana Register and conduct a public hearing within ninety (90) days after receipt of the changes.

(b) The board shall adopt ~~by~~ **a** rule **that:**

(1) establishes the methodology to be used in identifying waters as impaired; ~~The rule must specify~~ **and**

(2) specifies the methodology and criteria for including and removing waters from the list of impaired waters.

(c) In the establishment of the total maximum daily load for a surface water under Section 303(d)(1)(C) of the federal Clean Water Act (33 U.S.C. 1313(d)(1)(C)), the department shall, in identifying the surface water under Section 303(d)(1)(A) of the federal Clean Water Act (33 U.S.C. 1313(d)(1)(A)), make every reasonable effort to identify the pollutant or pollutants under consideration for the establishment of the total maximum daily load.

(d) The department shall comply with subsection (e) if either of the following applies:

(1) The department:

(A) is unable in identifying the surface water as described in subsection (c) to identify the pollutant or pollutants under consideration for the establishment of the total maximum daily load; and

(B) determines, after identifying the surface water as described in subsection (c), that one (1) or more pollutants should be under consideration for establishment of the total maximum daily load.

(2) The department:

(A) in identifying the surface water as described in subsection (c), identifies the pollutant or pollutants under

consideration for the establishment of the total maximum daily load; and

(B) determines, after identifying the pollutant or pollutants as described in clause (A), that one (1) or more other pollutants should be under consideration for establishment of the total maximum daily load.

(e) The department complies with subsection (d) if the department does the following before making a pollutant or pollutants the subject of consideration for the establishment of the total maximum daily load:

(1) Determines and demonstrates that either or both of the following apply:

(A) The surface water does not attain water quality standards (as established in 327 IAC 2-1 and 327 IAC 2-1.5) due to an individual pollutant, multiple pollutants, pollution, or an unknown cause of impairment.

(B) The surface water:

(i) receives a thermal discharge from one (1) or more point sources; and

(ii) does not have or maintain a balanced indigenous population of shellfish, fish, and wildlife.

(2) Publishes in the Indiana Register the determination referred to in subdivision (1).

(3) Makes the determination referred to in subdivision (1) available for public comment for at least ninety (90) days.

(4) Presents the determination referred to in subdivision (1) to the commissioner for final approval after the comment period under subdivision (3).

SECTION 15. IC 13-18-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The board may adopt rules under IC 4-22-2 that are necessary to the implementation of:

(1) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as in effect January 1, 1988; and

(2) the federal Safe Drinking Water Act (42 U.S.C. 300f through 300j), as in effect January 1, 1988;

except as provided in IC 14-37.

(b) "Degradation" has the meaning set forth in IC 13-11-2-50.5.

~~(c) "Exceptional use water" has the meaning set forth in IC 13-11-2-72.5.~~

~~(d)~~ **(c)** "Outstanding national resource water" has the meaning set forth in IC 13-11-2-149.5.

~~(e)~~ **(d)** "Outstanding state resource water" has the meaning set forth in IC 13-11-2-149.6.

~~(f)~~ **(e)** "Watershed" has the meaning set forth in IC 14-8-2-310.

~~(g)~~ **(f)** The board may designate a water body as an outstanding state resource water by rule if the board determines that the water body has a unique or special ecological, recreational, or aesthetic significance.

~~(h)~~ **(g)** Before the board may adopt a rule designating a water body as an outstanding state resource water, the board must consider the following:

(1) Economic impact analyses, presented by any interested party, taking into account future population and economic development growth.

(2) The biological criteria scores for the water body, using factors that consider fish communities, macro invertebrate communities, and chemical quality criteria using representative biological data from the water body under consideration.

(3) The level of current urban and agricultural development in the watershed.

(4) Whether the designation of the water body as an outstanding state resource water will have a significant adverse effect on future population, development, and economic growth in the watershed, if the water body is in a watershed that has more than three percent (3%) of its land in urban land uses or serves a municipality with a population greater than five thousand (5,000).

(5) Whether the designation of the water body as an outstanding state resource water is necessary to protect the unique or special ecological, recreational, or aesthetic significance of the water body.

~~(i)~~ **(h)** Before the board may adopt a rule designating a water body as an outstanding state resource water, the board must make available to the public a written summary of the information considered by the board under subsections **(f) and** (g), ~~and (h),~~ including the board's conclusions concerning that information.

~~(j)~~ **(i)** The commissioner shall present a summary of the comments

received from the comment period and information that supports a water body designation as an outstanding state resource water to the environmental quality service council not later than one hundred twenty (120) days after the rule regarding the designation is finally adopted by the board.

~~(k)~~ **(j)** Notwithstanding any other provision of this section, the designation of an outstanding state resource water in effect on January 1, 2000, remains in effect.

~~(l)~~ **(k)** For a water body designated as an outstanding state resource water, the board shall provide by rule procedures that will:

(1) prevent degradation; and

(2) allow for increases and additions in pollutant loadings from an existing or new discharge if:

(A) there will be an overall improvement in water quality for the outstanding state resource water as described in this section; and

(B) the applicable requirements of 327 IAC 2-1-2(1) and 327 IAC 2-1-2(2) and 327 IAC 2-1.5-4(a) and 327 **IAC** 2-1.5-4(b) are met.

~~(m)~~ **(l)** The procedures provided by rule under subsection ~~(l)~~ **(k)** must include the following:

(1) A definition of significant lowering of water quality that includes a de minimis quantity of additional pollutant load:

(A) for which a new or increased permit limit is required; and

(B) below which antidegradation implementation procedures do not apply.

(2) Provisions allowing the permittee to choose application of one (1) of the following for each activity undertaken by the permittee that will result in a significant lowering of water quality in the outstanding state resource water: ~~or exceptional use water.~~

(A) Implementation of a water quality project in the watershed of the outstanding state resource water ~~or the exceptional use water~~ that will result in an overall improvement of the water quality of the outstanding state resource water. ~~or the exceptional use water.~~

(B) Payment of a fee, not to exceed five hundred thousand dollars ($500,000), based on the type and quantity of increased pollutant loadings, to the department for deposit in the

outstanding state resource water improvement fund established under section 14 of this chapter **for use as permitted under that section.**

(3) Criteria for the submission and timely approval of projects described in subdivision (2)(A).

(4) A process for public input in the approval process.

(5) Use of water quality data that is less than seven (7) years old and specific to the outstanding state resource water.

(6) Criteria for using the watershed improvement fees to fund projects in the watershed that result in improvement in water quality in the outstanding state resource water. ~~or exceptional use water.~~

~~(m)~~ **(m)** For a water body designated as an outstanding state resource water after June 30, 2000, the board shall provide by rule antidegradation implementation procedures before the water body is designated in accordance with this section.

~~(o)~~ **(n)** A water body may be designated as an outstanding national resource water only by the general assembly after recommendations for designation are made by the board and the environmental quality service council.

~~(p)~~ **(o)** Before recommending the designation of an outstanding national resource water, the department shall provide for an adequate public notice and comment period regarding the designation. The commissioner shall present a summary of the comments and information received during the comment period and the department's recommendation concerning designation to the environmental quality service council not later than ninety (90) days after the end of the comment period. The council shall consider the comments, information, and recommendation received from the department, and shall convey its recommendation concerning designation to the general assembly within six (6) months after receipt.

(p) This subsection applies to all surface waters of the state. The department shall complete an antidegradation review of the rules of the board that authorize NPDES general permits. The board may modify those rules for purposes of antidegradation compliance. After an antidegradation review of a rule is conducted under this subsection, activities covered by an NPDES general permit authorized by that rule are not required to undergo an

additional antidegradation review. An NPDES general permit may not be used to authorize a discharge into an outstanding national resource water or an outstanding state resource water, except that a short term, temporary storm water discharge to an outstanding national resource water or to an outstanding state resource water may be permitted under an NPDES general permit if the commissioner determines that the discharge will not significantly lower the water quality downstream of the discharge.

(q) Subsection (r) applies to an application for:

(1) an NPDES permit subject to IC 13-15-4-1(a)(2)(B), IC 13-15-4-1(a)(3)(B), or IC 13-15-4-1(a)(4); or

(2) a modification or renewal of a permit referred to in one (1) of the sections referred to in subdivision (1) that proposes new or increased discharge that would result in a significant lowering of water quality as defined in subsection (l)(1).

(r) For purposes of an antidegradation review with respect to an application referred to in subsection (q), the applicant shall demonstrate at the time the application is submitted to the department, and the commissioner shall review:

(1) an analysis of alternatives to the proposed discharge; and

(2) subject to subsection (s), social or economic factors indicating the importance of the proposed discharge if alternatives to the proposed discharge are not practicable.

(s) Subject to subsection (t), the commissioner shall consider the following factors in determining whether a proposed discharge is necessary to accommodate important economic or social development in the area in which the waters are located under antidegradation standards and implementation procedures:

(1) Creation, expansion, or maintenance of employment.

(2) The unemployment rate.

(3) The median household income.

(4) The number of households below the poverty level.

(5) Community housing needs.

(6) Change in population.

(7) The impact on the community tax base.

(8) Provision of fire departments, schools, infrastructure, and other necessary public services.

(9) Correction of a public health, safety, or environmental problem.

(10) Production of goods and services that protect, enhance, or improve the overall quality of life and related research and development.

(11) The impact on the quality of life for residents in the area.

(12) The impact on the fishing, recreation, and tourism industries.

(13) The impact on threatened and endangered species.

(14) The impact on economic competitiveness.

(15) Demonstration by the permit applicant that the factors identified and reviewed under subdivisions (1) through (14) are necessary to accommodate important social or economic development despite the proposed significant lowering of water quality.

(16) Inclusion by the applicant of additional factors that may enhance the social or economic importance associated with the proposed discharge, such as an approval that:

(A) recognizes social or economic importance; and

(B) is given to the applicant by:

(i) a legislative body; or

(ii) other government officials.

(17) Any other action or recommendation relevant to the antidegradation demonstration made by a:

(A) state;

(B) county;

(C) township; or

(D) municipality;

potentially affected by the proposed discharge.

(18) Any other action or recommendation relevant to the antidegradation demonstration received during the public participation process.

(19) Any other factors that the commissioner:

(A) finds relevant; or

(B) is required to consider under the Clean Water Act.

(t) In determining whether a proposed discharge is necessary to accommodate important economic or social development in the area in which the waters are located under antidegradation standards and implementation procedures, the commissioner:

(1) must give substantial weight to any applicable determinations by governmental entities; and

(2) may rely on consideration of any one (1) or a combination of the factors listed in subsection (s).

(u) Each exceptional use water (as defined in IC 13-11-2-72.5, before its repeal) designated by the board before June 1, 2009, becomes an outstanding state resource water on June 1, 2009, by operation of law.

(v) Beginning June 1, 2009, all waters of the state are classified in the following categories:

(1) Outstanding national resource waters.

(2) Outstanding state resource waters.

(3) Waters of the state as described in 327 IAC 2-1-2(1), as in effect on January 1, 2009.

(4) High quality waters as described in 327 IAC 2-1-2(2), as in effect on January 1, 2009.

(5) Waters of the state as described in 327 IAC 2-1.5-4(a), as in effect on January 1, 2009.

(6) High quality waters as described in 327 IAC 2-1.5-4(b), as in effect on January 1, 2009.

SECTION 16. IC 13-18-3-2.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.1. (a) If a discharge results from an activity for which:**

(1) an NPDES permit subject to IC 13-15-4-1(a)(2)(B), IC 13-15-4-1(a)(3)(B), or IC 13-15-4-1(a)(4); or

(2) a modification or renewal of a permit referred to in one (1) of the sections referred to in subdivision (1) that proposes new or increased discharge that would result in a significant lowering of water quality as defined in IC 13-18-3-2(l)(1);

is sought, the deadline for the department to complete the antidegradation review under 40 CFR 131.12 and 40 CFR Part 132, Appendix E with respect to the discharge is the deadline for the commissioner to approve or deny the NPDES permit application under IC 13-15-4-1.

(b) The commissioner may extend for cause for not more than ninety (90) days the deadline under subsection (a) for the department to complete the antidegradation review.

SECTION 17. IC 13-18-3-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The outstanding state resource water improvement fund is established. All

money collected under section 2 of this chapter and any money accruing to the fund are continuously appropriated to the fund to carry out the purposes of section 2 of this chapter. Money in the fund at the end of a state fiscal year does not revert to the state general fund, unless the outstanding state resource water improvement fund is abolished.

(b) The outstanding state resource water improvement fund shall be administered as follows:

(1) The fund may be used by the department of environmental management to fund projects that will lead to overall improvement to the water quality of the affected ~~exceptional use water or~~ outstanding state resource water.

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

(3) Any interest received accrues to the fund.

(4) The expenses of administering the fund shall be paid from the fund.

(c) The commissioner shall annually report to the environmental quality service council:

(1) plans for the use and implementation of the outstanding state resource water improvement fund; and

(2) the balance in the fund.

SECTION 18. IC 13-25-5-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.5. (a) A voluntary remediation work plan must specify the remediation objectives for the site. **Subsections (b) through (e) apply to a site regardless of whether the site was entered into the voluntary remediation program before July 1, 2009, or after June 30, 2009.**

(b) The remediation objectives for each hazardous substance and any petroleum on the site shall be based on:

(1) background levels of hazardous substances and petroleum that occur naturally on the site; or

(2) an assessment of the risks pursuant to subsection (d) posed by the hazardous substance or petroleum presently found on the site taking into consideration the following:

(A) Expected future use of the site.

(B) Measurable risks to human health, natural resources, or the environment based on the:

(i) activities that take place; and

(ii) environmental impact;

on the site.

(c) If the:

(1) nature and extent of the hazardous substance or petroleum is adequately characterized under the voluntary remediation work plan, **considering the remediation objectives developed under this section;** and

(2) the level of the hazardous substance or petroleum is demonstrated to be below:

(A) background levels of the hazardous substances and petroleum that occur naturally on the site; or

(B) the risk based levels developed under subsection (d);

additional action is not necessary to protect human health or the environment.

(d) Risk based remediation objectives shall be based on one (1) of the following:

(1) Levels of hazardous substances and petroleum calculated by the department using standard equations and default values for particular hazardous substances or petroleum.

(2) Levels of hazardous substances and petroleum calculated using site specific data for the default values in the department's standard equations.

(3) Levels of hazardous substances and petroleum developed based on site specific risk assessments that take into account site specific factors, **including remedial measures, restrictive covenants, and environmental restrictive ordinances that:**

(A) manage risk; and

(B) control completed or potential exposure pathways.

(e) The department shall consider and give effect to restrictive covenants and environmental restrictive ordinances in evaluating risk based remediation proposals.

SECTION 19. IC 13-25-5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. (a) If the commissioner issues a certificate to a person under section 16 of this chapter, the governor shall also provide the person with a covenant not to sue for any liability, including future liability, or a claim resulting from or based upon the release or threatened release of a hazardous

substance or petroleum that is addressed by an approved voluntary remediation work plan under this chapter.

(b) A covenant not to sue issued under this section bars suit against:

(1) a person who received the certificate of completion under section 16 of this chapter; or

(2) any other person who receives the certificate of completion:

(A) through a legal transfer of the certificate of completion; or

(B) by acquiring property to which the certificate of completion applies;

from all public or private claims arising under this title or rules adopted under this title in connection with the release or threatened release of a hazardous substance or petroleum that was the subject of the approved voluntary remediation work plan, except as provided in subsection (c).

(c) A covenant not to sue issued under this section may not apply to future liability for a condition or the extent of a condition that:

(1) was present:

(A) on property that was involved in an approved and completed voluntary remediation work plan; and

(B) at the time the commissioner issued the certificate of completion under section 16 of this chapter; and

(2) was not known to the commissioner at the time the commissioner issued the certificate of completion under section 16 of this chapter.

(d) A certificate of completion issued under section 16 of this chapter may include conditions that must be performed or maintained after issuance of the certificate.

(e) A covenant not to sue issued under this section may include conditions that must be performed or maintained after issuance of the covenant.

~~(d)~~ **(f)** Except as:

(1) provided under federal law; or

(2) agreed to by a federal governmental entity;

a covenant not to sue issued under this section may not release a person from liability to the federal government for claims based on federal law.

~~(e)~~ **(g)** After an applicant and the department have signed a voluntary remediation agreement, a person may not bring an action,

including an administrative action, against the applicant or any other person proceeding under this chapter on behalf of the applicant for any cause of action arising under this title or rules adopted under this title and relating to the release or threatened release of a hazardous substance or petroleum that is the subject of the agreement. However, this section does not apply if:

(1) the applicant fails to file a proposed voluntary remediation work plan within the time period established in section 8(a)(8) of this chapter;

(2) the commissioner rejects a proposed voluntary remediation work plan submitted in good faith and the rejection is upheld in any appeal brought under section 12 of this chapter;

(3) the applicant or another person proceeding under this chapter on behalf of the applicant fails to complete a voluntary remediation in accordance with an approved voluntary remediation work plan; or

(4) the commissioner withdraws the commissioner's approval of the voluntary remediation work plan and the withdrawal is upheld in any appeal under section 19 of this chapter.

However, if the commissioner withdraws approval of the plan under section 19(a)(2) of this chapter, the commissioner may bring an action, including an administrative action, against the applicant.

~~(f)~~ **(h)** A person who purchases property that is the subject of a voluntary remediation agreement at the time the property is purchased may not be subject to an enforcement action to the same extent as an applicant under subsection ~~(c).~~ **(g).**

SECTION 20. IC 13-26-5-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 9. (a) A board may adopt an ordinance allowing money to be disbursed for lawful district purposes under this section.**

(b) Notwithstanding IC 5-11-10, with the prior written approval of the board, the fiscal officer of the district may make claim payments in advance of board allowance for the following kinds of expenses if the board has adopted an ordinance under subsection (a):

(1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.

(2) License or permit fees.

(3) Insurance premiums.

(4) Utility payments or utility connection charges.

(5) General grant programs for which advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.

(6) Grants of state funds authorized by statute.

(7) Maintenance or service agreements.

(8) Leases or rental agreements.

(9) Bond or coupon payments.

(10) Payroll.

(11) State or federal taxes.

(12) Expenses that must be paid because of emergency circumstances.

(13) Expenses described in an ordinance.

(c) Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the fiscal officer of the district.

(d) The board shall review and allow the claim at its next regular or special meeting following the preapproved payment of the expense.

SECTION 21. IC 36-1-2-4.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4.7. "Environmental restrictive ordinance" means, with respect to land, any ordinance that:**

(1) is adopted by a municipal corporation; and

(2) limits, regulates, or prohibits one (1) or more of the following with respect to groundwater:

(A) Withdrawal.

(B) Human consumption.

(C) Any other use.

SECTION 22. IC 36-1-6-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 11. (a) The legislative body of a municipal corporation shall:**

(1) subject to subsection (b), give written notice to the department of environmental management not later than sixty (60) days before amendment or repeal of an environmental restrictive ordinance; and

(2) give written notice to the department of environmental management not later than thirty (30) days after passage, amendment, or repeal of an environmental restrictive ordinance.

(b) Upon written request by the legislative body, the department of environmental management may waive the notice requirement of subsection (a)(1).

(c) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of subsection (a).

(d) The failure of an environmental restrictive ordinance to comply with subsection (c) does not void the ordinance.

SECTION 23. IC 36-2-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) An ordinance, order, or resolution is considered adopted when it is signed by the presiding officer. If required, an adopted ordinance, order, or resolution must be promulgated or published according to statute before it takes effect.

(b) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published once each week for two (2) consecutive weeks, according to IC 5-3-1. However, if such an ordinance is adopted by the legislative body of a county subject to IC 36-2-3.5 and there is an urgent necessity requiring its immediate effectiveness, it need not be published if:

(1) the county executive proclaims the urgent necessity; and

(2) copies of the ordinance are posted in three (3) public places in each of the districts of the county before it takes effect.

(c) **The following apply** in addition to the other requirements of this section:

(1) An ordinance or resolution passed by the legislative body of a county subject to IC 36-2-3.5 is considered adopted only if it is:

~~(1)~~ **(A)** approved by signature of a majority of the county executive;

~~(2)~~ **(B)** neither approved nor vetoed by a majority of the executive, within ten (10) days after passage by the legislative body; or

~~(3)~~ **(C)** passed over the veto of the executive by a two-thirds (2/3) vote of the legislative body, within sixty (60) days after

presentation of the ordinance or resolution to the executive.

(2) The legislative body of a county shall:

(A) subject to subdivision (3), give written notice to the department of environmental management not later than sixty (60) days before amendment or repeal of an environmental restrictive ordinance; and

(B) give written notice to the department of environmental management not later than thirty (30) days after passage, amendment, or repeal of an environmental restrictive ordinance.

(3) Upon written request by the legislative body, the department of environmental management may waive the notice requirement of subdivision (2)(A).

(4) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of subdivision (2).

(5) The failure of an environmental restrictive ordinance to comply with subdivision (4) does not void the ordinance.

(d) After an ordinance or resolution passed by the legislative body of a county subject to IC 36-2-3.5 has been signed by the presiding officer, the county auditor shall present it to the county executive, and record the time of the presentation. Within ten (10) days after an ordinance or resolution is presented to it, the executive shall:

(1) approve the ordinance or resolution, by signature of a majority of the executive, and send the legislative body a message announcing its approval; or

(2) veto the ordinance or resolution, by returning it to the legislative body with a message announcing its veto and stating its reasons for the veto.

(e) This section does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(f) An ordinance increasing a building permit fee on new development must:

(1) be published:

(A) one (1) time in accordance with IC 5-3-1; and

(B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and

(2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1).

SECTION 24. IC 36-3-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) An ordinance or resolution passed by a legislative body is considered adopted when it is:

(1) signed by the presiding officer; and

(2) if subject to veto, either approved by the executive or passed over ~~his~~ **the executive's** veto by the legislative body, under section 16 of this chapter.

(b) All ordinances and resolutions of a legislative body are subject to veto, except the following:

(1) An ordinance or resolution, or part of either, providing for the budget or appropriating money for an office or officer of the county provided for by the Constitution of Indiana or for a judicial office or officer.

(2) An ordinance or resolution approving or modifying the budget of a political subdivision that the legislative body is permitted by statute to review.

(3) A resolution making an appointment that the legislative body is authorized to make.

(4) A resolution selecting officers or employees of the legislative body.

(5) A resolution prescribing rules for the internal management of the legislative body.

(6) A zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(c) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

(1) it is published under subsection (d); or

(2) there is an urgent necessity requiring its immediate effectiveness, the executive proclaims the urgent necessity, and copies of the ordinance are posted in three (3) public places in the county.

(d) If a legislative body publishes any of its ordinances in book or

pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published under this subsection, it takes effect two (2) weeks after the publication of the book or pamphlet. Publication under this subsection, if authorized by the legislative body, constitutes presumptive evidence:

(1) of the ordinances in the book or pamphlet;

(2) of the date of adoption of the ordinances; and

(3) that the ordinances have been properly signed, attested, recorded, and approved.

(e) Unless a legislative body provides in an ordinance or resolution for a later effective date, the ordinance or resolution takes effect when it is adopted, subject to subsections (c) and (d).

(f) Subsections (a), (c), (d), and (e) do not apply to zoning ordinances or amendments to zoning ordinances, or resolutions approving comprehensive plans, that are adopted under IC 36-7.

(g) The legislative body shall:

(1) subject to subsection (h), give written notice to the department of environmental management not later than sixty (60) days before amendment or repeal of an environmental restrictive ordinance; and

(2) give written notice to the department of environmental management not later than thirty (30) days after passage, amendment, or repeal of an environmental restrictive ordinance.

(h) Upon written request by the legislative body, the department of environmental management may waive the notice requirement of subsection (g)(1).

(i) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of subsection (g).

(j) The failure of an environmental restrictive ordinance to comply with subsection (i) does not void the ordinance.

SECTION 25. IC 36-4-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) An ordinance, order, or resolution passed by the legislative body is considered adopted when it is:

(1) signed by the presiding officer; and

(2) either approved by the city executive or passed over ~~his~~ **the**

executive's veto by the legislative body, under section 16 of this chapter.

If required by statute, an adopted ordinance, order, or resolution must be promulgated or published before it takes effect.

(b) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

(1) it is published under subsection (c); or

(2) there is an urgent necessity requiring its immediate effectiveness, the city executive proclaims the urgent necessity, and copies of the ordinance are posted in three (3) public places in each of the districts from which members are elected to the legislative body.

(c) Except as provided in subsection (e), if a city publishes any of its ordinances in book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published under this subsection, it takes effect two (2) weeks after the publication of the book or pamphlet. Publication under this subsection, if authorized by the legislative body, constitutes presumptive evidence:

(1) of the ordinances in the book or pamphlet;

(2) of the date of adoption of the ordinances; and

(3) that the ordinances have been properly signed, attested, recorded, and approved.

(d) This section does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(e) An ordinance increasing a building permit fee on new development must:

(1) be published:

(A) one (1) time in accordance with IC 5-3-1; and

(B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and

(2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1).

(f) The legislative body shall:

(1) subject to subsection (g), give written notice to the department of environmental management not later than sixty (60) days before amendment or repeal of an environmental restrictive ordinance; and

(2) give written notice to the department of environmental management not later than thirty (30) days after passage, amendment, or repeal of an environmental restrictive ordinance.

(g) Upon written request by the legislative body, the department of environmental management may waive the notice requirement of subsection (f)(1).

(h) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of subsection (f).

(i) The failure of an environmental restrictive ordinance to comply with subsection (h) does not void the ordinance.

SECTION 26. IC 36-5-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) An ordinance, order, or resolution passed by the legislative body is considered adopted when it is signed by the executive. If required by statute, an adopted ordinance, order, or resolution must be promulgated or published before it takes effect.

(b) An ordinance prescribing a penalty for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

(1) it is published under IC 36-1-5; or

(2) it declares an emergency requiring its immediate effectiveness and is posted in:

(A) one (1) public place in each district in the town; or

(B) a number of public places in the town equal to the number of town legislative body members, if the town has abolished legislative body districts under section 4.1 of this chapter.

(c) This section does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(d) An ordinance increasing a building permit fee on new development must:

(1) be published:

(A) one (1) time in accordance with IC 5-3-1; and

(B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and

(2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1).

(e) The legislative body shall:

(1) subject to subsection (f), give written notice to the department of environmental management not later than sixty (60) days before amendment or repeal of an environmental restrictive ordinance; and

(2) give written notice to the department of environmental management not later than thirty (30) days after passage, amendment, or repeal of an environmental restrictive ordinance.

(f) Upon written request by the legislative body, the department of environmental management may waive the notice requirement of subsection (e)(1).

(g) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of subsection (e).

(h) The failure of an environmental restrictive ordinance to comply with subsection (g) does not void the ordinance.

SECTION 27. [EFFECTIVE UPON PASSAGE] **(a) The environmental quality service council established by IC 13-13-7-1 shall do the following:**

(1) Conduct a study and develop recommendations concerning the advisability of establishing an institutional control registry and an environmental trust fund:

(A) as set forth in SB 460-2009; or

(B) in a different manner.

(2) Conduct a study and develop recommendations concerning the feasibility of incorporating notice of:

(A) restrictive covenants; and

(B) environmental restrictive ordinances;

into the "One Call" system managed by the Indiana Underground Plant Protection Service under IC 8-1-26.

(b) The environmental quality service council shall include its

findings and recommendations developed under subsection (a) in the council's 2009 final report to the legislative council.

(c) This SECTION expires January 1, 2010.

SECTION 28. IC 13-11-2-72.5 IS REPEALED [EFFECTIVE JUNE 1, 2009].

SECTION 29. **An emergency is declared for this act.**

P.L.79-2009
[H.1180. Approved May 6, 2009.]

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

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

SECTION 1. IC 35-43-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) As used in this section:

"Access" means to:

(1) approach;
(2) instruct;
(3) communicate with;
(4) store data in;
(5) retrieve data from; or
(6) make use of resources of;

a computer, computer system, or computer network.

"Computer network" means the interconnection of communication lines or wireless telecommunications with a computer or wireless telecommunication device through:

(1) remote terminals;
(2) a complex consisting of two (2) or more interconnected computers; or
(3) a worldwide collection of interconnected networks operating

as the Internet.

"Computer system" means a set of related computer equipment, software, or hardware.

"Hoarding program" means a computer program designed to bypass or neutralize a security measure, access control system, or similar system used by the owner of a computer network or computer system to limit the amount of merchandise that one (1) person may purchase by means of a computer network.

(b) A person who knowingly or intentionally accesses:

(1) a computer system;

(2) a computer network; or

(3) any part of a computer system or computer network;

without the consent of the owner of the computer system or computer network, or the consent of the owner's licensee, commits computer trespass, a Class A misdemeanor.

(c) A person who knowingly or intentionally uses a hoarding program to purchase merchandise by means of a computer network commits computer merchandise hoarding, a Class A misdemeanor. It is a defense to a prosecution under this subsection that the person used the hoarding program with the permission of the person selling the merchandise.

(d) A person who knowingly or intentionally sells, purchases, or distributes a hoarding program commits unlawful distribution of a hoarding program, a Class A misdemeanor. It is a defense to a prosecution under this subsection that the hoarding program was sold, purchased, or distributed for legitimate scientific or educational purposes.

SECTION 2. [EFFECTIVE JULY 1, 2009] **IC 35-43-2-3, as amended by this act, applies only to crimes committed after June 30, 2009.**

P.L.80-2009
[H.1182. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning corrections.

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

SECTION 1. IC 11-12-5-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5.5. (a) As used in this section, "charge description master" means a listing of the amount charged by a hospital for each service, item, and procedure:**

(1) provided by the hospital; and

(2) for which a separate charge exists.

(b) As used in this section, "health care services" includes health care items and procedures.

(c) As used in this section, "lawful detention" means the following:

(1) Arrest.

(2) Custody following surrender in lieu of arrest.

(3) Detention in a penal facility.

(4) Detention for extradition or deportation.

(5) Custody for purposes incident to any of the above, including transportation, medical diagnosis or treatment, court appearances, work, or recreation.

The term does not include supervision of a person on probation or parole or constraint incidental to release with or without bail.

(d) This section:

(1) does not apply in the case of a person who is subject to lawful detention by a county sheriff and is:

(A) covered under private health coverage for health care services; or

(B) willing to pay for the person's own health care services; and

(2) does not affect copayments required under section 5 of this chapter.

(e) Except as provided in subsection (f), a county that is responsible for payment for health care services provided to a person who is subject to lawful detention by the county's sheriff shall reimburse:

(1) a physician licensed under IC 25-22.5;

(2) a hospital licensed under IC 16-21-2; or

(3) another health care provider;

for the cost of a health care service at the federal Medicare reimbursement rate for the health care service provided plus four percent (4%).

(f) If there is no federal Medicare reimbursement rate for a health care service described in subsection (e), the county shall do the following:

(1) If the health care service is provided by a hospital, the county shall reimburse the hospital an amount equal to sixty-five percent (65%) of the amount charged by the hospital according to the hospital's charge description master.

(2) If the health care service is provided by a physician or another health care provider, the county shall reimburse the physician or health care provider an amount equal to sixty-five percent (65%) of the amount charged by the physician or health care provider.

(g) This section expires June 30, 2011.

SECTION 2. IC 36-2-13-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 18. (a) As used in this section, "health care services" includes health care items and procedures.**

(b) As used in this section, "lawful detention" means the following:

(1) Arrest.

(2) Custody following surrender in lieu of arrest.

(3) Detention in a penal facility.

(4) Detention for extradition or deportation.

(5) Custody for purposes incident to any of the above, including transportation, medical diagnosis or treatment, court appearances, work, or recreation.

The term does not include supervision of a person on probation or

parole or constraint incidental to release with or without bail.

(c) This section does not apply to a person who is subject to lawful detention and is:

(1) covered under private health coverage for health care services; or

(2) willing to pay for the person's own health care services.

(d) A sheriff of a county may not release a person subject to lawful detention solely for the purpose of preventing the county from being financially responsible under IC 11-12-5 for health care services provided to the person.

(e) If a county violates subsection (d), the county remains financially responsible under IC 11-12-5 for health care services provided to the person released from lawful detention.

(f) A county is financially responsible under IC 11-12-5 for health care services provided to a person at a hospital if the person was subject to lawful detention by the sheriff at the time the person entered onto the hospital's premises.

(g) If a person is subjected to lawful detention after entering onto the premises of a hospital, the county in which the hospital is located is financially responsible under IC 11-12-5 for the health care services provided to the person while the person is subject to lawful detention.

(h) For purposes of this section, if a sheriff brings a person subject to lawful detention onto the premises of a hospital or subjects a person to lawful detention after the person enters onto the premises of a hospital, the sheriff shall remain on the premises of the hospital and within reasonable proximity to the person while the person receives health care services at the hospital unless:

(1) the person's medical condition renders the person incapable of leaving the hospital; and

(2) the person does not pose a threat to hospital personnel or property or to others at the hospital.

(i) This section does not prevent or limit the application of IC 11-12-5-5 concerning the making of copayments by a person confined to a county jail.

(j) A county that is responsible for paying the medical care expenses of a county jail inmate under IC 11-12-5-6 is responsible for paying the medical care expenses of the inmate under this section.

(k) This section does not supersede a written agreement:

(1) between:

(A) a physician, a hospital, or another health care provider; and

(B) a sheriff;

concerning reimbursement for health care services provided to a person subject to lawful detention; and

(2) entered into or renewed before July 1, 2009.

(l) This section expires June 30, 2011.

SECTION 3. [EFFECTIVE JULY 1, 2009] **(a) IC 11-12-5-5.5, as added by this act, does not limit, repeal, or supersede a contract:**

(1) executed before July 1, 2009;

(2) between a physician, hospital, or other health care provider and a county or sheriff; and

(3) concerning reimbursement for a health care service provided to a person who is subject to lawful detention by a county sheriff.

(b) This SECTION expires July 1, 2011.

ACTS 2009

Laws enacted by the

116th GENERAL ASSEMBLY

at the

FIRST REGULAR SESSION
(2009)

VOLUME II

(P.L.81-2009 through P.L.137-2009)

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

Office of Code Revision
Legislative Services Agency

P.L.81-2009
[H.1191. Approved May 6, 2009.]

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

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

SECTION 1. IC 13-11-2-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 40. "Confined feeding operation", for purposes of IC 13-18-10, means:

(1) any confined feeding of:
  (A) at least three hundred (300) cattle;
  (B) at least six hundred (600) swine or sheep; ~~and~~
  (C) at least thirty thousand (30,000) fowl; **or**
  (D) at least five hundred (500) horses.
(2) any animal feeding operation electing to be subject to IC 13-18-10; or
(3) any animal feeding operation that is causing a violation of:
  (A) water pollution control laws;
  (B) any rules of the water pollution control board; or
  (C) IC 13-18-10.

A determination by the department under this subdivision is appealable under IC 4-21.5.

SECTION 2. IC 13-18-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. ~~(a)~~ A person may not start construction of a confined feeding operation without obtaining the prior approval of the department.

~~(b) Obtaining an NPDES permit for a CAFO meets the requirements of subsection (a) and 327 IAC 16 to obtain an approval.~~

SECTION 3. IC 15-16-1-10, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]: Sec. 10. (a) **Except as provided in subsection (d),** the state chemist shall adopt rules establishing the minimum safety standards for the design, construction, location, installation, and operation of equipment for storage, handling, use, and transportation (not otherwise regulated) of ammonia and ammonia solutions.

(b) The rules described in subsection (a) must be:

(1) reasonably necessary to protect the safety of the public, including persons handling or using the materials; and

(2) in substantial conformity with the current nationally accepted standards of safety that apply to the equipment described in subsection (a).

(c) The state chemist shall adopt the rules described in subsection (a) only after a notice and public hearing.

(d) The state chemist may allow the use of technologies or methods other than those specified in rules adopted under subsection (a) if the technologies or methods provide similar protection to the public and persons handling or using ammonia or ammonia solutions.

SECTION 4. IC 15-16-1-14, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) A person who **knowingly or intentionally** violates this chapter commits a Class C ~~infraction.~~ **misdemeanor.**

(b) The prosecuting attorney of any judicial circuit in which a violation has occurred and to whom the state chemist has reported a violation shall institute the appropriate proceedings and prosecute the proceedings in a court.

(c) Before the state chemist reports a violation for prosecution as described in subsection (b), the state chemist shall give the person charged with a violation an opportunity to respond to the charges. The state chemist need not report for prosecution minor violations of this chapter if the state chemist believes that the public interest is best served by another action.

SECTION 5. IC 15-16-2-2, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. This chapter may not be construed:

(1) to restrict or avoid sales or exchanges of commercial fertilizers among importers, manufacturers, or blenders who mix **commercial** fertilizer ~~materials~~ for sale; or

(2) as preventing the free and unrestricted shipments of commercial fertilizers to manufacturers or blenders who have registered their brands as required by this chapter.

SECTION 6. IC 15-16-2-3, AS ADDED BY P.L.120-2008, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. As used in this chapter, "blender" means a person or system engaged in the business of blending **commercial** fertilizer. ~~materials.~~

SECTION 7. IC 15-16-2-4, AS ADDED BY P.L.120-2008, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. As used in this chapter, "blending" means the physical mixing or combining:

(1) of one (1) or more ~~fertilizer materials~~ **commercial fertilizers** and one (1) or more filler materials;

(2) of two (2) or more ~~fertilizer materials~~ **commercial fertilizers;** or

(3) of two (2) or more ~~fertilizer materials~~ **commercial fertilizers** and filler materials;

including mixing through the simultaneous or sequential application of any of the combinations referred to in subdivision (1), (2), or (3) to produce a uniform mixture.

SECTION 8. IC 15-16-2-6, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. As used in this chapter, "brand" means a term, design, or trademark used in connection with at least one (1) grade of **commercial** fertilizer.

SECTION 9. IC 15-16-2-7, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. As used in this chapter, "bulk fertilizer" means a **commercial** fertilizer distributed in nonpackaged form.

SECTION 10. IC 15-16-2-9, AS ADDED BY P.L.120-2008, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. As used in this chapter, "custom blend" means a **commercial** fertilizer blended:

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

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

SECTION 11. IC 15-16-2-11, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. As used in this chapter, "fertilizer material" means any substance containing nitrogen, phosphate, potash, or any recognized plant nutrient that: ~~is:~~

(1) **is** used for the plant nutrient content; and

(2) ~~designed to have~~ **has nutrient** value in promoting plant growth.

The term includes unmanipulated animal and vegetable manures.

SECTION 12. IC 15-16-2-13, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. As used in this chapter, "mixed fertilizer" means any combination or mixture of ~~fertilizer materials:~~ **commercial fertilizers:**

(1) designed for use; or

(2) claimed to have **nutrient** value;

in promoting plant growth.

SECTION 13. IC 15-16-2-18, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. As used in this chapter, "registrant" means a person who registers **commercial** fertilizer under this chapter.

SECTION 14. IC 15-16-2-20, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20. As used in this chapter, "specialty fertilizer" means a **commercial** fertilizer distributed for nonfarm use.

SECTION 15. IC 15-16-2-23, AS ADDED BY P.L.120-2008, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 23. As used in this chapter, "use" means the placement or usage of ~~commercial~~ fertilizer **materials** on a targeted growing area.

SECTION 16. IC 15-16-2-25, AS ADDED BY P.L.120-2008, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 25. (a) The Indiana fertilizer advisory board is established to:

(1) study the regulation of fertilizer **material;** and

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

(b) The board consists of the following members:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 17. IC 15-16-2-30, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 30. **(a)** Each member of the board who is not a state employee is entitled to receive both: ~~of the following:~~

(1) the minimum salary per diem; ~~provided by IC 4-10-11-2.1(b).~~ **and**

(2) reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties;

as provided in the ~~state~~ **Purdue University** travel policies and procedures established by the ~~Indiana department of administration and approved by the budget agency.~~ **Purdue University department of transportation and approved by the Purdue University vice president of business services.**

(b) Each member of the board who is a state employee is entitled to reimbursement for travel expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures

established by the Indiana department of administration and approved by the budget agency.

SECTION 18. IC 15-16-2-31, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 31. (a) Before distributing commercial fertilizer in Indiana, the person whose name appears on the label of each brand and grade of the **commercial** fertilizer must submit:

(1) an application for registration to the state chemist on a form furnished by the state chemist; and

(2) the appropriate filing fee set forth in subsection (b).

(b) The filing fee for **commercial** fertilizers sold in packages weighing more than twelve (12) pounds is twenty dollars ($20) for each grade of each brand. The filing fee for **commercial** fertilizers sold in packages weighing not more than twelve (12) pounds is fifty dollars ($50) for each grade of each brand.

(c) Upon approval of the application, the state chemist shall furnish a copy of the registration to the applicant.

(d) All registrations expire on June 30 each year.

(e) In addition to the appropriate filing fee set forth in subsection (b), a late filing fee equal to one hundred percent (100%) of the appropriate filing fee is assessed when:

(1) an application to renew the registration of a commercial fertilizer under this section is received after July 31; or

(2) a product that must be registered under this section is found to be in distribution before registration.

(f) An application under subsection (a) must include the following information:

(1) The name and address of the registrant.

(2) The brand and grade.

(3) The guaranteed analysis showing the minimum percentage of plant food claimed in the following order and form:

Total Nitrogen (N)	percent
Available Phosphate (P_2O_5)	percent
Soluble Potash (K_2O)	percent

(g) The minimum percentage of plant food in mixed fertilizers under subsection (f)(3) must be given in whole numbers only. However, the state chemist may allow fractional numbers to be used under subsection (f)(3) for specialty fertilizers or if plant food elements or other

additives are added.

(h) For unacidulated mineral phosphatic materials and basic slag:

(1) the total phosphate;

(2) the available phosphate; and

(3) the degree of fineness;

must be guaranteed. For bone, tankage, and other natural organic phosphate materials, only the total phosphate must be guaranteed.

(i) Additional plant food elements or other additives that are determinable by chemical methods may be guaranteed only by permission of the state chemist. The state chemist shall grant permission only if the state chemist determines, with the advice of the dean of agriculture of Purdue University or the dean's designee, that the guarantee would not constitute a misrepresentation and is correct. Additional plant foods that are guaranteed:

(1) must be included in the guarantee in the form of the element; and

(2) are subject to inspection and analysis in accordance with the methods that the state chemist prescribes.

(j) A distributor is not required to register a brand of commercial fertilizer that is registered under this chapter by another person if the label used by the distributor does not differ in any respect from that used by the registrant.

(k) A distributor who acts as a blender is not required under subsection (a) to register a custom blend that the distributor produces if the ~~fertilizer materials~~ **commercial fertilizers** blended together to produce the custom blend are registered under subsection (a). However, a distributor who acts as a blender shall provide the state chemist with the following information about each custom blend that the distributor produces:

(1) The name and address of the distributor.

(2) The brand and grade of the custom blend.

(3) The guaranteed analysis of the custom blend showing the minimum percentage of plant food claimed in the following order and form:

(A) The percent of total nitrogen (N).

(B) The percent of available phosphate (P_2O_5).

(C) The percent of soluble potash (K_2O).

SECTION 19. IC 15-16-2-32, AS ADDED BY P.L.2-2008,

SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 32. (a) The bag or other container in which any commercial fertilizer is offered for sale, sold, or distributed in Indiana must have a written or printed statement of the net weight and the information required by section 31 of this chapter **directly**

~~(1)~~ on ~~tags~~ **or** affixed to the ~~end of the~~ package.

~~(A) between the ears;~~

~~(B) on the sewed end; or~~

~~(C) in both locations described in clauses (A) and (B); or~~

~~(2) directly on the package.~~

(b) If the commercial fertilizer is distributed in bulk, the written or printed statement required by section 31 of this chapter must:

(1) accompany the **commercial** fertilizer at delivery; and

(2) be supplied to the purchaser at time of delivery.

SECTION 20. IC 15-16-2-34, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 34. (a) Each registrant shall apply to the state chemist for a permit to report the tonnage of commercial fertilizer sold and pay the inspection fee of forty-five cents ($0.45) per ton on the basis of the report. In making the application, the registrant must agree to the following:

(1) To keep records that the state chemist requires to indicate accurately the tonnage and kinds of commercial fertilizers sold in Indiana.

(2) To grant the state chemist permission to examine those records and verify the statement of tonnage.

(3) To report under oath to the state chemist on forms furnished by the state chemist the tonnage of commercial fertilizer sold during the period covered.

(b) The state chemist:

(1) may grant the permit if the state chemist determines that the **application of the permit to report** tonnage ~~report~~ of **commercial** fertilizer described in subsection (a) will lead to efficient enforcement of this chapter; and

(2) may revoke the permit at any time if it appears to the state chemist that the registrant is not complying with:

(A) the terms of the agreement entered into at the time of the issuance of the permit; or

(B) this chapter.

(c) The report of tonnage is due and the inspection fees are payable semiannually on the last day of the month following the end of the semiannual period.

(d) If:

(1) the report of tonnage is not filed and the inspection fee paid by the fifteenth day following the due date;

(2) the report of tonnage is false; or

(3) the permit holder has not complied with labeling requirements of this chapter;

the state chemist may revoke the permit.

(e) If the inspection fee is unpaid after the fifteen (15) day grace period described in subsection (d), a penalty shall be assessed in the amount of:

(1) fifty dollars ($50); or

(2) ten percent (10%) of the amount due;

whichever is greater, in addition to the amount due.

SECTION 21. IC 15-16-2-35, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 35. (a) The state chemist shall pay to the treasurer of Purdue University all inspection fees collected under this chapter.

(b) Inspection fees collected under this chapter must be used to pay all necessary expenses incurred in carrying out this chapter, including the following:

(1) Employing inspectors and chemists.

(2) Procuring samples.

(3) Printing bulletins.

(4) Giving the results of ~~fertilizer~~ inspections as provided for by this chapter.

(5) Any other expenses incurred by Purdue University agricultural programs:

(A) authorized by law; and

(B) in support of the purposes of this chapter.

(c) The dean of agriculture of Purdue University shall make an annual classified report to the governor showing the total receipts and expenditures of all fees received under this chapter.

SECTION 22. IC 15-16-2-38, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]: Sec. 38. (a) The state chemist shall:

(1) sample, inspect, make analysis of, and test commercial fertilizers distributed within Indiana; and

(2) inspect the storage of bulk fertilizers in Indiana at a time and place and to such an extent as necessary to determine whether the ~~commercial~~ **bulk** fertilizers and their storage are in compliance with this chapter.

(b) The state chemist may enter upon any public or private premises during regular business hours in order to have access to:

(1) ~~fertilizers,~~ **fertilizer materials;** and

(2) plans and records relating to the transportation, storage, sale, and use of ~~fertilizers,~~ **fertilizer materials;**

subject to this chapter and the rules adopted under this chapter.

(c) The state chemist shall adopt methods of sampling and analysis **for commercial fertilizers** from sources that may include AOAC ~~(Association of Analytical Communities)~~ International. In cases of dispute, AOAC International's methods prevail if AOAC International's methods are available.

(d) The state chemist shall determine for administrative purposes whether a commercial fertilizer is deficient in plant foods using only the official sample obtained and analyzed as provided in subsection (c).

SECTION 23. IC 15-16-2-39, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 39. If an official **commercial** fertilizer analysis conducted by the state chemist under section 38 of this chapter results in a determination that the registrant of a commercial fertilizer is subject to a penalty or other legal action under this chapter, the state chemist shall forward a report of the results of the analysis to the registrant at least thirty (30) days before the report is submitted to the purchaser of the **commercial** fertilizer. If the analysis was requested by a person other than the state chemist, the results of the analysis shall be forwarded to the registrant and purchaser immediately. If, during the thirty (30) day period, the state chemist does not receive adequate evidence contesting the results in the report, the report becomes an official report at the expiration of the thirty (30) day period. Upon the registrant's request, the state chemist shall furnish to the registrant part of the **commercial** fertilizer sample analyzed by the state chemist to determine that the registrant is subject to a penalty or other legal action

under this chapter.

SECTION 24. IC 15-16-2-40, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 40. (a) If an analysis conducted by the state chemist under section 38 of this chapter shows that a commercial fertilizer fails in any respect to meet the guaranteed analysis filed by a registrant under section 31 of this chapter, the state chemist may require the payment of a refund to the purchaser equal to the difference between:

(1) the price the purchaser paid for the **commercial** fertilizer; and

(2) the current value of the **commercial** fertilizer after the state chemist's analysis.

(b) The registrant must forward receipts for payment of refunds required under subsection (a) promptly to the state chemist. If the purchaser cannot be found, the registrant shall pay the refund to a local charitable or educational organization of the registrant's choice and forward the receipts promptly to the state chemist.

(c) This section does not prevent the appeal of the imposition **of** any penalty assessed by the state chemist under this chapter to a court with jurisdiction.

SECTION 25. IC 15-16-2-41, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 41. Bulk fertilizers must be stored in a manner that:

(1) minimizes the release of **bulk** fertilizer; and

(2) protects the waters of the state.

SECTION 26. IC 15-16-2-42, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 42. (a) A commercial fertilizer is misbranded if:

(1) the **commercial** fertilizer carries any false or misleading statement upon or attached to the container; or

(2) false or misleading statements concerning the **commercial** fertilizer's ~~agricultural~~ **nutrient** value are made:

(A) on the container; or

(B) in any advertising ~~matter~~ **media** accompanying or associated with the **commercial** fertilizer.

It is unlawful to distribute a misbranded commercial fertilizer.

(b) It is unlawful to distribute an adulterated commercial fertilizer.

For purposes of this subsection, a commercial fertilizer is adulterated if:

(1) the **commercial** fertilizer contains any deleterious or harmful substance in a sufficient amount to render the **commercial** fertilizer injurious to beneficial plant life, animals, humans, aquatic life, soil, or water when applied in accordance with directions for use on the label; or

(2) the label does not include adequate warning statements or directions for use that may be necessary to protect plant life, animals, humans, aquatic life, soil, or water.

SECTION 27. IC 15-16-2-44, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 44. **(a)** The state chemist may adopt rules under IC 4-22-2 concerning the following:

(1) The **distribution and** use of fertilizer material.

(2) The distribution and storage of bulk ~~commercial~~ fertilizers, including standards for the storage of bulk fertilizers to protect the waters of the state.

(b) The state chemist shall adopt rules under IC 4-22-2 concerning the following:

(1) Subject to subsection (d), the establishment of certification and educational programs, as determined by the state chemist, relating to the application of fertilizer material, the transportation of fertilizer material, or both for the following:

(A) Persons who apply fertilizer material for hire, transport fertilizer material for hire, or both.

(B) Persons who apply fertilizer material, transport fertilizer material, or both from the following:

(i) Confined feeding operations (as defined in IC 13-11-2-40).

(ii) Operations outside Indiana that would be confined feeding operations (as defined in IC 13-11-2-40) if they were located in Indiana.

(2) The establishment of fees for the certification and education programs established under subdivision (1).

(c) Any fees collected for a certification and educational programs under subsection (b)(1) shall be collected by the state chemist and deposited and administered under section 44.5 of this

chapter.

(d) The state chemist may waive all or part of the certification requirements established under subsection (b)(1) on a reciprocal basis with any state agency or federal agency that has substantially the same certification standards.

SECTION 28. IC 15-16-2-44.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 44.5. (a) The state chemist shall pay to the treasurer of Purdue University all certification and educational program fees collected under section 44 of this chapter.**

(b) Certification and educational program fees collected under section 44 of this chapter must be used to pay all necessary expenses incurred in carrying out and administering the certification and educational programs.

(c) The dean of agriculture of Purdue University shall make an annual classified report to the governor showing the total receipts and expenditures of all fees received under this section.

SECTION 29. IC 15-16-2-46, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 46. (a) If the state chemist determines that a ~~lot of~~ commercial fertilizer is being offered for sale in violation of this chapter, the state chemist may issue to and enforce upon the owner or custodian: ~~of the lot:~~

(1) a written or printed stop sale, use, or removal order; and

(2) a written or printed order to hold the ~~lot~~ **commercial fertilizer** at a designated place until:

(A) the owner or custodian complies with ~~the law;~~ **this chapter;**

(B) the state chemist releases the ~~lot~~ **commercial fertilizer** in writing; or

(C) the violation is legally disposed of by written authority.

(b) The state chemist shall release commercial fertilizer withdrawn under subsection (a) when:

(1) the owner or custodian ~~of the lot~~ complies with this chapter; and

(2) all costs and expenses incurred in connection with the withdrawal have been paid.

SECTION 30. IC 15-16-2-47, AS ADDED BY P.L.2-2008,

SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 47. (a) Any ~~lot of~~ commercial fertilizer not in compliance with this chapter is subject to seizure based on a complaint of the state chemist filed in a court with jurisdiction in the area in which the commercial fertilizer is located.

(b) Subject to subsection (a), if the court finds the commercial fertilizer is in violation of this chapter and orders the condemnation of the commercial fertilizer, the **commercial** fertilizer must be disposed of in any manner consistent with the quality of the commercial fertilizer and the laws of the state.

(c) A court may not order the disposition of ~~any lot of~~ **the** commercial fertilizer without first giving the claimant an opportunity to apply to the court for:

(1) release of the commercial fertilizer; or

(2) permission to process or relabel the commercial fertilizer to bring it into compliance with this chapter.

SECTION 31. IC 15-16-2-49.5, AS ADDED BY P.L.120-2008, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 49.5. (a) If a person violates this chapter or a rule adopted under this chapter, the state chemist may:

(1) warn, ~~or~~ issue a citation to, **or impose a civil penalty on** the person; or

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

(b) The state chemist shall adopt by rule, under IC 4-22-2, a schedule of civil penalties that may be imposed under subsection (a). The state chemist may impose a civil penalty only according to a schedule of civil penalties recommended by the board.

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

SECTION 32. IC 15-16-2-50, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 50. (a) Except as provided in subsection (b), a political subdivision (as defined in IC 36-1-2-13) does not have authority to regulate by ordinance the storage or use of fertilizer **material.**

(b) A political subdivision may, by resolution, petition the state chemist for a hearing to allow a waiver to adopt an ordinance because

of special circumstances relating to the storage or use of fertilizer **material.** If a petition is received, the state chemist shall hold a public hearing to consider allowing the waiver requested. The public hearing must be conducted in an informal manner. IC 4-21.5 does not apply to a public hearing under this section.

SECTION 33. IC 15-16-2-48 IS REPEALED [EFFECTIVE JULY 1, 2009].

P.L.82-2009
[H.1200. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-27-8-4, AS ADDED BY P.L.1-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. An individual who is or intends to become a school bus driver must obtain a physical examination certificate stating that the individual possesses the physical characteristics required by section 1(a)(7) of this chapter. The certificate shall be made by ~~an Indiana~~ **a** physician **who is licensed in Indiana or a state bordering Indiana** after the physician has conducted a physical examination of the school bus driver or prospective school bus driver. The physician shall be chosen by the school bus driver or prospective driver, who shall pay for the examination.

P.L.83-2009
[H.1224. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-8-2-279.5, AS ADDED BY P.L.112-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 279.5. "Task force", for purposes of:

(1) IC 14-25-14, has the meaning set forth in IC 14-25-14-1; **and**

(2) IC 14-25-16, has the meaning set forth in IC 14-25-16-1.

SECTION 2. IC 14-25-16 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 16. Water Resources Task Force

Sec. 1. As used in this chapter, "task force" refers to the water resources task force established by section 2 of this chapter.

Sec. 2. (a) The water resources task force is established to study and make recommendations concerning the following issues with a focus on water availability as an economic and environmental necessity:

(1) Available quantities and sources of water.

(2) Future needs.

(3) Resource management.

(4) The determination of ownership rights, particularly in ground water.

(5) Drinking water delivery systems.

(6) Opportunities to work with neighboring states concerning shared drinking water resources.

(7) Other related issues.

(b) The task force shall provide an annual report of activities and recommendations to:

(1) the water resources study committee established by IC 2-5-25-1; and

(2) the legislative council, in an electronic format under IC 5-14-6.

Sec. 3. (a) The task force consists of ten (10) individuals, not more than five (5) of whom may be members of the same political party, appointed by the director for four (4) year terms and representing the following interests:

(1) Key water withdrawal users, including the following:

(A) Public water supply utilities.

(B) Agriculture.

(C) Steam electric generating utility companies.

(D) Industrial users.

(2) Academic experts in aquatic habitat and hydrology.

(3) Municipalities.

(4) Key stakeholders, including the following:

(A) Environmentalists.

(B) Consumer advocates.

(C) Economic development advocates.

(D) The public.

(b) The director or the director's designee shall serve as a nonvoting member on the task force. The director shall appoint a chairperson and a vice chairperson from the members of the task force. The director may not appoint an employee of the department as the chairperson or vice chairperson. The department shall provide staff support for the task force.

(c) A member of the task force must attend a minimum of fifty percent (50%) of the scheduled meetings. If a member does not attend a minimum of fifty percent (50%) of the meetings, the director shall replace the member.

Sec. 4. (a) Each of the following state agencies shall designate a representative to advise the task force:

(1) The department.

(2) The department of environmental management.

(3) The department of homeland security.

(4) The Indiana state department of agriculture.

(5) The state department of health.

(b) In addition to the representatives set forth in subsection (a), the director or the director's designee may invite representatives

of other state and federal agencies to advise the task force, as appropriate.

Sec. 5. The affirmative votes of a majority of the voting members of the task force are required for the task force to take action on a measure.

Sec. 6. At its first meeting, the task force shall establish a list of its activities and the time frame within which it will carry out the activities.

SECTION 3. [EFFECTIVE JULY 1, 2009] **(a) As used in this SECTION, "task force" refers to the water resources task force established by IC 14-25-16-2, as added by this act.**

(b) The director of the department of natural resources shall make appointments to the task force by October 1, 2009.

(c) Notwithstanding IC 14-25-16-3(a), as added by this act, the initial terms of the members of the task force are as follows:

(1) Fifty percent (50%) of the members serve a term of two (2) years.

(2) Fifty percent (50%) of the members serve a term of four (4) years.

The director of the department of natural resources shall designate whether a member is appointed to a term described in subdivision (1) or a term described in subdivision (2).

(d) The initial term of a member of the task force begins January 1, 2010.

(e) This SECTION expires July 1, 2014.

SECTION 4. [EFFECTIVE JULY 1, 2009] **(a) For purposes of this SECTION, "committee" refers to the water resources study committee established by IC 2-5-25-1.**

(b) The committee shall evaluate the following issues during the 2009 interim:

(1) The standardization of the regulation of residential irrigation system installations.

(2) The development of continuing education programs and uniform rules to preserve ground water by individuals engaged in:

(A) water well drilling;

(B) pump installation;

(C) well abandonment operations; and

(D) operating wells, pumps, and abandoned wells.

(c) The committee shall submit a report of the findings of the committee to the legislative council not later than December 31, 2009.

(d) This SECTION expires December 31, 2009.

P.L.84-2009
[H.1246. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 27-2-21-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. **(a)** An insurer that uses credit information to underwrite or rate risks shall not do the following:

(1) Use an insurance score that is calculated using income, gender, address, ZIP code, ethnic group, religion, marital status, or nationality of the consumer as a factor.

(2) Deny, cancel, or decline to renew a personal insurance policy solely on the basis of credit information.

(3) Base an insured's renewal rate for a personal insurance policy solely on credit information.

(4) Take an adverse action against a consumer solely because the consumer does not have a credit card account.

(5) Consider an absence of credit information or an inability to calculate an insurance score in underwriting or rating a personal insurance policy, unless the insurer does one (1) of the following:

(A) Presents to the commissioner information that the absence or inability relates to the risk for the insurer and treats the consumer as approved by the commissioner.

(B) Treats the consumer as if the consumer had neutral credit information, as defined by the insurer.

(6) Take an adverse action against a consumer based on credit information unless the insurer obtains and uses:

(A) a credit report issued; or

(B) an insurance score calculated;

not more than ninety (90) days before the date the personal insurance policy is first written or the renewal is issued.

~~(7) Use credit information unless the insurer recalculates the insurance score or obtains an updated credit report at least every thirty-six (36) months. However, the following apply:~~

~~(A) At annual renewal, upon the request of an insured or the insured's agent, the insurer shall re-underwrite and re-rate the personal insurance policy based on a current credit report or insurance score unless one (1) of the following applies:~~

~~(i) The insurer's treatment of the consumer is otherwise approved by the commissioner.~~

~~(ii) The insured is in the most favorably priced tier of the insurer, within a group of affiliated insurers.~~

~~(iii) Credit information was not used for underwriting or rating the insured when the personal insurance policy was initially written.~~

~~(iv) The insurer reevaluates the insured at least every thirty-six (36) months after a personal insurance policy is issued based on underwriting or rating factors other than credit information.~~

~~This clause does not require an insurer to recalculate an insurance score or obtain an updated credit report of a consumer more frequently than one (1) time in a twelve (12) month period.~~

~~(B) An insurer may obtain current credit information upon the renewal of a personal insurance policy when renewal occurs more frequently than every thirty-six (36) months if consistent with the insurer's underwriting guidelines.~~

~~(8)~~ **(7)** Use the following as a negative factor in an insurance scoring methodology or in reviewing credit information for the purpose of underwriting or rating a personal insurance policy:

(A) A credit inquiry:

(i) not initiated by the consumer; or

(ii) requested by the consumer for the consumer's own credit

information.

(B) A credit inquiry relating to insurance coverage.

(C) A **late payment or a** collection account with a medical industry code on the consumer's credit report.

(D) Multiple lender inquiries:

(i) coded by the consumer reporting agency on the consumer's credit report as being from the home mortgage industry; and

(ii) made within thirty (30) days of one another.

(E) Multiple lender inquiries:

(i) coded by the consumer reporting agency on the consumer's credit report as being from the automobile lending industry; and

(ii) made within thirty (30) days of one another.

(b) An insurer that uses credit information to underwrite or rate risks shall, at annual renewal upon the request of an insured or an insured's agent, re-underwrite and re-rate the insured's personal insurance policy based on a current credit report or insurance score unless one (1) of the following applies:

(1) The insurer's treatment of the consumer is otherwise approved by the commissioner.

(2) The insured is in the most favorably priced tier of the insurer, within a group of affiliated insurers.

(3) Credit information was not used for underwriting or rating the insured when the personal insurance policy was initially written.

(4) The insurer reevaluates the insured at least every thirty-six (36) months after a personal insurance policy is issued based on underwriting or rating factors other than credit information.

(5) The insurer has re-underwritten and re-rated the insured's personal insurance policy based on a credit report obtained or an insurance score recalculated less than twelve (12) months before the date of the request by the insured or the insured's agent.

(c) An insurer that uses credit information to underwrite or rate risks may obtain current credit information upon the renewal of a personal insurance policy when renewal occurs more frequently

than every thirty-six (36) months if consistent with the insurer's underwriting guidelines.

P.L.85-2009
[H.1271. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning trade regulation.

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

SECTION 1. IC 6-2.5-6-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 17. (a) A retail merchant that is a consignee in a retail transaction shall collect and remit the state gross retail tax on the gross retail income received in a consignment sale.**

(b) The retail merchant shall provide the consignor purchaser an invoice that shows that the state gross retail tax was paid to the retail merchant with a clear notation on the invoice that the item was a consignment sale by the retail merchant on behalf of (insert the name of the seller) to (insert the name of the purchaser).

SECTION 2. IC 24-4-17 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 17. Retail Consignment Sales

Sec. 1. (a) Except as provided in subsections (b) through (d), this chapter applies to an item delivered to a retail merchant after June 30, 2009.

(b) This chapter does not apply to an item that has a value less than fifty dollars ($50).

(c) This chapter does not apply to an item offered at auction, or held by an auctioneer before or after being offered at auction.

(d) If a provision of this chapter conflicts with the Uniform Commercial Code (IC 26-1), the Uniform Commercial Code

controls with respect to that provision.

Sec. 2. As used in this chapter, "bona fide purchaser" means a person who in good faith makes a purchase without notice of any outstanding rights of others.

Sec. 3. As used in this chapter, "claim" means a right to payment, whether or not the right is reduced to judgment, liquidated, fixed, matured, disputed, secured, legal, or equitable. The term includes costs of collection and attorney's fees only to the extent that the laws of Indiana permit the holder of the claim to recover them in an action against the obligor.

Sec. 4. As used in this chapter, "commission" means the fee that a consignor and a retail merchant have agreed that the retail merchant may retain after the sale of the consignor's item to a third party. The term includes any form of compensation, including a percentage of the actual selling price of an item.

Sec. 5. As used in this chapter, "creditor" means a person who has a claim.

Sec. 6. As used in this chapter, "on consignment" means that no:

(1) title to;

(2) estate in; or

(3) right to possession of;

an item superior to that of the consignor vests in the consignee, even if the consignee has the authority to transfer the consignor's right, title, and interest in the work of art to a third party.

Sec. 7. As used in this chapter, "retail merchant" means a retail merchant making a retail transaction as described in IC 6-2.5-4-1.

Sec. 8. (a) When a person delivers an item to a retail merchant for the purpose of:

(1) sale;

(2) exhibition; or

(3) sale and exhibition;

for a commission, the delivery to and acceptance of the item by the retail merchant places the item on consignment, unless the delivery is under an outright sale for which the person receives full compensation for the item upon delivery.

(b) A retail merchant described in subsection (a) is the agent of the person with respect to an item described in subsection (a).

(c) An item described in subsection (a) is trust property and the retail merchant is trustee for the benefit of the person until the

item is sold to a bona fide purchaser or returned to the person.

(d) Except as provided in subsection (e), this subsection does not apply to a deposit placed by a customer on an item. The proceeds of the sale of an item described in subsection (a) are trust property. The retail merchant is trustee for the benefit of the person until the amount due the person from the sale is paid in full. Unless the retail merchant and the person expressly agree otherwise in writing:

(1) a retail merchant shall pay the person the proceeds of the sale of an item not later than thirty (30) days after the retail merchant receives the payment; and

(2) if the sale of the item is on installment, the retail merchant shall first apply funds from an installment to pay any balance due to the person on the sale.

The terms of an express written agreement that alters a provision set forth in subdivision (1) or (2) must be clear and conspicuous.

(e) If:

(1) a customer who has placed a deposit on an item purchases the item; and

(2) the customer's deposit is used in whole or in part to pay for the item;

the deposit shall be treated in accordance with subsection (d).

(f) Except as provided in subsection (g), if an item is lost or damaged while in the possession of a retail merchant, the retail merchant is strictly liable for the loss or damage in an amount equal to the value of the item as set forth in section 11(a)(1) of this chapter.

(g) A retail merchant is not liable for the loss of or damage to an item in the retail merchant's possession if:

(1) the loss or damage occurs more than thirty (30) days after:

(A) the date by which the person must remove the item, as specified in a written agreement between the retail merchant and the person; or

(B) the date on which the retail merchant sends written notice to the person by registered mail at the person's last known address that the person must remove the item, if a written agreement described in clause (A) does not exist; and

(2) the item was in the retail merchant's possession at the time

of the loss or damage because the person failed to remove the item.

Sec. 9. (a) If a item is trust property under section 8 of this chapter when a retail merchant initially receives it, the item remains trust property until the balance due the consignor from the sale of the item is paid in full, even if the retail merchant directly or indirectly purchases the item for the retail merchant's own account.

(b) If an retail merchant resells an item described in subsection (a) to a bona fide purchaser before the consignor has been paid in full, the item ceases to be trust property and the proceeds of the resale are trust funds in the hands of the retail merchant for the benefit of the consignor to the extent necessary to pay any balance due the consignor. The trusteeship of the proceeds continues until the fiduciary obligation of the retail merchant with respect to the transaction is discharged in full.

Sec. 10. Trust property under section 10 or 11 of this chapter is not subject to a claim, lien, or security interest of a creditor of the retail merchant.

Sec. 11. (a) A retail merchant may accept an item for commission on consignment from a person only if, not later than seven (7) days after accepting the item, the retail merchant enters into a written contract with the person that specifies the following:

(1) The value of the item.

(2) The time within which the proceeds from the sale must be paid to the consignor if the item is sold.

(3) The commission the retail merchant is to receive if the item is sold.

(4) The minimum price for the sale of the item.

(5) Any discounts ordinarily given by the retail merchant in the regular course of business.

(b) If a consignor violates this section, the consignor may bring an action in a court with jurisdiction to void the consignor's contractual obligations to the retail merchant. A retail merchant who violates this section is liable to the consignor in an amount equal to:

(1) fifty dollars ($50);

(2) any actual, consequential, or incidental damages sustained by the consignor because of the violation of this section; and

(3) reasonable attorney's fees.

P.L.86-2009
[H.1309. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-18-2-137, AS AMENDED BY P.L.3-2008, SECTION 105, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 137. (a) "Food establishment", for purposes of IC 16-42-5 and IC 16-42-5.2, means any building, room, basement, vehicle of transportation, cellar, or open or enclosed area occupied or used for handling food.

(b) The term does not include the following:

(1) A dwelling where food is prepared on the premises by the occupants, free of charge, for their consumption or for consumption by their guests.

(2) A gathering of individuals at a venue of an organization that is organized for educational purposes in a nonpublic educational setting or for religious purposes, if:

(A) the individuals separately or jointly provide or prepare, free of charge, and consume their own food or that of others attending the gathering; and

(B) the gathering is for a purpose of the organization.

Gatherings for the purpose of the organization include funerals, wedding receptions, christenings, bar or bat mitzvahs, baptisms, communions, and other events or celebrations sponsored by the organization.

(3) A vehicle used to transport food solely for distribution to the needy, either free of charge or for a nominal donation.

(4) A private gathering of individuals who separately or jointly

provide or prepare and consume their own food or that of others attending the gathering, regardless of whether the gathering is held on public or private property.

(5) Except for food prepared by a for-profit entity, a venue of the sale of food prepared **for** an ~~the~~ organization:

(A) that is organized for:

(i) religious purposes; or

(ii) educational purposes in a nonpublic educational setting;

(B) that is exempt from taxation under Section 501 of the Internal Revenue Code; and

(C) that offers the food for sale to the final consumer at an event held for the benefit of the organization;

unless the food is being provided in a restaurant or a cafeteria with an extensive menu of prepared foods.

(6) Except for food prepared by a for-profit entity, an Indiana nonprofit organization that:

(A) is organized for civic, fraternal, veterans, or charitable purposes;

(B) is exempt from taxation under Section 501 of the Internal Revenue Code; and

(C) offers food for sale to the final consumer at an event held for the benefit of the organization;

if the events conducted by the organization take place for not more than fifteen (15) days in a calendar year.

(7) An individual vendor of a farmer's market or roadside stand if the individual meets the requirements of IC 16-42-5-29.

SECTION 2. IC 16-18-2-287.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 287.8. (a) "Potentially hazardous food product", for purposes of IC 16-42-5-29, means a food that is natural or synthetic and requires temperature control because it is in a form capable of supporting any of the following:**

(1) The rapid and progressive growth of infectious or toxigenic microorganisms.

(2) The growth and toxin production of Clostridium botulinum.

(3) In raw shell eggs, the growth of Salmonella enteritidis.

(b) The term includes the following:

(1) A food of animal origin that is raw or heat treated.

(2) A food of plant origin that is heat treated or consists of raw seed sprouts.

(3) Cut melons.

(4) Garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth described in subsection (a).

SECTION 3. IC 16-42-5-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 29. (a) This section applies to an individual vendor of a farmer's market or roadside stand.**

(b) An individual vendor of a farmer's market or roadside stand is not considered to be a food establishment and is exempt from the requirements of this title that apply to food establishments if the individual vendor's food product:

(1) is made by an individual in the individual's primary residence;

(2) is not a potentially hazardous food product;

(3) is prepared by an individual who practices proper sanitary procedures, including:

(A) proper hand washing;

(B) sanitation of the container or other packaging in which the food product is contained; and

(C) safe storage of the food product;

(4) is not resold; and

(5) includes a label that contains the following information:

(A) The name and address of the producer of the food product.

(B) The common or usual name of the food product.

(C) The ingredients of the food product, in descending order by predominance by weight.

(D) The net weight and volume of the food product by standard measure or numerical count.

(E) The date on which the food product was processed.

(F) The following statement in at least 10 point type: "This product is home produced and processed and the production area has not been inspected by the state department of health.".

(c) An individual vendor who meets the requirements in subsection (b) is subject to food sampling and inspection if:

(1) the state department determines that the individual vendor's food product is:

(A) misbranded under section 12(b) of this chapter; or

(B) adulterated; or

(2) a consumer complaint has been received by the state department.

(d) If the state department has reason to believe that an imminent health hazard exists with respect to an individual vendor's food product, the state department may order cessation of production and sale of the food product until the state department determines that the hazardous situation has been addressed.

(e) For purposes of this section, the state health commissioner or the commissioner's authorized representatives may take samples for analysis and conduct examinations and investigations through any officers or employees under the state health commissioner's supervision. Those officers and employees may enter, at reasonable times, the facilities of an individual vendor and inspect any food products in those places and all pertinent equipment, materials, containers, and labeling.

(f) The state health commissioner may develop guidelines for an individual vendor who seeks an exemption from regulation as a food establishment as described in subsection (b). The guidelines may include:

(1) standards for best safe food handling practices;

(2) disease control measures; and

(3) standards for potable water sources.

SECTION 4. **An emergency is declared for this act.**

P.L.87-2009
[H.1344. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-5.5-5, AS AMENDED BY P.L.144-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) The department of local government finance shall prescribe a sales disclosure form for use under this chapter. The form prescribed by the department of local government finance must include at least the following information:

(1) The key number (as defined in IC 6-1.1-1-8.5) of each parcel.

(2) With respect to each parcel, whether the entire parcel is being conveyed.

(3) The address of each improved parcel.

(4) The date of the execution of the form.

(5) The date the property was transferred.

(6) Whether the transfer includes an interest in land or improvements, or both.

(7) Whether the transfer includes personal property.

(8) An estimate of the value of any personal property included in the transfer.

(9) The name, address, and telephone number of:

(A) each transferor and transferee; and

(B) the person that prepared the form.

(10) The mailing address to which the property tax bills or other official correspondence should be sent.

(11) The ownership interest transferred.

(12) The classification of the property (as residential, commercial, industrial, agricultural, vacant land, or other).

(13) Subject to subsection (c), the total price actually paid or required to be paid in exchange for the conveyance, whether in

terms of money, property, a service, an agreement, or other consideration, but excluding tax payments and payments for legal and other services that are incidental to the conveyance.

(14) The terms of seller provided financing, such as interest rate, points, type of loan, amount of loan, and amortization period, and whether the borrower is personally liable for repayment of the loan.

(15) Any family or business relationship existing between the transferor and the transferee.

(16) A legal description of each parcel subject to the conveyance.

(17) Whether the transferee is using the form to claim ~~the following~~ **one (1) or more deductions under IC 6-1.1-12-44** for property taxes first due and payable in a calendar year after 2008.

~~(A) One (1) or more deductions under IC 6-1.1-12-44.~~

~~(B) The homestead credit under IC 6-1.1-20.9-3.5.~~

(18) If the transferee uses the form to claim the ~~homestead credit~~ **standard deduction** under ~~IC 6-1.1-20.9-3.5, the name of any other county and township in which the transferee of residential real property owns or is buying residential real property.~~ **IC 6-1.1-12-37, the information required for a standard deduction under IC 6-1.1-12-37.**

(19) Sufficient instructions and information to permit a party to terminate a standard deduction under IC 6-1.1-12-37 on any parcel of property on which the party or the spouse of the party will no longer be eligible for the standard deduction under IC 6-1.1-12-37 after the party or the party's spouse begins to reside at the property that is the subject of the sales disclosure form, including an explanation of the tax consequences and applicable penalties if a party unlawfully claims a standard deduction under IC 6-1.1-12-37.

~~(19)~~ **(20)** Other information as required by the department of local government finance to carry out this chapter.

If a form under this section includes the telephone number or **part or all of** the Social Security number of a party, the telephone number or the Social Security number is confidential.

(b) The instructions for completing the form described in subsection (a) must include the information described in IC 6-1.1-12-43(c)(1).

(c) If the conveyance includes more than one (1) parcel as described

in section 3(h) of this chapter, the form:

(1) is not required to include the price referred to in subsection (a)(13) for each of the parcels subject to the conveyance; and

(2) may state a single combined price for all of those parcels.

SECTION 2. IC 6-1.1-12-17.8, AS AMENDED BY P.L.144-2008, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17.8. (a) An individual who receives a deduction provided under section 1, 9, 11, 13, 14, 16, ~~or~~ 17.4, **or 37** of this chapter in a particular year and who remains eligible for the deduction in the following year is not required to file a statement to apply for the deduction in the following year. **However, for purposes of a deduction under section 37 of this chapter, the county auditor may, in the county auditor's discretion, terminate the deduction for assessment dates after January 15, 2012, if the individual does not comply with the requirement in IC 6-1.1-22-8.1(b)(9), as determined by the county auditor, before January 1, 2013. Before the county auditor terminates the deduction because the taxpayer claiming the deduction did not comply with the requirement in IC 6-1.1-22-8.1(b)(9) before January 1, 2013, the county auditor shall mail notice of the proposed termination of the deduction to:**

(1) the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records; or

(2) the last known address of the most recent owner shown in the transfer book.

(b) An individual who receives a deduction provided under section 1, 9, 11, 13, 14, 16, or 17.4 of this chapter in a particular year and who becomes ineligible for the deduction in the following year shall notify the auditor of the county in which the real property, mobile home, or manufactured home for which the individual claims the deduction is located of the individual's ineligibility in the year in which the individual becomes ineligible. **An individual who becomes ineligible for a deduction under section 37 of this chapter shall notify the county auditor of the county in which the property is located in conformity with section 37 of this chapter.**

(c) The auditor of each county shall, in a particular year, apply a deduction provided under section 1, 9, 11, 13, 14, 16, ~~or~~ 17.4, **or 37** of this chapter to each individual who received the deduction in the

preceding year unless the auditor determines that the individual is no longer eligible for the deduction.

(d) An individual who receives a deduction provided under section 1, 9, 11, 13, 14, 16, ~~or~~ 17.4, **or 37** of this chapter for property that is jointly held with another owner in a particular year and remains eligible for the deduction in the following year is not required to file a statement to reapply for the deduction following the removal of the joint owner if:

(1) the individual is the sole owner of the property following the death of the individual's spouse;

(2) the individual is the sole owner of the property following the death of a joint owner who was not the individual's spouse; or

(3) the individual is awarded sole ownership of the property in a divorce decree.

However, for purposes of a deduction under section 37 of this chapter, if the removal of the joint owner occurs before the date that a notice described in IC 6-1.1-22-8.1(b)(9) is sent, the county auditor may, in the county auditor's discretion, terminate the deduction for assessment dates after January 15, 2012, if the individual does not comply with the requirement in IC 6-1.1-22-8.1(b)(9), as determined by the county auditor, before January 1, 2013. Before the county auditor terminates the deduction because the taxpayer claiming the deduction did not comply with the requirement in IC 6-1.1-22-8.1(b)(9) before January 1, 2013, the county auditor shall mail notice of the proposed termination of the deduction to the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records or the last known address of the most recent owner shown in the transfer book.

(e) A trust entitled to a deduction under section 9, 11, 13, 14, 16, ~~or~~ 17.4, **or 37** of this chapter for real property owned by the trust and occupied by an individual in accordance with section 17.9 of this chapter is not required to file a statement to apply for the deduction, if:

(1) the individual who occupies the real property receives a deduction provided under section 9, 11, 13, 14, 16, ~~or~~ 17.4, **or 37** of this chapter in a particular year; and

(2) the trust remains eligible for the deduction in the following

year.

However, for purposes of a deduction under section 37 of this chapter, the individuals that qualify the trust for a deduction must comply with the requirement in IC 6-1.1-22-8.1(b)(9) before January 1, 2013.

(f) A cooperative housing corporation (as defined in 26 U.S.C. 216) that is entitled to a deduction under section 37 of this chapter in the immediately preceding calendar year for a homestead (as defined in section 37 of this chapter) is not required to file a statement to apply for the deduction for the current calendar year if the cooperative housing corporation remains eligible for the deduction for the current calendar year. However, the county auditor may, in the county auditor's discretion, terminate the deduction for assessment dates after January 15, 2012, if the individual does not comply with the requirement in IC 6-1.1-22-8.1(b)(9), as determined by the county auditor, before January 1, 2013. Before the county auditor terminates a deduction because the taxpayer claiming the deduction did not comply with the requirement in IC 6-1.1-22-8.1(b)(9) before January 1, 2013, the county auditor shall mail notice of the proposed termination of the deduction to:

(1) the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records; or

(2) the last known address of the most recent owner shown in the transfer book.

(g) An individual who:

(1) was eligible for a homestead credit under IC 6-1.1-20.9 (repealed) for property taxes imposed for the March 1, 2007, or January 15, 2008, assessment date; or

(2) would have been eligible for a homestead credit under IC 6-1.1-20.9 (repealed) for property taxes imposed for the March 1, 2008, or January 15, 2009, assessment date if IC 6-1.1-20.9 had not been repealed;

is not required to file a statement to apply for a deduction under section 37 of this chapter if the individual remains eligible for the deduction in the current year. An individual who filed for a homestead credit under IC 6-1.1-20.9 (repealed) for an assessment date after March 1, 2007 (if the property is real property), or after

January 1, 2008 (if the property is personal property), shall be treated as an individual who has filed for a deduction under section 37 of this chapter. However, the county auditor may, in the county auditor's discretion, terminate the deduction for assessment dates after January 15, 2012, if the individual does not comply with the requirement in IC 6-1.1-22-8.1(b)(9), as determined by the county auditor, before January 1, 2013. Before the county auditor terminates the deduction because the taxpayer claiming the deduction did not comply with the requirement in IC 6-1.1-22-8.1(b)(9) before January 1, 2013, the county auditor shall mail notice of the proposed termination of the deduction to the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records, or to the last known address of the most recent owner shown in the transfer book.

(h) If a county auditor terminates a deduction because the taxpayer claiming the deduction did not comply with the requirement in IC 6-1.1-22-8.1(b)(9) before January 1, 2013, the county auditor shall reinstate the deduction if the taxpayer provides proof that the taxpayer is eligible for the deduction and is not claiming the deduction for any other property.

SECTION 3. IC 6-1.1-12-37, AS AMENDED BY P.L.146-2008, SECTION 115, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 37. (a) The following definitions apply throughout this section:

(1) "Dwelling" means any of the following:

(A) Residential real property improvements that an individual uses as the individual's residence, including a house or garage.

(B) A mobile home that is not assessed as real property that an individual uses as the individual's residence.

(C) A manufactured home that is not assessed as real property that an individual uses as the individual's residence.

(2) "Homestead" means an individual's principal place of residence: ~~that:~~

(A) **that** is located in Indiana;

(B) ~~the individual:~~ **that:**

(i) **the individual** owns;

(ii) **the individual** is buying under a contract, recorded in

the county recorder's office, that provides that the individual is to pay the property taxes on the residence; ~~or~~

(iii) **the individual** is entitled to occupy as a tenant-stockholder (as defined in 26 U.S.C. 216) of a cooperative housing corporation (as defined in 26 U.S.C. 216); **or**

(iv) is a residence described in section 17.9 of this chapter that is owned by a trust if the individual is an individual described in section 17.9 of this chapter;

and

(C) **that** consists of a dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

The term does not include property owned by a corporation, partnership, limited liability company, or other entity not described in this subdivision.

(b) Each year ~~an individual who on March 1 of a particular year or, in the case of a mobile home that is assessed as personal property, the immediately following January 15, either owns or is buying a homestead under a contract, recorded in the county recorder's office, that provides the individual is to pay property taxes on the~~ **a** homestead is ~~entitled to~~ **eligible for** a standard deduction from the assessed value of the homestead **for an assessment date. The deduction provided by this section applies to property taxes first due and payable for an assessment date only if an individual has an interest in the homestead described in subsection (a)(2)(B) on:**

(1) the assessment date; or

(2) any date in the same year after an assessment date that a statement is filed under subsection (e) or section 44 of this chapter, if the property consists of real property.

Subject to subsection (c), the auditor of the county shall record and make the deduction for the ~~person~~ **individual or entity** qualifying for the deduction.

(c) Except as provided in section 40.5 of this chapter, the total amount of the deduction that a person may receive under this section for a particular year is the lesser of:

(1) sixty percent (60%) of the assessed value of the real property, mobile home not assessed as real property, or manufactured home

not assessed as real property; or

(2) forty-five thousand dollars ($45,000).

~~2010,~~

(d) A person who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section with respect to that real property, mobile home, or manufactured home.

(e) Except as provided in sections 17.8 and 44 of this chapter and subject to section 45 of this chapter, an individual who desires to claim the deduction provided by this section must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the homestead is located. The statement must include:

(1) the parcel number or key number of the property and the name of the city, town, or township in which the property is located;

(2) the name of any other location in which the applicant or the applicant's spouse owns, is buying, or has a beneficial interest in residential real property;

(3) the names of:

(A) the applicant and the applicant's spouse (if any):

(i) as the names appear in the records of the United States Social Security Administration for the purposes of the issuance of a Social Security card and Social Security number; or

(ii) that they use as their legal names when they sign their names on legal documents;

if the applicant is an individual; or

(B) each individual who qualifies property as a homestead under subsection (a)(2)(B) and the individual's spouse (if any):

(i) as the names appear in the records of the United States Social Security Administration for the purposes of the issuance of a Social Security card and Social Security number; or

(ii) that they use as their legal names when they sign

their names on legal documents;

if the applicant is not an individual; and

(4) either:

(A) the last five (5) digits of the applicant's Social Security number and the last five (5) digits of the Social Security number of the applicant's spouse (if any); or

(B) if the applicant or the applicant's spouse (if any) do not have a Social Security number, any of the following for that individual:

(i) The last five (5) digits of the individual's driver's license number.

(ii) The last five (5) digits of the individual's state identification card number.

(iii) If the individual does not have a driver's license or a state identification card, the last five (5) digits of a control number that is on a document issued to the individual by the federal government and determined by the department of local government finance to be acceptable.

If a form or statement provided to the county auditor under this section, IC 6-1.1-22-8.1, or IC 6-1.1-22.5-12 includes the telephone number or part or all of the Social Security number of a party or other number described in subdivision (4)(B) of a party, the telephone number and the Social Security number or other number described in subdivision (4)(B) included are confidential. The statement may be filed in person or by mail. If the statement is mailed, the mailing must be postmarked on or before the last day for filing. The statement applies for that first year and any succeeding year for which the deduction is allowed. With respect to real property, the person must file the statement during the year for which the person desires to obtain the deduction. With respect to a mobile home that is not assessed as real property, the person must file the statement during the twelve (12) months before March 31 of the year for which the person desires to obtain the deduction.

(f) If an individual who is receiving the deduction provided by this section or who otherwise qualifies property for a deduction under this section:

(1) changes the use of the individual's property so that part or

all of the property no longer qualifies for the deduction under this section; or

(2) is no longer eligible for a deduction under this section on another parcel of property because:

(A) the individual would otherwise receive the benefit of more than one (1) deduction under this chapter; or

(B) the individual maintains the individual's principal place of residence with another individual who receives a deduction under this section;

the individual must file a certified statement with the auditor of the county, notifying the auditor of the change of use, not more than sixty (60) days after the date of that change. An individual who fails to file the statement required by this subsection is liable for any additional taxes that would have been due on the property if the individual had filed the statement as required by this subsection plus a civil penalty equal to ten percent (10%) of the additional taxes due. The civil penalty imposed under this subsection is in addition to any interest and penalties for a delinquent payment that might otherwise be due. One percent (1%) of the total civil penalty collected under this subsection shall be transferred by the county to the department of local government finance for use by the department in establishing and maintaining the homestead property database under subsection (i) and, to the extent there is money remaining, for any other purposes of the department. This amount becomes part of the property tax liability for purposes of this article.

~~(e)~~ **(g)** The department of local government finance shall adopt rules or guidelines concerning the application for a deduction under this section.

~~(f)~~ **(h) This subsection does not apply to property in the first year for which a deduction is claimed under this section if the sole reason that a deduction is claimed on other property is that the individual or married couple maintained a principal residence at the other property on March 1 in the same year in which an application for a deduction is filed under this section or, if the application is for a homestead that is assessed as personal property, on March 1 in the immediately preceding year and the individual or married couple is moving the individual's or married couple's principal residence to the property that is the subject of**

the application. The county auditor may not grant an individual or a married couple a deduction under this section if:

(1) the individual or married couple, for the same year, claims the deduction on two (2) or more different applications for the deduction; and

(2) the applications claim the deduction for different property.

(i) The department of local government finance shall provide secure access to county auditors to a homestead property data base that includes access to the homestead owner's name and the numbers required from the homestead owner under subsection (e)(4) for the sole purpose of verifying whether an owner is wrongly claiming a deduction under this chapter or a credit under IC 6-1.1-20.4, IC 6-1.1-20.6, or IC 6-3.5.

(j) The department of local government finance shall work with county auditors to develop procedures to determine whether a property owner that is claiming a standard deduction or homestead credit is not eligible for the standard deduction or homestead credit because the property owner's principal place of residence is outside Indiana.

SECTION 4. IC 6-1.1-12-43, AS AMENDED BY P.L.145-2008, SECTION 9, AND AS AMENDED BY P.L.146-2008, SECTION 120, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 43. (a) For purposes of this section:

(1) "benefit" refers to

~~*(A)*~~ a deduction under section 1, 9, 11, 13, 14, 16, 17.4, 26, 29, 31, 33, ~~or~~ 34, **37, or 37.5** of this chapter; ~~*or*~~

~~*(B) the homestead credit under IC 6-1.1-20.9-2,*~~

(2) "closing agent" means a person that closes a transaction;

(3) "customer" means an individual who obtains a loan in a transaction; and

(4) "transaction" means a single family residential:

(A) first lien purchase money mortgage transaction; or

(B) refinancing transaction.

(b) Before closing a transaction after December 31, 2004, a closing agent must provide to the customer the form referred to in subsection (c).

(c) Before June 1, 2004, the department of local government finance shall prescribe the form to be provided by closing agents to customers

under subsection (b). The department shall make the form available to closing agents, county assessors, county auditors, and county treasurers in hard copy and electronic form. County assessors, county auditors, and county treasurers shall make the form available to the general public. The form must:

(1) on one (1) side:

(A) list each benefit;

(B) list the eligibility criteria for each benefit; and

(C) indicate that a new application for a deduction under section 1 of this chapter is required when residential real property is refinanced;

(2) on the other side indicate:

(A) each action by and ~~(B)~~ each type of documentation from the customer required to file for each benefit; **and**

(B) sufficient instructions and information to permit a party to terminate a standard deduction under section 37 of this chapter on any property on which the party or the spouse of the party will no longer be eligible for the standard deduction under section 37 of this chapter after the party or the party's spouse begins to reside at the property that is the subject of the closing, including an explanation of the tax consequences and applicable penalties, if a party unlawfully claims a standard deduction under section 37 of this chapter; and

(3) be printed in one (1) of two (2) or more colors prescribed by the department of local government finance that distinguish the form from other documents typically used in a closing referred to in subsection (b).

(d) A closing agent:

(1) may reproduce the form referred to in subsection (c);

(2) in reproducing the form, must use a print color prescribed by the department of local government finance; and

(3) is not responsible for the content of the form referred to in subsection (c) and shall be held harmless by the department of local government finance from any liability for the content of the form.

(e) This subsection applies to a transaction that is closed after December 31, 2009. In addition to providing the customer the form

described in subsection (c) before closing the transaction, a closing agent shall do the following as soon as possible after the closing, and within the time prescribed by the department of insurance under IC 27-7-3-15.5:

(1) To the extent determinable, input the information described in IC 27-7-3-15.5(c)(2) into the system maintained by the department of insurance under IC 27-7-3-15.5.

(2) Submit the form described in IC 27-7-3-15.5(c) to the data base described in IC 27-7-3-15.5(c)(2)(D).

~~(e)~~ *(f)* A closing agent to which this section applies shall document ~~its~~ *the closing agent's* compliance with this section with respect to each transaction in the form of verification of compliance signed by the customer.

~~(f)~~ *(g) Subject to IC 27-7-3-15.5(d),* a closing agent is subject to a civil penalty of twenty-five dollars ($25) for each instance in which the closing agent fails to comply with this section with respect to a customer. The penalty:

(1) may be enforced by the state agency that has administrative jurisdiction over the closing agent in the same manner that the agency enforces the payment of fees or other penalties payable to the agency; and

(2) shall be paid into:

(A) the ~~property tax replacement~~ *state general* fund, *if the closing agent fails to comply with subsection (b); or*

(B) the home ownership education account established by IC 5-20-1-27, if the closing agent fails to comply with subsection (e) in a transaction that is closed after December 31, 2009.

(h) A closing agent is not liable for any other damages claimed by a customer because of:

(1) the closing agent's mere failure to provide the appropriate document to the customer *under subsection (b); or*

(2) with respect to a transaction that is closed after December 31, 2009, the closing agent's failure to input the information or submit the form described in subsection (e).

~~(g)~~ *(i)* The state agency that has administrative jurisdiction over a closing agent shall:

(1) examine the closing agent to determine compliance with this

section; and

(2) impose and collect penalties under subsection ~~(f).~~ *(g)*.

SECTION 5. IC 6-1.1-12-44, AS ADDED BY P.L.144-2008, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 44. (a) A sales disclosure form under IC 6-1.1-5.5:

(1) that is submitted:

(A) as a paper form; or

(B) electronically;

on or before December 31 of a calendar year to the county assessor by or on behalf of the purchaser of a homestead (as defined in ~~IC 6-1.1-20.9-1)~~ **section 37 of this chapter)** assessed as real property;

(2) that is accurate and complete;

(3) that is approved by the county assessor as eligible for filing with the county auditor; and

(4) that is filed:

(A) as a paper form; or

(B) electronically;

with the county auditor by or on behalf of the purchaser;

constitutes an application for the deductions provided by sections 26, 29, 33, ~~and~~ 34, **and 37** of this chapter with respect to property taxes first due and payable in the calendar year that immediately succeeds the calendar year referred to in subdivision (1).

(b) Except as provided in subsection (c), if:

(1) the county auditor receives in a calendar year a sales disclosure form that meets the requirements of subsection (a); and

(2) the homestead for which the sales disclosure form is submitted is otherwise eligible for a deduction referred to in subsection (a);

the county auditor shall apply the deduction to the homestead for property taxes first due and payable in the calendar year for which the homestead qualifies under subsection (a) and in any later year in which the homestead remains eligible for the deduction.

(c) Subsection (b) does not apply if the county auditor, after receiving a sales disclosure form from or on behalf of a purchaser under subsection (a)(4), determines that the homestead is ineligible for the deduction.

SECTION 6. IC 6-1.1-17-3, AS AMENDED BY P.L.146-2008,

SECTION 147, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The proper officers of a political subdivision shall formulate its estimated budget and its proposed tax rate and tax levy on the form prescribed by the department of local government finance and approved by the state board of accounts. The political subdivision shall give notice by publication to taxpayers of:

(1) the estimated budget;

(2) the estimated maximum permissible levy;

(3) the current and proposed tax levies of each fund; and

(4) the amounts of excessive levy appeals to be requested.

In the notice, the political subdivision shall also state the time and place at which a public hearing will be held on these items. The notice shall be published twice in accordance with IC 5-3-1 with the first publication at least ten (10) days before the date fixed for the public hearing. Beginning in 2009, the duties required by this subsection must be completed before August 10 of the calendar year. A political subdivision shall provide the estimated budget and levy information required for the notice under subsection (b) to the county auditor on the schedule determined by the department of local government finance.

(b) Beginning in 2010, **except as provided in IC 6-1.1-22-8.1(h),** before October 1 of a calendar year, the county auditor shall mail to the last known address of each person liable for any property taxes, as shown on the tax duplicate, or to the last known address of the most recent owner shown in the transfer book, a statement that includes:

(1) the assessed valuation as of the assessment date in the current calendar year of tangible property on which the person will be liable for property taxes first due and payable in the immediately succeeding calendar year and notice to the person of the opportunity to appeal the assessed valuation under IC 6-1.1-15-1(c) (before July 1, 2008) or IC 6-1.1-15-1 (after June 30, 2008);

(2) the amount of property taxes for which the person will be liable to each political subdivision on the tangible property for taxes first due and payable in the immediately succeeding calendar year, taking into account all factors that affect that liability, including:

(A) the estimated budget and proposed tax rate and tax levy

formulated by the political subdivision under subsection (a);

(B) any deductions or exemptions that apply to the assessed valuation of the tangible property;

(C) any credits that apply in the determination of the tax liability; and

(D) the county auditor's best estimate of the effects on the tax liability that might result from actions of:

(i) the county board of tax adjustment; or

(ii) the department of local government finance;

(3) a prominently displayed notation that:

(A) the estimate under subdivision (2) is based on the best information available at the time the statement is mailed; and

(B) based on various factors, including potential actions by:

(i) the county board of tax adjustment; or

(ii) the department of local government finance;

it is possible that the tax liability as finally determined will differ substantially from the estimate;

(4) comparative information showing the amount of property taxes for which the person is liable to each political subdivision on the tangible property for taxes first due and payable in the current year; and

(5) the date, time, and place at which the political subdivision will hold a public hearing on the political subdivision's estimated budget and proposed tax rate and tax levy as required under subsection (a).

(c) The department of local government finance shall:

(1) prescribe a form for; and

(2) provide assistance to county auditors in preparing;

statements under subsection (b). Mailing the statement described in subsection (b) to a mortgagee maintaining an escrow account for a person who is liable for any property taxes shall not be construed as compliance with subsection (b).

(d) The board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal) may conduct the public hearing required under subsection (a):

(1) in any county of the solid waste management district; and

(2) in accordance with the annual notice of meetings published under IC 13-21-5-2.

(e) The trustee of each township in the county shall estimate the amount necessary to meet the cost of township assistance in the township for the ensuing calendar year. The township board shall adopt with the township budget a tax rate sufficient to meet the estimated cost of township assistance. The taxes collected as a result of the tax rate adopted under this subsection are credited to the township assistance fund.

(f) This subsection expires January 1, 2009. A county shall adopt with the county budget and the department of local government finance shall certify under section 16 of this chapter a tax rate sufficient to raise the levy necessary to pay the following:

(1) The cost of child services (as defined in IC 12-19-7-1) of the county payable from the family and children's fund.

(2) The cost of children's psychiatric residential treatment services (as defined in IC 12-19-7.5-1) of the county payable from the children's psychiatric residential treatment services fund.

A budget, tax rate, or tax levy adopted by a county fiscal body or approved or modified by a county board of tax adjustment that is less than the levy necessary to pay the costs described in subdivision (1) or (2) shall not be treated as a final budget, tax rate, or tax levy under section 11 of this chapter.

SECTION 7. IC 6-1.1-22-8.1, AS AMENDED BY P.L.3-2008, SECTION 53, AND AS AMENDED BY P.L.146-2008, SECTION 251, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.1. (a) ~~This section applies only to property taxes and special assessments first due and payable after December 31, 2007.~~

~~(b)~~ The county treasurer shall:

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

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

a statement in the form required under subsection ~~(c).~~ **(b).** *However, for*

property taxes first due and payable in 2008, the county treasurer may choose to use a tax statement that is different from the tax statement prescribed by the department under subsection ~~*(c).*~~ **(b).** *If a county chooses to use a different tax statement, the county must still transmit (with the tax bill) the statement in either color type or black-and-white type.*

~~(c)~~ **(b)** The department of local government finance shall prescribe a form, subject to the approval of the state board of accounts, for the statement under subsection ~~(b)~~ **(a)** that includes at least the following:

(1) A statement of the taxpayer's current and delinquent taxes and special assessments.

(2) A breakdown showing the total property tax and special assessment liability and the amount of the taxpayer's liability that will be distributed to each taxing unit in the county.

(3) An itemized listing for each property tax levy, including:

(A) the amount of the tax rate;

(B) the entity levying the tax owed; and

(C) the dollar amount of the tax owed.

(4) Information designed to show the manner in which the taxes and special assessments billed in the tax statement are to be used.

(5) A comparison showing any change in the assessed valuation for the property as compared to the previous year.

(6) A comparison showing any change in the property tax and special assessment liability for the property as compared to the previous year. The information required under this subdivision must identify:

(A) the amount of the taxpayer's liability distributable to each taxing unit in which the property is located in the current year and in the previous year; and

(B) the percentage change, if any, in the amount of the taxpayer's liability distributable to each taxing unit in which the property is located from the previous year to the current year.

(7) An explanation of the following:

(A) ~~The~~ Homestead ~~credit and~~ **credits under IC 6-1.1-20.4, IC 6-3.5-6-13, or another law that are available in the taxing district where the property is located.**

(B) All property tax deductions **that are available in the**

taxing district where the property is located.

~~(B)~~ **(C)** The procedure and deadline for filing for ~~the~~ **any available** homestead ~~credit~~ **credits under IC 6-1.1-20.4, IC 6-3.5-6-13, or another law** and each deduction.

~~(C)~~ **(D)** The procedure that a taxpayer must follow to:

(i) appeal a current assessment; or

(ii) petition for the correction of an error related to the taxpayer's property tax and special assessment liability.

~~(D)~~ **(E)** The forms that must be filed for an appeal or a petition described in clause ~~(C).~~ **(D).**

(F) The procedure and deadline that a taxpayer must follow and the forms that must be used if a credit or deduction has been granted for the property and the taxpayer is no longer eligible for the credit or deduction.

The department of local government finance shall provide the explanation required by this subdivision to each county treasurer.

(8) A checklist that shows:

(A) ~~the~~ homestead ~~credit~~ **credits under IC 6-1.1-20.4, IC 6-3.5-6-13, or another law** and all property tax deductions; and

(B) whether ~~the~~ **each** homestead credit and ~~each~~ property tax deduction applies in the current statement for the property transmitted under subsection ~~(b).~~ **(a).**

(9) This subdivision applies to any property for which a deduction or credit is listed under subdivision (8) if the notice required under this subdivision was not provided to a taxpayer on a reconciling statement under IC 6-1.1-22.5-12. The statement must include in 2010, 2011, and 2012 a notice that must be returned by the taxpayer to the county auditor with the taxpayer's verification of the items required by this subdivision. The notice must explain the tax consequences and applicable penalties if a taxpayer unlawfully claims a standard deduction under IC 6-1.1-12-37 on:

(A) more than one (1) parcel of property; or

(B) property that is not the taxpayer's principal place of residence or is otherwise not eligible for the standard deduction.

The notice must include a place for the taxpayer to indicate,

under penalties of perjury, for each deduction and credit listed under subdivision (8), whether the property is eligible for the deduction or credit listed under subdivision (8). The notice must also include a place for each individual who qualifies the property for a deduction or credit listed in subdivision (8) to indicate the name of the individual and the name of the individual's spouse (if any), as the names appear in the records of the United States Social Security Administration for the purposes of the issuance of a Social Security card and Social Security number (or that they use as their legal names when they sign their names on legal documents), and either the last five (5) digits of each individual's Social Security number or, if an individual does not have a Social Security number, the numbers required from the individual under IC 6-1.1-12-37(e)(4)(B). The notice must explain that the taxpayer must complete and return the notice with the required information and that failure to complete and return the notice may result in disqualification of property for deductions and credits listed in subdivision (8), must explain how to return the notice, and must be on a separate form printed on paper that is a different color than the tax statement. The notice must be prepared in the form prescribed by the department of local government finance and include any additional information required by the department of local government finance. This subdivision expires January 1, 2015.

~~(d)~~ **(c)** The county treasurer may mail or transmit the statement one (1) time each year at least fifteen (15) days before the date on which the first or only installment is due. Whenever a person's tax liability for a year is due in one (1) installment under IC 6-1.1-7-7 or section 9 of this chapter, a statement that is mailed must include the date on which the installment is due and denote the amount of money to be paid for the installment. Whenever a person's tax liability is due in two (2) installments, a statement that is mailed must contain the dates on which the first and second installments are due and denote the amount of money to be paid for each installment. **If a statement is returned to the county treasurer as undeliverable and the forwarding order is expired, the county treasurer shall notify the county auditor of this**

fact. Upon receipt of the county treasurer's notice, the county auditor may, at the county auditor's discretion, treat the property as not being eligible for any deductions under IC 6-1.1-12 or any homestead credits under IC 6-1.1-20.4 and IC 6-3.5-6-13.

~~(c)~~ **(d)** All payments of property taxes and special assessments shall be made to the county treasurer. The county treasurer, when authorized by the board of county commissioners, may open temporary offices for the collection of taxes in cities and towns in the county other than the county seat.

~~(f)~~ **(e)** The county treasurer, county auditor, and county assessor shall cooperate to generate the information to be included in the statement under subsection ~~(c).~~ **(b).**

~~(g)~~ **(f)** The information to be included in the statement under subsection ~~(c)~~ **(b)** must be simply and clearly presented and understandable to the average individual.

~~(h)~~ **(g)** After December 31, 2007, a reference in a law or rule to IC 6-1.1-22-8 *(expired January 1, 2008, and repealed)* shall be treated as a reference to this section.

(h) Transmission of statements and other information under this subsection applies in a county only if the county legislative body adopts an authorizing ordinance. Subject to subsection (i), in a county in which an ordinance is adopted under this subsection for property taxes and special assessments first due and payable after 2009, a person may direct the county treasurer and county auditor to transmit the following to the person by electronic mail:

(1) A statement that would otherwise be sent by the county treasurer to the person by regular mail under subsection (a)(1), including a statement that reflects installment payment due dates under section 9.5 or 9.7 of this chapter.

(2) A provisional tax statement that would otherwise be sent by the county treasurer to the person by regular mail under IC 6-1.1-22.5-6.

(3) A reconciling tax statement that would otherwise be sent by the county treasurer to the person by regular mail under any of the following:

(A) Section 9 of this chapter.

(B) Section 9.7 of this chapter.

(C) IC 6-1.1-22.5-12, including a statement that reflects

installment payment due dates under IC 6-1.1-22.5-18.5.

(4) A statement that would otherwise be sent by the county auditor to the person by regular mail under IC 6-1.1-17-3(b).

(5) Any other information that:

(A) concerns the property taxes or special assessments; and

(B) would otherwise be sent:

(i) by the county treasurer or the county auditor to the person by regular mail; and

(ii) before the last date the property taxes or special assessments may be paid without becoming delinquent.

(i) For property with respect to which more than one (1) person is liable for property taxes and special assessments, subsection (h) applies only if all the persons liable for property taxes and special assessments designate the electronic mail address for only one (1) individual authorized to receive the statements and other information referred to in subsection (h).

(j) Before 2010, the department of local government finance shall create a form to be used to implement subsection (h). The county treasurer and county auditor shall:

(1) make the form created under this subsection available to the public;

(2) transmit a statement or other information by electronic mail under subsection (h) to a person who, at least thirty (30) days before the anticipated general mailing date of the statement or other information, files the form created under this subsection:

(A) with the county treasurer; or

(B) with the county auditor; and

(3) publicize the availability of the electronic mail option under this subsection through appropriate media in a manner reasonably designed to reach members of the public.

(k) The form referred to in subsection (j) must:

(1) explain that a form filed as described in subsection (j)(2) remains in effect until the person files a replacement form to:

(A) change the person's electronic mail address; or

(B) terminate the electronic mail option under subsection (h); and

(2) allow a person to do at least the following with respect to

the electronic mail option under subsection (h):

(A) Exercise the option.

(B) Change the person's electronic mail address.

(C) Terminate the option.

(D) For a person other than an individual, designate the electronic mail address for only one (1) individual authorized to receive the statements and other information referred to in subsection (h).

(E) For property with respect to which more than one (1) person is liable for property taxes and special assessments, designate the electronic mail address for only one (1) individual authorized to receive the statements and other information referred to in subsection (h).

(l) The form created under subsection (j) is considered filed with the county treasurer or the county auditor on the postmark date. If the postmark is missing or illegible, the postmark is considered to be one (1) day before the date of receipt of the form by the county treasurer or the county auditor.

(m) The county treasurer shall maintain a record that shows at least the following:

(1) Each person to whom a statement or other information is transmitted by electronic mail under this section.

(2) The information included in the statement.

(3) Whether the person received the statement.

SECTION 8. IC 6-1.1-22-9, AS AMENDED BY P.L.146-2008, SECTION 252, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) Except as provided in ~~subsections~~ **subsection** (b), ~~and (c)~~ the property taxes assessed for a year under this article are due in two (2) equal installments on May 10 and November 10 of the following year.

(b) Subsection (a) does not apply if any of the following apply to the property taxes assessed for the year under this article:

(1) Subsection (c).

(2) Subsection (d).

~~(3) Subsection (h).~~

~~(4) Subsection (i).~~

~~(5)~~ **(3)** IC 6-1.1-7-7.

~~(6)~~ **(4)** Section 9.5 of this chapter.

(5) Section 9.7 of this chapter.

(c) A county council may adopt an ordinance to require a person to pay the person's property tax liability in one (1) installment, if the tax liability for a particular year is less than twenty-five dollars ($25). If the county council has adopted such an ordinance, then whenever a tax statement mailed under section 8.1 of this chapter shows that the person's property tax liability for a year is less than twenty-five dollars ($25) for the property covered by that statement, the tax liability for that year is due in one (1) installment on May 10 of that year.

(d) If the county treasurer receives a copy of an appeal petition under IC 6-1.1-18.5-12(d) before the county treasurer mails or transmits statements under section ~~8.1(b)~~ **8.1** of this chapter, the county treasurer may:

(1) mail or transmit the statements without regard to the pendency of the appeal and, if the resolution of the appeal by the department of local government finance results in changes in levies, mail or transmit reconciling statements under subsection (e); or

(2) delay the mailing or transmission of statements under section ~~8.1(b)~~ **8.1** of this chapter so that:

(A) the due date of the first installment that would otherwise be due under subsection (a) is delayed by not more than sixty (60) days; and

(B) all statements reflect any changes in levies that result from the resolution of the appeal by the department of local government finance.

(e) A reconciling statement under subsection (d)(1) must indicate:

(1) the total amount due for the year;

(2) the total amount of the installments paid that did not reflect the resolution of the appeal under IC 6-1.1-18.5-12(d) by the department of local government finance;

(3) if the amount under subdivision (1) exceeds the amount under subdivision (2), the adjusted amount that is payable by the taxpayer:

(A) as a final reconciliation of all amounts due for the year; and

(B) not later than:

(i) November 10; or

(ii) the date or dates established under section 9.5 of this

chapter; and

(4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

(f) If property taxes are not paid on or before the due date, the penalties prescribed in IC 6-1.1-37-10 shall be added to the delinquent taxes.

(g) Notwithstanding any other law, a property tax liability of less than five dollars ($5) is increased to five dollars ($5). The difference between the actual liability and the five dollar ($5) amount that appears on the statement is a statement processing charge. The statement processing charge is considered a part of the tax liability.

(h) This subsection applies only if a statement for payment of property taxes and special assessments by electronic mail is transmitted to a person under section 8.1(h) of this chapter. If a response to the transmission of electronic mail to a person indicates that the electronic mail was not received, the county treasurer shall mail to the person a hard copy of the statement in the manner required by section 8.1(a) of this chapter for persons who do not opt to receive statements by electronic mail. The due date for the property taxes and special assessments under a statement mailed to a person under this subsection is the due date indicated in the statement transmitted to the person by electronic mail.

(i) In a county in which an authorizing ordinance is adopted under section 8.1(h) of this chapter, a person may direct the county treasurer to transmit a reconciling statement under subsection (d)(1) by electronic mail under section 8.1(h) of this chapter.

SECTION 9. IC 6-1.1-22-9.7, AS ADDED BY P.L.118-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9.7. (a) As used in this section, "current year" refers to the calendar year in which property taxes are first due and payable and are subject to payment under this section:

(1) by automatic deduction from ~~a checking~~ **an** account **of the taxpayer that is held by a financial institution;** or

(2) under a monthly installment plan.

(b) As used in this section, "monthly installment plan" means a plan that:

(1) is adopted under this section;

(2) provides for the monthly payment of tax liability; and

(3) does not involve an automatic deduction from ~~a checking~~ **an** account **of the taxpayer that is held by a financial institution.**

(c) As used in this section, "preceding year" refers to the calendar year that immediately precedes the current year.

(d) As used in this section, "tax liability" includes liability for special assessments and refers to liability for property taxes after the application of all allowed deductions and credits.

(e) After June 30, 2009, the county fiscal body (as defined in IC 36-1-2-6) may at any time adopt an ordinance to allow all county taxpayers to pay one (1) or more installments of property taxes by any combination of the following:

(1) Automatic monthly deductions from ~~a checking~~ **an** account **of the taxpayer that is held by a financial institution.**

(2) Payments under a monthly installment plan.

(f) An ordinance adopted under subsection (e):

(1) may apply to more than one (1) calendar year; and

(2) must include at least the following:

(A) Identification of the property tax installment or installments for which payment:

(i) by automatic deduction from ~~a checking~~ **an** account **of the taxpayer that is held by a financial institution;** or

(ii) under a monthly installment plan;

is authorized.

(B) Provisions for notice to county taxpayers of the option to pay one (1) or more property tax installments:

(i) by automatic deduction from ~~a checking~~ **an** account **of the taxpayer that is held by a financial institution;** or

(ii) under a monthly installment plan.

(C) Authority for the county treasurer to make available to county taxpayers a form to be completed by a taxpayer and submitted to the county treasurer to:

(i) direct the county treasurer to accept payment of the taxpayer's property taxes by automatic deduction from ~~a checking~~ **an** account **of the taxpayer that is held by a financial institution;** and

(ii) authorize the **financial** institution that holds the taxpayer's ~~checking~~ account to deduct monthly the

appropriate amount from the account and to pay that amount to the county treasurer.

However, this clause applies only if the county fiscal body has adopted an ordinance under this section to allow taxpayers to pay property taxes by automatic deductions from ~~a checking~~ **an** account **of the taxpayer that is held by a financial institution.**

(D) Authority for the county treasurer to accept payment of the taxpayer's property taxes under a monthly installment plan. However, this clause applies only if the county fiscal body has adopted an ordinance under this section to allow taxpayers to pay property taxes by monthly installment payments under a monthly installment plan.

An ordinance adopted under subsection (e) may include a provision authorizing taxpayers to make monthly deductions or monthly installment payments in an amount determined by the taxpayer that is different from the amount otherwise determined by the county treasurer under subsection (h), (i), (j), or (k).

(g) If an ordinance is adopted under subsection (e) to allow taxpayers to pay property taxes by automatic deductions from ~~a checking~~ **an** account **of the taxpayer that is held by a financial institution,** the county treasurer shall provide to each county taxpayer that submits to the county treasurer the form referred to in subsection (f)(2)(C) a statement that includes at least the following:

(1) The amount to be deducted monthly from the taxpayer's ~~checking~~ account.

(2) Identification of the day each month, as chosen by the taxpayer, when the deduction will be made.

(3) A calculation of the amount to be deducted.

(4) An explanation of the manner in which property taxes for the current year will be reconciled under subsection (n) and notice that any property tax payments for the current year made by the taxpayer by means other than automatic deduction from the taxpayer's ~~checking~~ account will be taken into account in the reconciliation.

(5) An explanation of the penalties that apply if there are insufficient funds in the taxpayer's ~~checking~~ account to cover one (1) or more automatic deductions.

(h) This subsection applies only if the county treasurer determines that at the time the calculation under subsection (g)(3) is made the amount of tax liability for the current year has not been determined. Subject to subsections (i) and (j), the county treasurer shall do the following:

(1) Determine the following:

(A) For a parcel of real property, the most recently determined amount of tax liability that applied to the parcel for the preceding year.

(B) For a personal property return, the most recently determined amount of tax liability that applied for the personal property return for the same location for the preceding year.

(C) For distributable property, the most recently determined amount of tax liability that applied with respect to the statement filed by the taxpayer under IC 6-1.1-8-19 for the preceding year.

(D) For a mobile home subject to IC 6-1.1-7, the most recently determined amount of tax liability that applied to the mobile home for the preceding year.

(2) Determine the amount of the monthly deduction from the ~~taxpayer's checking~~ account **of the taxpayer that is held by a financial institution** or the amount due under a monthly installment plan in the amount determined in the last STEP of the following STEPS:

STEP ONE: Determine under subdivision (1) the amount of tax liability that applied for the preceding year.

STEP TWO: Determine the quotient of:

(i) the number of property tax installments for the current year identified in the ordinance under subsection (f)(2)(A); divided by

(ii) the total number of property tax installments for the current year.

STEP THREE: Multiply the STEP ONE result by the STEP TWO result.

STEP FOUR: Determine the quotient of:

(i) the STEP THREE result; divided by

(ii) the number of monthly deductions or, in the case of payments under a monthly installment plan, the number of

monthly installments.

(i) The county treasurer may determine the monthly deduction or the amount of the monthly installment due under a monthly installment plan in an amount different from the amount determined under subsection (h) if the county treasurer determines that changes in circumstances have caused the amount determined under subsection (h) to differ substantially from the tax liability likely to be determined for the current year.

(j) This subsection applies only if before an ordinance is adopted under subsection (e) the county treasurer determines to use provisional property tax statements under IC 6-1.1-22.5 for the current year. For purposes of determining the amount of the monthly deduction from the ~~taxpayer's checking~~ account **of the taxpayer that is held by a financial institution** or the amount of the taxpayer's monthly installment payment under a monthly installment plan, the county treasurer shall substitute for the tax liability that applied to the parcel for the preceding year under subsection (h) the tax liability to be indicated on the provisional statement.

(k) This subsection applies only if the county treasurer determines that at the time the calculation under subsection (g)(3) is made the amount of tax liability for the current year has been determined. The amount of the monthly deduction from the ~~taxpayer's checking~~ account **of the taxpayer that is held by a financial institution** or the amount of the taxpayer's monthly installment payment under a monthly installment plan is the amount of the tax liability for the current year payable in the installment or installments identified in the ordinance under subsection (f)(2)(A) divided by the number of monthly deductions.

(l) Tax liability paid under this section by automatic deduction from ~~a checking~~ **an** account **of the taxpayer that is held by a financial institution** is not finally discharged and the person has not paid the tax until the taxpayer's ~~checking~~ account is charged for the payment.

(m) Penalties apply under IC 6-1.1-37-10 as specified in this section to taxes payable by automatic deduction from ~~a checking~~ **an** account **of the taxpayer that is held by a financial institution** or by monthly installment payments under a monthly installment plan under this section.

(n) After the last monthly ~~checking account~~ deduction **from an**

account of a taxpayer that is held by a financial institution or last monthly installment payment under a monthly installment plan under this section for the current year has been made and after the amount of tax liability for the current year has been determined, the county treasurer shall issue a reconciling statement to the taxpayer. Each reconciling statement must indicate at least the following:

(1) The sum of:

(A) the taxpayer's actual tax liability for the current year; plus

(B) any penalty that applies for the current year.

(2) The total amount paid for the current year by automatic deductions, monthly installment payments under a monthly installment plan, and by means other than automatic deductions or monthly installment payments.

(3) If the amount under subdivision (1) exceeds the amount under subdivision (2), the deficiency is payable by the taxpayer:

(A) as a final reconciliation of the tax liability; and

(B) not later than thirty (30) days after the date of the reconciling statement.

(4) If the amount under subdivision (2) exceeds the amount under subdivision (1), that the county treasurer will apply the excess as a credit against the taxpayer's tax liability for the immediately succeeding calendar year unless the taxpayer makes a claim for refund of the excess under IC 6-1.1-26.

(o) The county ~~auditor~~ **treasurer** shall ~~distribute~~ **deposit the** tax collections under this section **under IC 5-13-6-3(a). The collections must remain in the funds in which they are deposited until the county auditor makes the distributions** to the appropriate taxing units at the semiannual settlements under IC 6-1.1-27. However, this subsection does not prohibit a county treasurer from making an advance to a political subdivision under IC 5-13-6-3 of a portion of the taxes collected.

(p) IC 6-1.1-15:

(1) does not apply to a statement provided under subsection (g); and

(2) applies to a reconciling statement issued under subsection (n).

(q) The following apply to a taxpayer that makes automatic monthly deductions or monthly installments under this section:

(1) If a taxpayer makes automatic monthly deductions or monthly

installments of property taxes in the amount determined by the county treasurer under subsection (h), (i), (j), or (k), the taxpayer's property tax payments shall not be considered delinquent for purposes of IC 6-1.1-37-10 and the taxpayer is not subject to penalties under that section.

(2) If: ~~a taxpayer:~~

(A) **a taxpayer** makes automatic monthly deductions or monthly installments of property taxes in an amount that is less than the amount determined by the county treasurer under subsection (h), (i), (j), or (k); and

(B) the total amount of property taxes paid by the taxpayer under automatic monthly deductions, monthly installments, or any other method by the May or November due date is less than the amount determined by the county treasurer under subsection (h), (i), (j), or (k) that should have been paid by the taxpayer for the May or November due date;

the penalty provisions of IC 6-1.1-37-10 apply to the delinquent property taxes.

(r) IC 6-1.1-37-10 applies to any amounts due under a reconciling statement issued under subsection (n) that are not paid within thirty (30) days after the date of the reconciling statement, as required under subsection (n)(3).

(s) For purposes of IC 6-1.1-24-1(a)(1):

(1) property taxes to be paid by automatic deduction or by monthly installments under a monthly installment plan under this section before June of the current year are considered to be the taxpayer's spring installment of property taxes; and

(2) payment on a reconciling statement issued under subsection (n) is considered to be due before the due date of the first installment of property taxes payable in the year immediately following the current year.

SECTION 10. IC 6-1.1-22.5-6, AS AMENDED BY P.L.118-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Except as provided in subsection (c), with respect to property taxes payable under this article on assessments determined for the 2003 assessment date or the assessment date in any later year, the county treasurer may, except as provided by section 7 of this chapter, use a provisional statement under this chapter if the

county auditor fails to deliver the abstract for that assessment date to the county treasurer under IC 6-1.1-22-5 before March 16 of the year following the assessment date.

(b) The county treasurer shall give notice of the provisional statement, including disclosure of the method that is to be used in determining the tax liability to be indicated on the provisional statement, by publication one (1) time:

(1) in the form prescribed by the department of local government finance; and

(2) in the manner described in IC 6-1.1-22-4(b).

The notice may be combined with the notice required under section 10 of this chapter.

(c) Subsection (a) does not apply if the county auditor fails to deliver the abstract as provided in IC 6-1.1-22-5(b).

(d) This subsection applies after June 30, 2009. Immediately upon determining to use provisional statements under subsection (a), the county treasurer shall give notice of the determination to the county fiscal body (as defined in IC 36-1-2-6).

(e) In a county in which an authorizing ordinance is adopted under IC 6-1.1-22-8.1(h), a person may direct the county treasurer to transmit a provisional statement by electronic mail under IC 6-1.1-22-8.1(h).

SECTION 11. IC 6-1.1-22.5-8, AS ADDED BY P.L.1-2004, SECTION 37, AND AS ADDED BY P.L.23-2004, SECTION 40, AND AMENDED BY P.L.219-2007, SECTION 65, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. **(a)** A provisional statement must:

(1) be on a form approved by the state board of accounts;

(2) except as provided in emergency rules adopted under section 20 of this chapter **and subsection (b),** indicate tax liability in the amount of ninety percent (90%) of the tax liability that was payable in the same year as the assessment date for the property for which the provisional statement is issued;

(3) indicate:

(A) that the tax liability under the provisional statement is determined as described in subdivision (2); and

(B) that property taxes billed on the provisional statement:

(i) are due and payable in the same manner as property taxes

billed on a tax statement under ~~IC 6-1.1-22-8;~~ **IC 6-1.1-22-8.1;** and

(ii) will be credited against a reconciling statement;

(4) include *the following* ~~a~~ statement *in the following or a substantially similar form, as determined by the department of local government finance:*

"Under Indiana law, _____ County (insert county) has elected to send provisional statements because the county did not complete the abstract of the property, assessments, taxes, deductions, and exemptions for taxes payable in (insert year) in each taxing district before March 16, (insert year). The statement is due to be paid in installments on ~~*May 10*~~ _____ *(insert date)* and ~~*November 10*~~ _____ *(insert date)*. The statement is based on ninety percent (90%) of your tax liability for taxes payable in (insert year), subject to adjustment for any new construction on your property *or any damage to your property*. After the abstract of property is complete, you will receive a reconciling statement in the amount of your actual tax liability for taxes payable in (insert year), minus the amount you pay under this provisional statement.";

(5) indicate liability for:

(A) delinquent:

(i) taxes; and

(ii) special assessments;

(B) penalties; and

(C) interest;

is allowed to appear on the tax statement under IC 6-1.1-22-8 for the ~~*May*~~ *first* installment of property taxes in the year in which the provisional tax statement is issued; ~~and~~

(6) include:

(A) a checklist that shows:

(i) homestead credits under IC 6-1.1-20.4, IC 6-3.5-6-13, or another law and all property tax deductions; and

(ii) whether each homestead credit and property tax deduction was applied in the current provisional statement;

(B) an explanation of the procedure and deadline that a taxpayer must follow and the forms that must be used if a

credit or deduction has been granted for the property and the taxpayer is no longer eligible for the credit or deduction; and

(C) an explanation of the tax consequences and applicable penalties if a taxpayer unlawfully claims a standard deduction under IC 6-1.1-12-37 on:

(i) more than one (1) parcel of property; or

(ii) property that is not the taxpayer's principal place of residence or is otherwise not eligible for a standard deduction; and

~~(6)~~ **(7)** include any other information the county treasurer requires.

(b) This subsection applies to property taxes first due and payable for assessment dates after January 15, 2009. The county may apply a standard deduction, supplemental standard deduction, or homestead credit calculated by the county's property system on a provisional bill for a qualified property. If a provisional bill has been used for property tax billings for two (2) consecutive years and a property qualifies for a standard deduction, supplemental standard deduction, or homestead credit for the second year a provisional bill is used, the county shall apply the standard deduction, supplemental standard deduction, or homestead credit calculated by the county's property system on the provisional bill.

SECTION 12. IC 6-1.1-22.5-9, AS AMENDED BY P.L.219-2007, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) Except as provided in ~~subsection~~ **subsections** (b) ~~subsection~~ **and** (c) and section 12 of this chapter, property taxes billed on a provisional statement are due in two (2) equal installments on May 10 and November 10 of the year following the assessment date covered by the provisional statement.

(b) If in a county the notices of general reassessment under IC 6-1.1-4-4 or notices of assessment under IC 6-1.1-4-4.5 for an assessment date in a calendar year are given to the taxpayers in the county after March 26 of the immediately succeeding calendar year, the property taxes that would otherwise be due under subsection (a) on May 10 of the immediately succeeding calendar year are due on the later of:

(1) May 10 of the immediately succeeding calendar year; or

(2) forty-five (45) days after the mailing or transmittal of provisional statements.

(c) If subsection (b) applies, the property taxes that would otherwise be due under subsection (a) on November 10 of the immediately succeeding calendar year referred to in subsection (b) are due on the later of:

(1) November 10 of the immediately succeeding calendar year; or

(2) a date determined by the county treasurer that is not later than December 31 of the immediately succeeding calendar year.

(d) This subsection applies only if a provisional statement for payment of property taxes and special assessments by electronic mail is transmitted to a person under IC 6-1.1-22-8.1(h). If a response to the transmission of electronic mail to a person indicates that the electronic mail was not received, the county treasurer shall mail to the person a hard copy of the provisional statement in the manner required by this chapter for persons who do not opt to receive statements by electronic mail. The due date for the property taxes and special assessments under a provisional statement mailed to a person under this subsection is the due date indicated in the statement transmitted to the person by electronic mail.

SECTION 13. IC 6-1.1-22.5-12, AS AMENDED BY P.L.146-2008, SECTION 254, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) Except as provided by subsection (c), each reconciling statement must indicate:

(1) the actual property tax liability under this article on the assessment determined for the assessment date for the property for which the reconciling statement is issued;

(2) the total amount paid under the provisional statement for the property for which the reconciling statement is issued;

(3) if the amount under subdivision (1) exceeds the amount under subdivision (2), that the excess is payable by the taxpayer:

(A) as a final reconciliation of the tax liability; and

(B) not later than:

(i) thirty (30) days after the date of the reconciling statement;

(ii) if the county treasurer requests in writing that the commissioner designate a later date, the date designated by

the commissioner; or

(iii) the date specified in an ordinance adopted under section 18.5 of this chapter; and

(4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

(b) If, upon receipt of the abstract referred to in section 6 of this chapter, the county treasurer determines that it is possible to complete the:

(1) preparation; and

(2) mailing or transmittal;

of the reconciling statement at least thirty (30) days before the due date of the second installment specified in the provisional statement, the county treasurer may request in writing that the department of local government finance permit the county treasurer to issue a reconciling statement that adjusts the amount of the second installment that was specified in the provisional statement. If the department approves the county treasurer's request, the county treasurer shall prepare and mail or transmit the reconciling statement at least thirty (30) days before the due date of the second installment specified in the provisional statement.

(c) A reconciling statement prepared under subsection (b) must indicate:

(1) the actual property tax liability under this article on the assessment determined for the assessment date for the property for which the reconciling statement is issued;

(2) the total amount of the first installment paid under the provisional statement for the property for which the reconciling statement is issued;

(3) if the amount under subdivision (1) exceeds the amount under subdivision (2), the adjusted amount of the second installment that is payable by the taxpayer:

(A) as a final reconciliation of the tax liability; and

(B) not later than:

(i) November 10; or

(ii) if the county treasurer requests in writing that the commissioner designate a later date, the date designated by the commissioner; and

(4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

(d) At the election of a county auditor, a checklist required by IC 6-1.1-22-8.1(b)(8) and a notice required by IC 6-1.1-22-8.1(b)(9) may be sent to a taxpayer with a reconciling statement under this section. This subsection expires January 1, 2013.

(e) In a county in which an authorizing ordinance is adopted under IC 6-1.1-22-8.1(h), a person may direct the county treasurer to transmit a reconciling statement by electronic mail under IC 6-1.1-22-8.1(h).

SECTION 14. IC 6-1.1-36-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 17. (a) As used in this section, "nonreverting fund" refers to a nonreverting fund established under subsection (c).**

(b) Each county auditor that makes a determination that property was not eligible for a standard deduction under IC 6-1.1-12-37 or a homestead credit under IC 6-1.1-20.9 (repealed) in a particular year shall notify the county treasurer of the determination. The county auditor shall issue a notice of taxes, interest, and penalties due to the owner and include a statement that the payment is to be made payable to the county auditor. The notice must require full payment of the amount owed within thirty (30) days.

(c) Each county auditor shall establish a nonreverting fund. Upon collection of the adjustment in tax due (and any interest and penalties on that amount) after the termination of a deduction or credit as specified in subsection (b), the county treasurer shall deposit that amount in the nonreverting fund. Any part of the amount that is not collected by the due date shall be placed on the tax duplicate for the affected property and collected in the same manner as other property taxes. The adjustment in tax due (and any interest and penalties on that amount) after the termination of a deduction or credit as specified in subsection (b) shall be deposited in the nonreverting fund only in the first year in which that amount is collected.

(d) The amount to be deposited in the nonreverting fund includes adjustments in the tax due as a result of the termination

of deductions or credits available only for property that satisfies the eligibility for a standard deduction under IC 6-1.1-12-37 or a homestead credit under IC 6-1.1-20.9 (repealed), including the following:

(1) Supplemental deductions under IC 6-1.1-12-37.5.

(2) Homestead credits under IC 6-1.1-20.4, IC 6-3.5-1.1-26, IC 6-3.5-6-13, IC 6-3.5-6-32, IC 6-3.5-7-13.1, or IC 6-3.5-7-26, or any other law.

(3) Credit for excessive property taxes under IC 6-1.1-20.6-7.5 or IC 6-1.1-20.6-8.5.

Any amount paid that exceeds the amount required to be deposited in the nonreverting fund shall be distributed as property taxes.

(e) Money in the nonreverting fund shall be treated as miscellaneous revenue. Distributions shall be made from the nonreverting fund established under this section upon appropriation by the county fiscal body and shall be made only for the following purposes:

(1) Fees and other costs incurred by the county auditor to discover property that is eligible for a standard deduction under IC 6-1.1-12-37 or a homestead credit under IC 6-1.1-20.9 (repealed).

(2) Other expenses of the office of the county auditor.

(3) The cost of preparing, sending, and processing notices described in IC 6-1.1-22-8.1(b)(9) and checklists or notices described in IC 6-1.1-22.5-12(d).

The amount of deposits in a reverting fund, the balance of a nonreverting fund, and expenditures from a reverting fund may not be considered in establishing the budget of the office of the county auditor or in setting property tax levies that will be used in any part to fund the office of the county auditor.

SECTION 15. IC 6-9-39-5, AS AMENDED BY P.L.3-2008, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) The fiscal body of a county may collect a county option dog tax imposed under section 3 of this chapter by any combination of the following methods:

(1) By designating one (1) or more persons in the county to collect the tax.

(2) By requiring a person who harbors or keeps a taxable dog to

submit a complete and accurate county option dog tax return.

(3) By a method other than a method described in subdivision (1) or (2) as determined by the fiscal body of the county.

(b) A designee under subsection (a)(1) may retain a fee from the tax collected for each taxable dog in an amount determined by the fiscal body not to exceed seventy-five cents ($0.75). A designee shall remit the balance of the money collected to the county treasurer by the tenth day of each month.

(c) If a fiscal body chooses to collect a county option dog tax imposed under section 3 of this chapter by requiring the submission of a county option dog tax return under subsection (a), the county treasurer may include a county option dog tax return form with every property tax statement that is mailed to a person under ~~IC 6-1.1-22-8.1(b)(1).~~ **IC 6-1.1-22-8.1(a)(1).**

(d) The department of local government finance shall prescribe a county option dog tax return form that a county may use for the reporting of county option dog tax liability.

SECTION 16. [EFFECTIVE JULY 1, 2009] **(a) The commission on state tax and financing policy established under IC 2-5-3 shall in 2011 study issues related to the notice provided under IC 6-1.1-22-8.1(b)(9), as added by this act, and the termination of deductions under that provision.**

(b) Before November 1, 2011, the commission on state tax and financing policy shall report findings and make recommendations concerning the study topic described in subsection (a) in a final report to the legislative council in an electronic format under IC 5-14-6.

(c) This SECTION expires July 1, 2012.

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

P.L.88-2009
[H.1358. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 6-1.1-24-5.3, AS AMENDED BY P.L.169-2006, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5.3. (a) This section applies to the following:

(1) A person who:

(A) owns a fee interest, a life estate interest, or the equitable interest of a contract purchaser in an unsafe building or unsafe premises in the county in which a sale is held under this chapter; and

(B) is subject to an order issued under IC 36-7-9-5(a)(2), IC 36-7-9-5(a)(3), IC 36-7-9-5(a)(4), or IC 36-7-9-5(a)(5) regarding which the conditions set forth in IC 36-7-9-10(a)(1) through IC 36-7-9-10(a)(4) exist.

(2) A person who:

(A) owns a fee interest, a life estate interest, or the equitable interest of a contract purchaser in an unsafe building or unsafe premises in the county in which a sale is held under this chapter; and

(B) is subject to an order issued under IC 36-7-9-5(a), other than an order issued under IC 36-7-9-5(a)(2), IC 36-7-9-5(a)(3), IC 36-7-9-5(a)(4), or IC 36-7-9-5(a)(5), regarding which the conditions set forth in IC 36-7-9-10(b)(1) through IC 36-7-9-10(b)(4) exist.

(3) A person who is the defendant in a court action brought under IC 36-7-9-18, IC 36-7-9-19, IC 36-7-9-20, IC 36-7-9-21, or IC 36-7-9-22 in the county in which a sale is held under this chapter that has resulted in a judgment in favor of the plaintiff and the unsafe condition that caused the action to be brought has not

been corrected.

(4) A person who has any of the following relationships to a person, partnership, corporation, or legal entity described in subdivisions (1), (2), or (3);

(A) A partner of a partnership.

(B) An officer or majority stockholder of a corporation.

(C) The person who directs the activities or has a majority ownership in a legal entity other than a partnership or corporation.

(5) A person who, in the county in which a sale is held under this chapter, owes:

(A) delinquent taxes;

(B) special assessments;

(C) penalties;

(D) interest; or

(E) costs directly attributable to a prior tax sale;

on a tract or an item of real property listed under section 1 of this chapter.

(6) A person who owns a fee interest, a life estate interest, or the equitable interest of a contract purchaser in a vacant or abandoned structure subject to an enforcement order under IC 32-30-6, IC 32-30-7, IC 32-30-8, or IC 36-7-9.

~~(6)~~ **(7)** A person who is an agent of the person described in this subsection.

(b) A person subject to this section may not purchase a tract offered for sale under section 5 or 6.1 of this chapter. However, this section does not prohibit a person from bidding on a tract that is owned by the person and offered for sale under section 5 of this chapter.

(c) The county treasurer shall require each person who will be bidding at the tax sale to sign a statement in a form substantially similar to the following:

"Indiana law prohibits a person who owes delinquent taxes, special assessments, penalties, interest, or costs directly attributable to a prior tax sale, from purchasing tracts or items of real property at a tax sale. I hereby affirm under the penalties for perjury that I do not owe delinquent taxes, special assessments, penalties, interest, costs directly attributable to a prior tax sale, amounts from a final adjudication in favor of a political

subdivision in this county, any civil penalties imposed for the violation of a building code or ordinance of this county, or any civil penalties imposed by a health department in this county. Further, I hereby acknowledge that any successful bid I make in violation of this statement is subject to forfeiture. In the event of forfeiture, the amount of my bid shall be applied to the delinquent taxes, special assessments, penalties, interest, costs, judgments, or civil penalties I owe, and a certificate will be issued to the county executive.".

(d) If a person purchases a tract that the person was not eligible to purchase under this section, the sale of the property is subject to forfeiture. If the county treasurer determines or is notified not more than six (6) months after the date of the sale that the sale of the property should be forfeited, the county treasurer shall:

(1) notify the person in writing that the sale is subject to forfeiture if the person does not pay the amounts that the person owes within thirty (30) days of the notice;

(2) if the person does not pay the amounts that the person owes within thirty (30) days after the notice, apply the surplus amount of the person's bid to the person's delinquent taxes, special assessments, penalties, and interest;

(3) remit the amounts owed from a final adjudication or civil penalties in favor of a political subdivision to the appropriate political subdivision; and

(4) notify the county auditor that the sale has been forfeited.

Upon being notified that a sale has been forfeited, the county auditor shall issue a certificate to the county executive under section 6 of this chapter.

(e) A county treasurer may decline to forfeit a sale under this section because of inadvertence or mistake, lack of actual knowledge by the bidder, substantial harm to other parties with interests in the tract or item of real property, or other substantial reasons. If the treasurer declines to forfeit a sale, the treasurer shall:

(1) prepare a written statement explaining the reasons for declining to forfeit the sale; and

(2) retain the written statement as an official record.

(f) If a sale is forfeited under this section and the tract or item of real property is redeemed from the sale, the county auditor shall deposit the

amount of the redemption into the county general fund and notify the county executive of the redemption. Upon being notified of the redemption, the county executive shall surrender the certificate to the county auditor.

SECTION 2. IC 8-1.5-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) A municipality may, by ordinance of its legislative body, borrow money from a utility owned by the municipality for **any of the following purposes:**

(1) Current purposes in anticipation of taxes levied and to be collected during the current or following year.

(2) Carrying out an eligible efficiency project (as defined in IC 36-9-41-1.5) within the municipality.

(b) The board may by resolution lend money to the municipality if the utility has on hand:

(1) a surplus of cash exceeding by at least the amount loaned the sum of all amounts required to pay the indebtedness of the utility falling due during the current calendar year and the following year;

(2) the amount necessary to meet current expenses during the year; and

(3) the amount necessary to pay for improvements contemplated to be made during the current calendar year minus the estimated receipts during the calendar year.

(c) A loan **made under subsection (a)(1)** may not be made for a sum in excess of fifty percent (50%) of the amount estimated to be collected from anticipated taxes. ~~The~~

(d) A loan **under this section:**

(1) must be evidenced by an obligation of the municipality;

(2) must be signed by the executive;

(3) is due:

(A) on or before thirty (30) days after the last day for the payment of anticipated taxes, **in the case of a loan made under subsection (a)(1);** and

(B) on a date determined by the board (but not more than six (6) years after the date of the loan), in the case of a loan made under subsection (a)(2); and

(4) may bear interest at any rate as determined by the board, payable at maturity.

SECTION 3. IC 32-30-10-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. The proceeds of a sale described in IC 32-29-7 or section 8 or 12(b) of this chapter must be applied in the following order:

(1) Expenses of the offer and sale, including expenses incurred under IC 32-29-7-4 or section 9 of this chapter (or IC 34-1-53-6.5 or IC 32-15-6-6.5 before their repeal).

~~(2) The amount of any property taxes on the property sold:~~

~~(A) that are due and owing; and~~

~~(B) for which the due date has passed as of the date of the sheriff's sale.~~

~~The sheriff shall transfer the amounts collected under this subdivision to the county treasurer not more than ten (10) days after the date of the sheriff's sale.~~

~~(3) Any amount of redemption where a certificate of sale is outstanding.~~

~~(4)~~ **(2)** The payment of the principal due, interest, and costs not described in subdivision (1).

~~(5)~~ **(3)** The residue secured by the mortgage and not due.

~~(6)~~ **(4)** If the residue referred to in subdivision ~~(5)~~ **(3)** does not bear interest, a deduction must be made by discounting the legal interest.

In all cases in which the proceeds of sale exceed the amounts described in subdivisions (1) through ~~(6),~~ **(4),** the surplus must be paid to the clerk of the court to be transferred, as the court directs, to the mortgage debtor, mortgage debtor's heirs, or other persons assigned by the mortgage debtor.

SECTION 4. IC 35-43-2-2, AS AMENDED BY SEA 21-2009, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A person who:

(1) not having a contractual interest in the property, knowingly or intentionally enters the real property of another person after having been denied entry by the other person or that person's agent;

(2) not having a contractual interest in the property, knowingly or intentionally refuses to leave the real property of another person after having been asked to leave by the other person or that person's agent;

(3) accompanies another person in a vehicle, with knowledge that the other person knowingly or intentionally is exerting unauthorized control over the vehicle;

(4) knowingly or intentionally interferes with the possession or use of the property of another person without the person's consent;

(5) not having a contractual interest in the property, knowingly or intentionally enters the dwelling of another person without the person's consent; ~~or~~

(6) knowingly or intentionally:

(A) travels by train without lawful authority or the railroad carrier's consent; and

(B) rides on the outside of a train or inside a passenger car, locomotive, or freight car, including a boxcar, flatbed, or container without lawful authority or the railroad carrier's consent;

(7) not having a contractual interest in the property, knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is:

(A) vacant or designated by a municipality or county enforcement authority to be abandoned property; and

(B) subject to abatement under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36; or

(8) knowingly or intentionally enters the property of another person after being denied entry by a court order that has been issued to the person or issued to the general public by conspicuous posting on or around the premises in areas where a person can observe the order when the property:

(A) has been designated by a municipality or county enforcement authority to be a vacant property or an abandoned property; and

(B) is subject to an abatement order under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36;

commits criminal trespass, a Class A misdemeanor. However, the offense is a Class D felony if it is committed on a scientific research facility, on a key facility, on a facility belonging to a public utility (as defined in IC 32-24-1-5.9(a)), on school property, or on a school bus or

the person has a prior unrelated conviction for an offense under this section concerning the same property.

(b) A person has been denied entry under subdivision (a)(1) of this section when the person has been denied entry by means of:

(1) personal communication, oral or written; ~~or~~

(2) posting or exhibiting a notice at the main entrance in a manner that is either prescribed by law or likely to come to the attention of the public; **or**

(3) a hearing authority or court order under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36.

(c) A law enforcement officer may not deny entry to property or ask a person to leave a property under subsection (a)(7) unless there is reasonable suspicion that criminal activity has occurred or is occurring.

(d) A person described in subsection (a)(7) violates subsection (a)(7) unless the person has the written permission of the owner, owner's agent, enforcement authority, or court to come onto the property for purposes of performing maintenance, repair, or demolition.

(e) A person described in subsection (a)(8) violates subsection (a)(8) unless the court that issued the order denying the person entry grants permission for the person to come onto the property.

~~(c)~~ **(f)** Subsections (a), ~~and~~ (b), **and (e)** do not apply to the following:

(1) A passenger on a train.

(2) An employee of a railroad carrier while engaged in the performance of official duties.

(3) A law enforcement officer, firefighter, or emergency response personnel while engaged in the performance of official duties.

(4) A person going on railroad property in an emergency to rescue a person or animal from harm's way or to remove an object that the person reasonably believes poses an imminent threat to life or limb.

(5) A person on the station grounds or in the depot of a railroad carrier:

(A) as a passenger; or

(B) for the purpose of transacting lawful business.

(6) A:

(A) person; or
(B) person's:
(i) family member;
(ii) invitee;
(iii) employee;
(iv) agent; or
(v) independent contractor;

going on a railroad's right-of-way for the purpose of crossing at a private crossing site approved by the railroad carrier to obtain access to land that the person owns, leases, or operates.

(7) A person having written permission from the railroad carrier to go on specified railroad property.

(8) A representative of the Indiana department of transportation while engaged in the performance of official duties.

(9) A representative of the federal Railroad Administration while engaged in the performance of official duties.

(10) A representative of the National Transportation Safety Board while engaged in the performance of official duties.

SECTION 5. IC 36-1-6-2, AS AMENDED BY P.L.194-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) If a condition violating an ordinance of a municipal corporation exists on real property, employees or contractors of a municipal corporation may enter onto that property and take appropriate action to bring the property into compliance with the ordinance. However, before action to bring compliance may be taken, all persons holding a substantial interest in the property must be given a reasonable opportunity of at least ten (10) days but not more than sixty (60) days to bring the property into compliance. **Continuous enforcement orders (as defined in IC 36-7-9-2) can be enforced and liens may be assessed without the need for additional notice.** If the municipal corporation takes action to bring compliance, the expenses incurred by the municipal corporation to bring compliance constitute a lien against the property. The lien attaches when notice of the lien is recorded in the office of the county recorder in which the property is located. The lien is superior to all other liens except liens for taxes, in an amount that does not exceed:

(1) ten thousand dollars ($10,000) for real property that:
(A) contains one (1) or more occupied or unoccupied single or

double family dwellings or the appurtenances or additions to those dwellings; or

(B) is unimproved; or

(2) twenty thousand dollars ($20,000) for all other real property not described in subdivision (1).

(b) The municipal corporation may issue a bill to the owner of the real property for the costs incurred by the municipal corporation in bringing the property into compliance with the ordinance, including administrative costs and removal costs.

(c) A bill issued under subsection (b) is delinquent if the owner of the real property fails to pay the bill within thirty (30) days after the date of the issuance of the bill.

(d) Whenever a municipal corporation determines it necessary, the officer charged with the collection of fees and penalties for the municipal corporation shall prepare:

(1) a list of delinquent fees and penalties that are enforceable under this section, including:

(A) the name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent;

(B) a description of the premises, as shown on the records of the county auditor; and

(C) the amount of the delinquent fees and the penalty; or

(2) an instrument for each lot or parcel of real property on which the fees are delinquent.

(e) The officer shall record a copy of each list or each instrument with the county recorder, who shall charge a fee for recording the list or instrument under the fee schedule established in IC 36-2-7-10.

(f) The amount of a lien shall be placed on the tax duplicate by the auditor. The total amount, including any accrued interest, shall be collected in the same manner as delinquent taxes are collected and shall be disbursed to the general fund of the municipal corporation.

(g) A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before conveyance to the subsequent owner. If the property is conveyed before the lien is recorded, the municipal corporation shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not later than fifteen (15) days

after the date of the notice. If payment is not received within one hundred eighty (180) days after the date of the notice, the amount due may be considered a bad debt loss.

(h) The municipal corporation shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent fees incurred by the seller;

upon receipt of a written demand from the purchaser or a representative of the title insurance company or the title insurance company's agent that issued a title insurance policy to the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner and that the purchaser has not been paid by the seller for the delinquent fees.

(i) The county auditor shall remove the fees, penalties, and service charges that were not recorded before a recorded conveyance to a subsequent owner upon receipt of a copy of the written demand under subsection (h).

SECTION 6. IC 36-1-6-4, AS AMENDED BY P.L.194-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A municipal corporation may bring a civil action as provided in IC 34-28-5-1 if a person:

(1) violates an ordinance regulating or prohibiting a condition or use of property; or

(2) engages in conduct without a license or permit if an ordinance requires a license or permit to engage in the conduct.

(b) A court may take any appropriate action in a proceeding under this section, including any of the following actions:

(1) Issuing an injunction.

(2) Entering a judgment.

(3) Issuing a continuous enforcement order (as defined in IC 36-7-9-2).

(4) Ordering the suspension or revocation of a license.

~~(3)~~ **(5)** Ordering an inspection.

~~(4)~~ **(6)** Ordering a property vacated.

(7) Ordering a structure demolished.

~~(5)~~ **(8)** Imposing a penalty not to exceed an amount set forth in IC 36-1-3-8(a)(10).

~~(6)~~ **(9)** Imposing court costs and fees in accordance with

IC 33-37-4-2 and IC 33-37-5.

~~(7)~~ **(10)** Ordering a defendant to take appropriate action to bring a property into compliance with an ordinance within a specified time.

~~(8)~~ **(11)** Ordering a municipal corporation to take appropriate action to bring a property into compliance with an ordinance in accordance with IC 36-1-6-2.

SECTION 7. IC 36-7-9-2, AS AMENDED BY P.L.169-2006, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. As used in this chapter:

"Community organization" means a citizen's group, neighborhood association, neighborhood development corporation, or similar organization that:

(1) has specific geographic boundaries defined in its bylaws or articles of incorporation and contains at least forty (40) households within those boundaries;

(2) is a nonprofit corporation that is representative of at least twenty-five (25) households or twenty percent (20%) of the households in the community, whichever is less;

(3) is operated primarily for the promotion of social welfare and general neighborhood improvement and enhancement;

(4) has been incorporated for at least two (2) years; and

(5) is exempt from taxation under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.

"Continuous enforcement order" means an order that:

(1) is issued for compliance or abatement and that remains in full force and effect on a property without further requirements to seek additional:

(i) compliance and abatement authority; or

(ii) orders for the same or similar violations;

(2) authorizes specific ongoing compliance and enforcement activities if a property requires reinspection or additional periodic abatement;

(3) can be enforced, including assessment of fees and costs, without the need for additional notice or hearing; and

(4) authorizes the enforcement authority to assess and collect ongoing costs for continuous enforcement order activities from any party that is subject to the enforcement authority's

order.

"Department" refers to the executive department authorized by ordinance to administer this chapter. In a consolidated city, this department is the department of metropolitan development, subject to IC 36-3-4-23.

"Enforcement authority" refers to the chief administrative officer of the department, except in a consolidated city. In a consolidated city, the division of development services is the enforcement authority, subject to IC 36-3-4-23.

"Hearing authority" refers to a person or persons designated as such by the executive of a city or county, or by the legislative body of a town. However, in a consolidated city, the director of the department or a person designated by the director is the hearing authority. An employee of the enforcement authority may not be designated as the hearing authority.

"Known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser" means any fee interest, life estate interest, or equitable interest of a contract purchaser held by a person whose identity and address may be determined from:

(1) an instrument recorded in the recorder's office of the county where the unsafe premises is located;

(2) written information or actual knowledge received by the department (or, in the case of a consolidated city, the enforcement authority); or

(3) a review of department (or, in the case of a consolidated city, the enforcement authority) records that is sufficient to identify information that is reasonably ascertainable.

"Known or recorded substantial property interest" means any right in real property, including a fee interest, a life estate interest, a future interest, a mortgage interest, or an equitable interest of a contract purchaser, that:

(1) may be affected in a substantial way by actions authorized by this chapter; and

(2) is held by a person whose identity and address may be determined from:

(A) an instrument recorded in the recorder's office of the county where the unsafe premises is located;

(B) written information or actual knowledge received by the

department (or, in the case of a consolidated city, the enforcement authority); or

(C) a review of department (or, in the case of a consolidated city, the enforcement authority) records that is sufficient to identify information that is reasonably ascertainable.

"Substantial property interest" means any right in real property that may be affected in a substantial way by actions authorized by this chapter, including a fee interest, a life estate interest, a future interest, a mortgage interest, or an equitable interest of a contract purchaser.

SECTION 8. IC 36-7-9-5, AS AMENDED BY P.L.88-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) The enforcement authority may issue an order requiring action relative to any unsafe premises, including:

(1) vacating of an unsafe building;

(2) sealing an unsafe building against intrusion by unauthorized persons, in accordance with a uniform standard established by ordinance;

(3) extermination of vermin in and about the unsafe premises;

(4) removal of trash, debris, fire hazardous material, or a public health hazard in and about the unsafe premises;

(5) repair or rehabilitation of an unsafe building to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy, or use by a statute, a rule adopted under IC 4-22-2, or an ordinance;

(6) **demolition and** removal of part of an unsafe building;

(7) **demolition and** removal of an unsafe building ~~and~~ **if:**

(A) the general condition of the building warrants removal; or

(B) the building continues to require reinspection and additional abatement action after an initial abatement action was taken pursuant to notice and an order; and

(8) requiring, for an unsafe building that will be sealed for a period of more than ninety (90) days:

(A) sealing against intrusion by unauthorized persons and the effects of weather;

(B) exterior improvements to make the building compatible in appearance with other buildings in the area; and

(C) continuing maintenance and upkeep of the building and

premises;

in accordance with standards established by ordinance.

Notice of the order must be given under section 25 of this chapter. The ordered action must be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties. The order supersedes any permit relating to building or land use, whether that permit is obtained before or after the order is issued.

(b) The order must contain:

(1) the name of the person to whom the order is issued;

(2) the legal description or address of the unsafe premises that are the subject of the order;

(3) the action that the order requires;

(4) the period of time in which the action is required to be accomplished, measured from the time when the notice of the order is given;

(5) if a hearing is required, a statement indicating the exact time and place of the hearing, and stating that person to whom the order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross-examine opposing witnesses, and present arguments;

(6) if a hearing is not required, a statement that an order under subsection (a)(2), (a)(3), (a)(4), or (a)(5) becomes final ten (10) days after notice is given, unless a hearing is requested in writing by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises, and the request is delivered to the enforcement authority before the end of the ten (10) day period;

(7) a statement briefly indicating what action can be taken by the enforcement authority if the order is not complied with;

(8) a statement indicating the obligation created by section 27 of this chapter relating to notification of subsequent interest holders and the enforcement authority; and

(9) the name, address, and telephone number of the enforcement authority.

(c) The order must allow a sufficient time, of at least ten (10) days, but not more than sixty (60) days, from the time when notice of the order is given, to accomplish the required action. If the order allows more than thirty (30) days to accomplish the action, the order may

require that a substantial beginning be made in accomplishing the action within thirty (30) days.

(d) The order expires two (2) years from the day the notice of the order is given, unless one (1) or more of the following events occurs within that two (2) year period:

(1) A complaint requesting judicial review is filed under section 9 of this chapter.

(2) A contract for action required by the order is let at public bid under section 11 of this chapter.

(3) A civil action is filed under section 17 of this chapter.

SECTION 9. IC 36-7-9-7, AS AMENDED BY P.L.169-2006, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) A hearing must be held relative to each order of the enforcement authority, except for an order issued under section 5(a)(2), 5(a)(3), 5(a)(4), or 5(a)(5) of this chapter. An order issued under section 5(a)(2), 5(a)(3), 5(a)(4), or 5(a)(5) of this chapter becomes final ten (10) days after notice is given, unless a hearing is requested before the ten (10) day period ends by a person holding a fee interest, life estate interest, mortgage interest, or equitable interest of a contract purchaser in the unsafe premises. The hearing shall be conducted by the hearing authority.

(b) The hearing shall be held on a business day no earlier than ten (10) days after notice of the order is given. The hearing authority may, however, take action at the hearing, or before the hearing if a written request is received by the enforcement authority not later than five (5) days after notice is given, to continue the hearing to a business day not later than fourteen (14) days after the hearing date shown on the order. Unless the hearing authority takes action to have the continued hearing held on a definite, specified date, notice of the continued hearing must be given to the person to whom the order was issued at least five (5) days before the continued hearing date, in the manner prescribed by section 25 of this chapter. If the order being considered at the continued hearing was served by publication, it is sufficient to give notice of the continued hearing by publication unless the enforcement authority has received information in writing that enables it to make service under section 25 of this chapter by a method other than publication.

(c) The person to whom the order was issued, any person having a

substantial property interest in the unsafe premises that are the subject of the order, or any other person with an interest in the proceedings may appear in person or by counsel at the hearing. Each person appearing at the hearing is entitled to present evidence, cross-examine opposing witnesses, and present arguments.

(d) At the conclusion of any hearing at which a continuance is not granted, the hearing authority may make findings and take action to:

(1) affirm the order;

(2) rescind the order; or

(3) modify the order, but unless the person to whom the order was issued, or counsel for that person, is present at the hearing, the hearing authority may modify the order in only a manner that makes its terms less stringent.

(e) In addition to affirming the order, in those cases in which the hearing authority finds that there has been a willful failure to comply with the order, the hearing authority may impose a civil penalty in an amount not to exceed five thousand dollars ($5,000). The effective date of the civil penalty may be postponed for a reasonable period, after which the hearing authority may order the civil penalty reduced or stricken if the hearing authority is satisfied that all work necessary to fully comply with the order has been done. For purposes of an appeal under section 8 of this chapter or enforcement of an order under section 17 of this chapter, action of the hearing authority is considered final upon the affirmation of the order, even though the hearing authority may retain jurisdiction for the ultimate determination related to the civil penalty. In the hearing authority's exercise of continuing jurisdiction, the hearing authority may, in addition to reducing or striking the civil penalty, impose one (1) or more additional civil penalties in an amount not to exceed five thousand dollars ($5,000) per civil penalty. An additional civil penalty may be imposed if the hearing authority finds that:

(1) significant work on the premises to comply with the affirmed order has not been accomplished; and

(2) the premises have a negative effect on property values or the quality of life of the surrounding area or the premises require the provision of services by local government in excess of the services required by ordinary properties.

(f) If, at a hearing, a person to whom an order has been issued

requests an additional period to accomplish action required by the order, and shows good cause for this request to be granted, the hearing authority may grant the request. However, as a condition for allowing the additional period, the hearing authority may require that the person post a performance bond to be forfeited if the action required by the order is not completed within the additional period.

(g) If an order is affirmed or modified, the hearing authority shall issue a continuous enforcement order (as defined in section 2 of this chapter).

~~(g)~~ **(h)** The board or commission having control over the department shall, at a public hearing, after having given notice of the time and place of the hearing by publication in accordance with IC 5-3-1, adopt a schedule setting forth the maximum amount of performance bonds applicable to various types of ordered action. The hearing authority shall use this schedule to fix the amount of the performance bond required under subsection (f).

~~(h)~~ **(i)** The record of the findings made and action taken by the hearing authority at the hearing shall be available to the public upon request. However, neither the enforcement authority nor the hearing authority is required to give any person notice of the findings and action.

~~(i)~~ **(j)** If a civil penalty under subsection (e) is unpaid for more than fifteen (15) days after payment of the civil penalty is due, the civil penalty may be collected from any person against whom the hearing officer assessed the civil penalty or fine. A civil penalty or fine may be collected under this subsection in the same manner as costs under section 13 or 13.5 of this chapter. The amount of the civil penalty or fine that is collected shall be deposited in the unsafe building fund.

SECTION 10. IC 36-7-9-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) The department, acting through its enforcement authority, a person designated by the enforcement authority, or a community organization may bring a civil action regarding unsafe premises in the circuit, superior, or municipal court of the county. The department is not liable for the costs of such an action. The court may grant one (1) or more of the kinds of relief authorized by sections 18 through 22 of this chapter.

(b) A civil action may not be initiated under this section before the final date of an order or an extension of an order under section 5(c) of

this chapter requiring:

(1) the completion; or

(2) a substantial beginning toward accomplishing the completion; of the required remedial action.

(c) A community organization may not initiate a civil action under this section if:

(1) the enforcement authority or a person designated by the enforcement authority has filed a civil action under this section regarding the unsafe premises; or

(2) the enforcement authority has issued a final order that the required remedial action has been satisfactorily completed.

(d) A community organization may not initiate a civil action under this section if the real property that is the subject of the civil action is located outside the specific geographic boundaries of the area defined in the bylaws or articles of incorporation of the community organization.

(e) At least sixty (60) days before commencing a civil action under this section, a community organization must issue a notice by certified mail, return receipt requested, that:

(1) specifies:

(A) the nature of the alleged nuisance;

(B) the date the nuisance was first discovered;

(C) the location on the property where the nuisance is allegedly occurring;

(D) the intent of the community organization to bring a civil action under this section; and

(E) the relief sought in the action; and

(2) is provided to:

(A) the owner of record of the premises;

(B) tenants located on the premises;

(C) the enforcement authority; and

(D) any person that possesses an interest of record.

(f) In any action filed by a community organization under this section, a court may award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party.

(g) If a second or subsequent civil judgment is entered under this section:

(1) against an owner of a known or recorded fee interest, life

estate, or equitable interest as a contract purchaser of property; and

(2) during any two (2) year period;

a court may order the owner to pay treble damages based on the costs of the ordered action. The second or subsequent civil judgment may relate to the same property or a different property held by the owner.

SECTION 11. IC 36-7-11.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The executive **and the legislative body** of the consolidated city shall appoint a commission of nine (9) members to be known as the "_____ Historic Preservation Commission" (including the name of the city). ~~At least one (1) of the members must be a resident of an historic area in the city. Three (3) of the members may be selected from lists of names submitted by the Historic Landmarks Foundation of Indiana and the historical society of the county. One (1) member may be selected from a list of names submitted by the local chapter of the American Institute of Architects. One (1) member may be a member of the metropolitan development commission.~~

(b) The following apply to the appointment of members:

(1) The executive shall appoint five (5) members of the commission. The executive:

(A) may select two (2) members from lists of names submitted by the Historic Landmarks Foundation of Indiana and the historical society of the consolidated city's county;

(B) may select one (1) member who is a member of the metropolitan development commission; and

(C) may select one (1) member from a list of names submitted by the local chapter of the American Institute of Architects.

(2) The legislative body shall appoint four (4) members of the commission. The legislative body:

(A) shall select one (1) member who is a resident of a historic area of the consolidated city;

(B) may select one (1) member from lists of names submitted by the Historic Landmarks Foundation of Indiana and the historical society of the consolidated city's

county; and

(C) may select one (1) member from a list of names submitted by the local chapter of the American Institute of Architects.

~~(b)~~ **(c)** Each appointment to the commission is for a term of four (4) years, commencing on January 1 following the appointment, and until a successor is appointed and is qualified. A member is eligible for reappointment.

~~(c)~~ **(d)** If a vacancy occurs in the commission during any term, a successor shall be appointed by the ~~executive~~ **appointing authority** to serve for the remainder of the vacated term. Any member of the commission may be removed for cause by the ~~executive.~~ **appointing authority.** All members must be residents of the county.

~~(d)~~ **(e)** The members receive no salary, but are entitled to reimbursement for any expenses necessarily incurred in the performance of their duties.

~~(e)~~ **(f)** At its first scheduled meeting each year, the commission shall hold a meeting for the purpose of organization. The commission shall elect from its membership a president, vice president, secretary, and treasurer who shall perform the duties pertaining to those offices. The officers serve from the date of their election until their successors are elected and qualified. The commission may adopt bylaws and rules for the proper conduct of its proceedings, the carrying out of its duties, and the safeguarding of its funds and property. A majority of the members of the commission constitute a quorum, and the concurrence of a majority of the commission is necessary to authorize any action.

~~(f)~~ **(g)** A member of the commission is not disqualified from hearing and voting upon any matter coming before the commission because that member owns or occupies property within or adjacent to a historic area, unless that property is the subject property or located within two hundred (200) feet of it.

~~(g)~~ **(h)** A member of the commission who is absent from three (3) consecutive regular meetings of the commission shall be treated as if ~~he~~ **the member** had resigned, unless the ~~executive~~ **appointing authority** reaffirms the member's appointment. However, the counting of such a member toward a quorum requirement or the voting by such a member does not invalidate any official action taken by the commission before the time that the minutes of the commission reflect

that the member has resigned.

SECTION 12. IC 36-7-11.1-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.1. (a) A member appointed to the commission under section 3 of this chapter before July 1, 2009, shall continue to serve as a member of the commission after June 30, 2009, until:**

(1) the end of the term for which the member was appointed; or

(2) the executive removes the member for cause.

If the executive removes the member for cause, the executive shall appoint a successor to serve for the remainder of the vacated term.

(b) This section expires July 1, 2014.

SECTION 13. IC 36-7-14-39, AS AMENDED BY P.L.146-2008, SECTION 738, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 39. (a) As used in this section:

"Allocation area" means that part of a redevelopment project area to which an allocation provision of a declaratory resolution adopted under section 15 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means the following:

(1) If an allocation provision is adopted after June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing an economic development area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(2) If an allocation provision is adopted after June 30, 1997, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the

effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(3) If:

(A) an allocation provision adopted before June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area expires after June 30, 1997; and

(B) after June 30, 1997, a new allocation provision is included in an amendment to the declaratory resolution;

the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision adopted after June 30, 1997, as adjusted under subsection (h).

(4) Except as provided in subdivision (5), for all other allocation areas, the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h).

(5) If an allocation area established in an economic development area before July 1, 1995, is expanded after June 30, 1995, the definition in subdivision (1) applies to the expanded part of the area added after June 30, 1995.

(6) If an allocation area established in a redevelopment project area before July 1, 1997, is expanded after June 30, 1997, the definition in subdivision (2) applies to the expanded part of the area added after June 30, 1997.

Except as provided in section 39.3 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property. However, upon approval by a resolution of the redevelopment commission adopted before June 1, 1987, "property taxes" also includes taxes imposed under IC 6-1.1 on depreciable personal property. If a redevelopment commission adopted before June 1, 1987, a resolution to include within the definition of property taxes taxes imposed under IC 6-1.1 on

depreciable personal property that has a useful life in excess of eight (8) years, the commission may by resolution determine the percentage of taxes imposed under IC 6-1.1 on all depreciable personal property that will be included within the definition of property taxes. However, the percentage included must not exceed twenty-five percent (25%) of the taxes imposed under IC 6-1.1 on all depreciable personal property.

(b) A declaratory resolution adopted under section 15 of this chapter on or before the allocation deadline determined under subsection (i) may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution on or before the allocation deadline determined under subsection (i) in accordance with the procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision after June 30, 1995, must specify an expiration date for the allocation provision. For an allocation area established before July 1, 2008, the expiration date may not be more than thirty (30) years after the date on which the allocation provision is established. For an allocation area established after June 30, 2008, the expiration date may not be more than twenty-five (25) years after the date on which the allocation provision is established. However, with respect to bonds or other obligations that were issued before July 1, 2008, if any of the bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the redevelopment project area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the redevelopment district and, when collected, paid into an allocation fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds which are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 27 of this chapter.

(D) Pay the principal of and interest on bonds issued by the unit to pay for local public improvements that are physically located in or physically connected to that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 25.2 of this chapter.

(G) Reimburse the unit for expenditures made by it for local public improvements (which include buildings, parking facilities, and other items described in section 25.1(a) of this chapter) that are physically located in or physically connected to that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility that is physically located in or physically connected to that allocation area under any lease entered into under IC 36-1-10.

(I) For property taxes first due and payable before January 1,

2009, pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the redevelopment commission. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(i) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(ii) the STEP ONE sum.

STEP THREE: Multiply:

(i) the STEP TWO quotient; times

(ii) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that have been allocated during that year to an allocation fund under this section.

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under section 39.5 of this chapter (before its repeal) in the same year.

(J) Pay expenses incurred by the redevelopment commission for local public improvements that are in the allocation area or serving the allocation area. Public improvements include buildings, parking facilities, and other items described in section 25.1(a) of this chapter.

(K) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local

government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

(L) Pay the costs of carrying out an eligible efficiency project (as defined in IC 36-9-41-1.5) within the unit that established the redevelopment commission. However, property tax proceeds may be used under this clause to pay the costs of carrying out an eligible efficiency project only if those property tax proceeds exceed the amount necessary to do the following:

(i) Make, when due, any payments required under clauses (A) through (K), including any payments of principal and interest on bonds and other obligations payable under this subdivision, any payments of premiums under this subdivision on the redemption before maturity of bonds, and any payments on leases payable under this subdivision.

(ii) Make any reimbursements required under this subdivision.

(iii) Pay any expenses required under this subdivision.

(iv) Establish, augment, or restore any debt service reserve under this subdivision.

The allocation fund may not be used for operating expenses of the commission.

(3) Except as provided in subsection (g), before July 15 of each year the commission shall do the following:

(A) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to produce the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus

the amount necessary for other purposes described in subdivision (2).

(B) Provide a written notice to the county auditor, the fiscal body of the county or municipality that established the department of redevelopment, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(i) state the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1); or

(ii) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission. The commission may not authorize an allocation of assessed value to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (2) or lessors under section 25.3 of this chapter.

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the redevelopment commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. The amount sufficient for purposes specified in subsection (b)(2) for the year shall be determined based on the pro rata portion of such current property tax proceeds from the part of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or other purposes specified in subsection (b)(2), except that where reference is made in subsection (b)(2) to allocation area it shall refer for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone. Those programs shall reserve at least one-half (1/2) of their enrollment in any

session for residents of the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(2) than would otherwise have been received if the general reassessment or annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

SECTION 14. IC 36-7-15.1-26, AS AMENDED BY P.L.146-2008, SECTION 755, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 26. (a) As used in this section:

"Allocation area" means that part of a redevelopment project area to which an allocation provision of a resolution adopted under section 8 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means the following:

(1) If an allocation provision is adopted after June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing an economic development area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(2) If an allocation provision is adopted after June 30, 1997, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(3) If:

(A) an allocation provision adopted before June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area expires after June 30, 1997; and

(B) after June 30, 1997, a new allocation provision is included in an amendment to the declaratory resolution;

the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of

the allocation provision adopted after June 30, 1997, as adjusted under subsection (h).

(4) Except as provided in subdivision (5), for all other allocation areas, the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h).

(5) If an allocation area established in an economic development area before July 1, 1995, is expanded after June 30, 1995, the definition in subdivision (1) applies to the expanded part of the area added after June 30, 1995.

(6) If an allocation area established in a redevelopment project area before July 1, 1997, is expanded after June 30, 1997, the definition in subdivision (2) applies to the expanded part of the area added after June 30, 1997.

Except as provided in section 26.2 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property. However, upon approval by a resolution of the redevelopment commission adopted before June 1, 1987, "property taxes" also includes taxes imposed under IC 6-1.1 on depreciable personal property. If a redevelopment commission adopted before June 1, 1987, a resolution to include within the definition of property taxes taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the commission may by resolution determine the percentage of taxes imposed under IC 6-1.1 on all depreciable personal property that will be included within the definition of property taxes. However, the percentage included must not exceed twenty-five percent (25%) of the taxes imposed under IC 6-1.1 on all depreciable personal property.

(b) A resolution adopted under section 8 of this chapter on or before the allocation deadline determined under subsection (i) may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A resolution previously adopted may include an allocation provision by the amendment of that resolution on or before the allocation deadline determined under subsection (i) in accordance with the procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision after June 30, 1995, must specify an expiration date for the allocation provision. For an

allocation area established before July 1, 2008, the expiration date may not be more than thirty (30) years after the date on which the allocation provision is established. For an allocation area established after June 30, 2008, the expiration date may not be more than twenty-five (25) years after the date on which the allocation provision is established. However, with respect to bonds or other obligations that were issued before July 1, 2008, if any of the bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the redevelopment project area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the redevelopment district and, when collected, paid into a special fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds that are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 19 of this chapter.

(D) Pay the principal of and interest on bonds issued by the consolidated city to pay for local public improvements that are physically located in or physically connected to that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 17.1 of this chapter.

(G) Reimburse the consolidated city for expenditures for local public improvements (which include buildings, parking facilities, and other items set forth in section 17 of this chapter) that are physically located in or physically connected to that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility that is physically located in or physically connected to that allocation area under any lease entered into under IC 36-1-10.

(I) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

(J) Pay the costs of carrying out an eligible efficiency project (as defined in IC 36-9-41-1.5) within the unit that established the redevelopment commission. However,

property tax proceeds may be used under this clause to pay the costs of carrying out an eligible efficiency project only if those property tax proceeds exceed the amount necessary to do the following:

(i) Make, when due, any payments required under clauses (A) through (I), including any payments of principal and interest on bonds and other obligations payable under this subdivision, any payments of premiums under this subdivision on the redemption before maturity of bonds, and any payments on leases payable under this subdivision.

(ii) Make any reimbursements required under this subdivision.

(iii) Pay any expenses required under this subdivision.

(iv) Establish, augment, or restore any debt service reserve under this subdivision.

The special fund may not be used for operating expenses of the commission.

(3) Before July 15 of each year, the commission shall do the following:

(A) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to provide the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2) and subsection (g).

(B) Provide a written notice to the county auditor, the legislative body of the consolidated city, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(i) state the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1); or

(ii) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission. The commission may not authorize an allocation to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (2).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. Such a unit

shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund the amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund, based on the recommendations of the urban enterprise association, for one (1) or more of the following purposes:

(1) To pay for programs in job training, job enrichment, and basic skill development designed to benefit residents and employers in the enterprise zone. The programs must reserve at least one-half (1/2) of the enrollment in any session for residents of the enterprise zone.

(2) To make loans and grants for the purpose of stimulating business activity in the enterprise zone or providing employment for enterprise zone residents in the enterprise zone. These loans and grants may be made to the following:

(A) Businesses operating in the enterprise zone.

(B) Businesses that will move their operations to the enterprise zone if such a loan or grant is made.

(3) To provide funds to carry out other purposes specified in subsection (b)(2). However, where reference is made in subsection (b)(2) to the allocation area, the reference refers for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this

section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(2) than would otherwise have been received if the general reassessment or annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

SECTION 15. IC 36-7-36 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 36. Abatement of Vacant Structures and Abandoned Structures

Sec. 1. As used in this chapter, "abandoned structure" means any of the following:

(1) Commercial real property or a vacant structure on commercial real property that is used or was previously used for industrial or commercial purposes, and:

(A) that the owner of the property or structure has

declared in writing to be abandoned; or

(B) for which the owner of the property or structure has been given a written order by an enforcement authority to rehabilitate or demolish, and the owner:

(i) has not applied for a permit to rehabilitate or demolish the property or structure; or

(ii) applied for and was granted a permit, but rehabilitation or demolition work has not commenced on the property or structure within thirty (30) days after the date the permit was granted.

(2) Real property that has not been used for a legal purpose for at least six (6) consecutive months and:

(A) in the judgment of an enforcement authority, is in need of completion, rehabilitation, or repair, and completion, rehabilitation, or repair work has not taken place on the property for at least six (6) consecutive months;

(B) on which at least one (1) installment of property taxes is delinquent; or

(C) that has been declared a public nuisance by a hearing authority.

(3) Real property that has been declared in writing to be abandoned by the owner, including an estate or a trust that possesses the property.

(4) Vacant real property on which a municipal lien has remained unpaid for at least one (1) year.

Sec. 2. As used in this chapter, "enforcement authority" has the meaning set forth in IC 36-7-9-2.

Sec. 3. As used in this chapter, "hearing authority" has the meaning set forth in IC 36-7-9-2.

Sec. 4. As used in this chapter, "owner" means a person that holds a substantial interest in property in the form of a known or recorded fee interest, life estate, or equitable interest as a contract purchaser.

Sec. 5. As used in this chapter, "vacant real property" means real property that is not being occupied by an owner, tenant, or others authorized by the owner.

Sec. 6. As used in this chapter, "vacant structure" means a structure or building that is not being occupied by an owner, tenant, or others authorized by the owner.

Sec. 7. The legislative body of a municipality or county:

(1) may adopt this chapter by ordinance; and

(2) if the legislative body adopts this chapter by ordinance, shall adopt rules and procedures for its enforcement.

Sec. 8. (a) An enforcement authority may administer and enforce this chapter in conjunction with any enforcement or civil action under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-1-6, or IC 36-7-9.

(b) Under all enforcement and civil actions designated under subsection (a), the enforcement authority is entitled to recover court costs and attorney's fees.

Sec. 9. If an enforcement authority determines that a vacant structure or an abandoned structure exists, an abatement notice and order may be sent to the owner that directs the owner to:

(1) abate the vacant structure or abandoned structure by cleaning and securing or boarding up the vacant structure or abandoned structure and the premises upon which it is located; and

(2) erect fences, barriers, berms, or other suitable means to discourage:

(A) access to the vacant structure or abandoned structure; and

(B) illegal dumping or littering on the premises upon which the vacant structure or abandoned structure exists.

Sec. 10. (a) An owner of a property that remains a vacant structure or an abandoned structure for at least ninety (90) consecutive calendar days may be liable for a civil penalty in the amount of five hundred dollars ($500) per vacant structure or abandoned structure, not to exceed five thousand dollars ($5,000) per structure per year, unless:

(1) documentation has been filed and approved by the enforcement authority that indicates the owner's intent to eliminate the vacant structure or abandoned structure status of the property;

(2) the owner is current on all property taxes and special assessments; and

(3) at least one (1) of the following applies:

(A) The structure is the subject of a valid building permit for repair or rehabilitation and the owner is proceeding

diligently and in good faith to complete the repair or rehabilitation of the structure as defined in the enforcement order.

(B) The structure is:

(i) maintained in compliance with this chapter; and

(ii) actively being offered for sale, lease, or rent.

(C) The owner can demonstrate that the owner made a diligent and good faith effort to implement actions approved by the enforcement authority.

(b) If the structure continues to remain a vacant structure beyond the initial ninety (90) days described in subsection (a) and the owner does not meet any of the exceptions set forth in this section, the enforcement authority may continue to assess penalties each year on each structure in the following amounts:

(1) One thousand dollars ($1,000) for the second ninety (90) calendar day period each structure remains a vacant structure or an abandoned structure.

(2) One thousand five hundred dollars ($1,500) for the third ninety (90) calendar day period each structure remains a vacant structure or an abandoned structure.

(3) Two thousand dollars ($2,000) for the fourth and each subsequent ninety (90) calendar day period thereafter each structure remains a vacant structure or an abandoned structure.

A civil penalty under this subsection may not exceed five thousand dollars ($5,000) per structure per year.

SECTION 16. IC 36-9-41-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter applies to **the following:**

(1) A public work project that will cost the political subdivision not more than two million dollars ($2,000,000).

(2) An eligible efficiency project that will cost not more than three million dollars ($3,000,000).

SECTION 17. IC 36-9-41-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.5. As used in this chapter, "eligible efficiency project" means:**

(1) a project necessary or useful to carrying out an interlocal

cooperation agreement entered into by two (2) or more political subdivisions or governmental entities under IC 36-1-7; or

(2) a project necessary or useful to the consolidation of local government services.

SECTION 18. IC 36-9-41-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. Notwithstanding any other statute, a political subdivision may borrow the money necessary to finance:

(1) a public work project; **or**

(2) an eligible efficiency project;

from a financial institution in Indiana by executing a negotiable note under section 4 of this chapter. The political subdivision shall provide notice of its determination to issue the note under IC 5-3-1. Money borrowed under this chapter is chargeable against the political subdivision's constitutional debt limitation.

P.L.89-2009

[H.1363. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning courts and court officers.

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

SECTION 1. IC 33-37-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. **(a) Except as provided in subsection (b),** a person entitled to bring a civil action or to petition for the appointment of a guardian under IC 29-3-5 may do so without paying the required fees or other court costs if the person files a statement in court, under oath and in writing:

(1) declaring that the person is unable to make the payments or to give security for the payments because of the person's indigency;

(2) declaring that the person believes that the person is entitled to the redress sought in the action; and

(3) setting forth briefly the nature of the action.

(b) If a person brings a civil action or petition for the appointment of a guardian under IC 29-3-5, a clerk shall waive the payment of required fees or other court costs by the person without court approval if:

(1) the person is represented by an attorney:

(A) who is employed by Indiana Legal Services or another civil legal aid program; or

(B) who:

(i) is serving as a pro bono attorney; and

(ii) obtained the person as a client through a direct referral from a pro bono district associated with one (1) of the fourteen (14) administrative districts in Indiana established by the Indiana Rules of Court Administrative Rule 3(A); and

(2) the attorney files a statement with the clerk that:

(A) seeks relief from paying the required fees or other court costs;

(B) declares that the person believes that the person is entitled to the redress sought in the action;

(C) sets forth briefly the nature of the action;

(D) is accompanied by an approved affidavit of indigency; and

(E) is signed by the attorney.

(c) This section does not prohibit a court from reviewing and modifying a finding of indigency by the court or a clerk if a person who received relief from the payment of required fees or other court costs ceases to qualify for the relief.

P.L.90-2009
[H.1365. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-4-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 11.5. (a) This section applies to one (1) or more parcels of real property in a county that:**

(1) are permanently flooded or to which access over land is permanently prevented by flooding; and

(2) are not being used for agricultural purposes.

(b) The owner of one (1) or more parcels referred to in subsection (a) may petition the county assessor for a reassessment of the parcel or parcels. Upon receipt of the petition, the county assessor shall:

(1) cause a survey to be made of the parcel or parcels; and

(2) if the parcel or parcels meet the description of subsection (a), order a reassessment of the parcel or parcels.

(c) If the flooding referred to in subsection (a) occurs before May 11 of a calendar year (the "current year") and after the immediately preceding November 10 and a petition under subsection (b) is filed not later than December 31 of the current year:

(1) the reassessment ordered under subsection (b):

(A) takes effect for:

(i) the assessment date in the current year; and

(ii) the assessment date in the calendar year that immediately precedes the current year; and

(B) treats the parcel or parcels for those assessment dates as:

(i) being permanently flooded; or

(ii) having overland access permanently prevented by flooding;

(2) the property taxes first due and payable in the current year with respect to the parcel or parcels are determined based on the reassessment; and

(3) the property taxes first due and payable in the calendar year that immediately succeeds the current year with respect to the parcel or parcels are determined based on the reassessment.

(d) If the flooding referred to in subsection (a) occurs after May 10 of the current year and before November 11 of the current year and the petition under subsection (b) is filed not later than December 31 of the current year:

(1) subsection (c)(1) and (c)(3) apply; and

(2) only:

(A) the second installment of property taxes under IC 6-1.1-22-9(a) first due and payable in the current year with respect to the parcel or parcels; or

(B) if property taxes are payable by a method other than two (2) annual installments, one-half (1/2) of the property tax liability for property taxes first due and payable in the current year with respect to the parcel or parcels;

is determined based on the reassessment.

(e) This subsection applies only if:

(1) the county assessor orders a reassessment under subsection (b); and

(2) the property owner pays property taxes in the current year with respect to the parcel or parcels based on the assessment that applied before the ordered reassessment.

The property owner is entitled to a refund of property taxes based on the difference in the amount of property taxes paid and the amount of property taxes determined based on the ordered reassessment. A property owner is not required to apply for a refund due under this section. The county auditor shall, without an appropriation being required, issue a warrant to the property owner payable from the county general fund for the amount of the refund, if any, due the property owner.

(f) If:

(1) the county assessor orders a reassessment under subsection (b); and

(2) when the reassessment is completed the property owner has not paid property taxes in the current year with respect to the parcel or parcels based on the assessment that applied before the ordered reassessment;

the county treasurer shall issue to the property owner tax statements that reflect property taxes determined based on the reassessment.

(g) The county assessor shall specify in an order under subsection (b) the time within which the reassessment must be completed and the date on which the reassessment takes effect.

(h) A reassessment under this section for an assessment date continues to apply for subsequent assessment dates until the assessor:

(1) determines that circumstances have changed sufficiently to warrant another reassessment of the property; and

(2) reassesses the property based on the determination under subdivision (1).

(i) The county auditor and county treasurer shall publish notice of the availability of a reassessment under this section in accordance with IC 5-3-1.

SECTION 2. IC 6-1.1-17-0.5, AS AMENDED BY P.L.144-2008, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 0.5. (a) For purposes of this section, "assessed value" has the meaning set forth in IC 6-1.1-1-3(a).

(b) The county auditor may exclude and keep separate on the tax duplicate for taxes payable in a calendar year the assessed value of tangible property that meets the following conditions:

(1) The assessed value of the property is at least nine percent (9%) of the assessed value of all tangible property subject to taxation by a taxing unit.

(2) The property is or has been part of a bankruptcy estate that is subject to protection under the federal bankruptcy code.

(3) The owner of the property has discontinued all business operations on the property.

(4) There is a high probability that the taxpayer will not pay

property taxes due on the property in the following year.

(c) This section does not limit, restrict, or reduce in any way the property tax liability on the property.

(d) For each taxing unit located in the county, the county auditor may reduce for a calendar year the taxing unit's assessed value that is certified to the department of local government finance under section 1 of this chapter and used to set tax rates for the taxing unit for taxes first due and payable in the immediately succeeding calendar year. The county auditor may reduce a taxing unit's assessed value under this subsection only to enable the taxing unit to absorb the effects of reduced property tax collections in the immediately succeeding calendar year that are expected to result from any or a combination of the following:

(1) Successful appeals of the assessed value of property located in the taxing unit.

(2) Deductions under IC 6-1.1-12-37 that ~~result from the granting of applications for the homestead credit for the calendar year under IC 6-1.1-20.9-3 or IC 6-1.1-20.9-3.5~~ **are granted** after the county auditor certifies assessed value as described in this section.

(3) Deductions that result from the granting of applications for deductions for the calendar year under IC 6-1.1-12-44 after the county auditor certifies assessed value as described in this section.

(4) Reassessments of real property under IC 6-1.1-4-11.5.

Not later than December 31 of each year, the county auditor shall send a certified statement, under the seal of the board of county commissioners, to the fiscal officer of each political subdivision of the county and to the department of local government finance. The certified statement must list any adjustments to the amount of the reduction under this subsection and the information submitted under section 1 of this chapter that are necessary. ~~as the result of processing homestead credit applications and deduction applications that are filed after the county auditor certifies assessed value as described in this section.~~ The county auditor shall keep separately on the tax duplicate the amount of any reductions made under this subsection. The maximum amount of the reduction authorized under this subsection is determined under subsection (e).

(e) The amount of the reduction in a taxing unit's assessed value for a calendar year under subsection (d) may not exceed two percent (2%) of the assessed value of tangible property subject to assessment in the taxing unit in that calendar year.

(f) The amount of a reduction under subsection (d) may not be offered in a proceeding before the:

(1) county property tax assessment board of appeals;

(2) Indiana board; or

(3) Indiana tax court;

as evidence that a particular parcel has been improperly assessed.

SECTION 3. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] **(a) This SECTION applies to one (1) or more parcels of real property in a county that:**

(1) after March 1, 2008, and before November 11, 2008, are permanently flooded or to which access over land is permanently prevented after March 1, 2008, and before November 11, 2008, by flooding; and

(2) are not being used for agricultural purposes.

(b) Not later than July 1, 2009, the owner of one (1) or more parcels referred to in subsection (a) may petition the county assessor for a reassessment of the parcel or parcels. Upon receipt of the petition, the county assessor shall:

(1) cause a survey to be made of the parcel or parcels; and

(2) if the parcel or parcels meet the description of subsection (a), order a reassessment of the parcel or parcels that:

(A) subject to subsection (d), takes effect for the assessment dates in 2007 and 2008; and

(B) treats the parcel or parcels for those assessment dates as:

(i) being permanently flooded; or

(ii) having overland access permanently prevented by flooding.

(c) The county assessor shall specify in an order under subsection (b) the time within which the reassessment must be completed and the assessment dates for which the reassessment takes effect.

(d) If the county assessor orders a reassessment under subsection (b):

(1) the property owner is entitled to a refund of property taxes in the amount of one-half (1/2) of the remainder of:

(A) the amount paid by the property owner with respect to the parcel or parcels for 2007 property taxes first due and payable in 2008; minus

(B) the 2007 property taxes first due and payable in 2008 with respect to the parcel or parcels determined based on the reassessment; and

(2) the 2008 property taxes first due and payable in 2009 with respect to the parcel or parcels are determined based on the reassessment.

(e) A property owner is not required to apply for a refund due under this SECTION. The county auditor shall, without an appropriation being required, issue a warrant to the property owner payable from the county general fund for the amount of the refund, if any, due the property owner. No interest is payable on the refund.

(f) The county auditor and county treasurer shall publish notice of the availability of a reassessment under this SECTION in accordance with IC 5-3-1.

(g) This SECTION expires January 1, 2010.

SECTION 4. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] **IC 6-1.1-4-11.5, as added by this act, applies only to property taxes first due and payable after 2008.**

SECTION 5. **An emergency is declared for this act.**

P.L.91-2009
[H.1372. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-12-2-25, AS ADDED BY P.L.1-2005, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 25. (a) The residents or real property taxpayers of the library district taxed for the support of the library may use the facilities and services of the public library without charge for library or related purposes. However, the library board may:

(1) fix and collect fees and rental charges; and

(2) assess fines, penalties, and damages for the:

(A) loss of;

(B) injury to; or

(C) failure to return;

any library property or material.

(b) A library board may issue local library cards to:

(1) residents of the library district; or

(2) Indiana residents who are not residents of the library district; who apply for the cards.

(c) Except as provided in ~~subsection~~ **subsections** (d) **and (e),** a library board must set and charge a fee for a local library card issued under subsection (b)(2). The minimum fee that the board may set under this subsection is the greater of the following:

(1) The library district's operating fund expenditure per capita in the most recent year for which that information is available in the Indiana state library's annual "Statistics of Indiana Libraries".

(2) Twenty-five dollars ($25).

(d) A library board may charge a reduced fee or not charge a fee for a local library card under subsection (c) that is issued to an Indiana resident who is:

(1) a student enrolled in a public school corporation that is located at least in part in the library district; and

(2) not a resident of the library district.

(e) A library board may charge a reduced fee or not charge a fee for a local library card under subsection (c) that is issued to an Indiana resident who is a student enrolled in a nonpublic school that is located at least in part in the library district.

SECTION 2. IC 36-12-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8.5. Library Services Authorities; Conversion Into Nonprofit Corporation

Sec. 1. The definitions in IC 36-12-8 apply to this chapter.

Sec. 2. As used in this chapter, "authority" refers to a library services authority established under IC 36-12-8.

Sec. 3. As used in this chapter, "plan" refers to a plan of merger.

Sec. 4. This chapter applies to the following entities:

(1) An authority.

(2) A domestic nonprofit corporation that merges with an authority under this chapter.

Sec. 5. An authority may merge under this chapter with:

(1) one (1) or more other library services authorities;

(2) a domestic nonprofit corporation; or

(3) both:

(A) one (1) or more other library services authorities; and

(B) a domestic nonprofit corporation;

to form a domestic nonprofit corporation and gain the rights, privileges, immunities, and franchises available under IC 23-17.

Sec. 6. (a) A merger and conversion into a domestic nonprofit corporation under this chapter must be:

(1) proposed by the executive committee of an authority by a resolution of merger and conversion; and

(2) adopted by the affirmative vote of at least two-thirds (2/3) of the qualified and acting voting members of the executive committee physically present at a meeting at which a quorum is present.

The resolution of merger and conversion required under this subsection must include the plan of merger between the authority

and the surviving corporation.

(b) A plan of merger included in a resolution of merger and conversion under subsection (a) must include the following:

(1) The name of:

(A) each entity planning to merge; and

(B) the surviving corporation into which the entities plan to merge.

(2) The terms and conditions of the planned merger and conversion.

(3) The manner and basis, if any, of converting the memberships in the authority into memberships in the surviving corporation.

(c) A plan may include the following:

(1) Amendments to, or a restatement of, the articles of incorporation or bylaws of the surviving corporation.

(2) Other provisions relating to the planned merger and conversion.

(3) A delayed effective date.

(d) For a merger under this chapter to be completed, the plan of merger, in addition to being approved under subsection (a), must be approved as follows:

(1) The plan must be approved by the affirmative vote of:

(A) at least two-thirds (2/3) of the qualified and acting members of the board of directors; and

(B) at least two-thirds (2/3) of the members;

of the domestic nonprofit corporation that will be the surviving corporation after the merger. If the corporation that will be the surviving corporation is being formed for purposes of the merger, the approval under this subdivision must be given after the formation of the corporation.

(2) The plan must also be approved by the affirmative vote of at least two-thirds (2/3) of the qualified and acting members of the board of directors of the authority who are present in person or by proxy at a meeting of the board of directors of the authority at which a quorum is present.

(e) If the board of directors of the corporation that will be the surviving corporation after the merger seeks to have the plan approved by the members of the corporation at a membership meeting, the corporation shall give notice of the proposed

membership meeting to the members of the corporation under IC 23-17-10-5. The notice must state that the purpose of the meeting is to consider the plan, and the notice must contain or be accompanied by a copy or summary of the plan.

(f) If the executive committee of the authority seeks to have the plan approved by the board of directors of the authority at a meeting of the board of directors, the authority shall give notice of the meeting to the members of the board of directors at least thirty (30) days before the meeting. The notice must state that the purpose of the meeting is to consider the plan, and the notice must contain or be accompanied by a copy or summary of the plan. The copy or summary of the plan must include a copy or summary of the articles of incorporation and bylaws that will be in effect after the merger and conversion take effect.

(g) An action taken at any time to propose, consider, approve, or adopt a merger and conversion or a plan of merger and conversion under this section is valid for purposes of this section.

Sec. 7. After a plan of merger is approved under section 6 of this chapter, the surviving corporation shall deliver to the secretary of state articles of merger that include the following:

(1) The plan.

(2) The following concerning the authority that will undergo merger and conversion into a domestic nonprofit corporation under the plan:

(A) If the approval of the members of the authority was not required for the merger, a statement to the effect that approval of the members was not required and a statement that the plan was approved by a sufficient vote of the board of directors and the executive committee of the authority.

(B) If the approval of the members of the authority was required for the merger, the following:

(i) The designation, number of memberships outstanding, number of votes entitled to be cast by each class entitled to vote separately on the plan, and the number of votes of each class undisputedly voting on the plan.

(ii) Either the total number of votes for and votes against the plan cast by each class entitled to vote separately on

the plan, or the total number of undisputed votes cast for the plan by each class and a statement that the number of votes cast for the plan by each class was sufficient for approval by that class.

(3) The following concerning the corporation that will be the surviving corporation after a merger under this chapter:

(A) If the approval of the plan by a person other than the board of directors or members of the corporation is required, a statement that the approval was obtained.

(B) If the approval of the plan by the members of the corporation was not required, a statement to the effect that approval of the members was not required and a statement that the plan was approved by a sufficient vote of the board of directors.

(C) If the approval of the plan by the members of the corporation was required, the following:

(i) The designation, number of memberships outstanding, number of votes entitled to be cast by each class entitled to vote separately on the plan, and the number of votes of each class undisputedly voting on the plan.

(ii) Either the total number of votes for and votes against the plan cast by each class entitled to vote separately on the plan, or the total number of undisputed votes cast for the plan by each class and a statement that the number of votes cast for the plan by each class was sufficient for approval by that class.

Sec. 8. (a) When a merger and conversion under this chapter take effect, the following occur:

(1) An authority that is a party to the merger and conversion merges into the surviving corporation and the separate existence of the authority ceases.

(2) The surviving corporation has all of the rights, privileges, immunities, and powers and is subject to all the duties, restrictions, penalties, and liabilities of a nonprofit corporation organized under IC 23-17.

(3) The surviving corporation:

(A) does not have the rights, privileges, immunities, and powers; and

(B) is not subject to the duties, restrictions, penalties, and liabilities;

of an authority, including, without limitation, those provided under IC 36-12-8 or IC 36-12-9.

(4) The title to real property and other property owned by each party to the merger is vested in the surviving corporation without reversion or impairment, subject to any conditions to which the property was subject before the merger.

(5) Subject to subdivision (3), the surviving corporation has all of the liabilities and obligations of each party to the merger.

(6) A proceeding pending against a party to the merger may be continued as if the merger and conversion had not occurred, or the surviving corporation may be substituted in the proceeding for the party whose existence ceased.

(7) The articles of incorporation and bylaws of the surviving corporation are amended or restated to the extent provided in the plan.

(b) After a merger and conversion take effect under this chapter, any terms of the plan that are not included in the articles of incorporation are considered to be contract rights only and are not part of the governing document of the corporation.

Sec. 9. A nonprofit corporation organized under IC 23-17 that is a party to a merger with an authority under this chapter shall comply with the applicable requirements of IC 23-17-19 relating to mergers except when those requirements are inconsistent with this chapter.

Sec. 10. (a) The secretary of state shall approve or disapprove articles of merger filed under this chapter after first making the examinations or investigations the secretary of state considers necessary to determine whether the proposed merger and conversion is lawful.

(b) If the secretary of state approves the articles of merger:

(1) the approval is conclusive proof that the parties to the merger satisfied all conditions precedent to the merger; and

(2) the effective date of the merger and conversion is the date of the filing of the articles of merger, unless a delayed effective date is specified in the articles.

Sec. 11. (a) After a merger and conversion under this chapter become effective, the surviving corporation resulting from the merger and conversion may file for record a file stamped copy of the articles of merger with the county recorder of each county in which is located real property:

(1) that, when the merger and conversion became effective, was owned by a merging entity; and

(2) the title to which is transferred by the merger and conversion.

(b) If a plan sets forth amendments to the articles of incorporation of the surviving corporation that change the surviving corporation's corporate name, the surviving corporation may file for record a file stamped copy of the articles of merger with the county recorder of each county in which is located real property that was owned by the surviving corporation when the merger and conversion became effective.

(c) A failure to record under this section does not affect the validity of:

(1) a merger and conversion under this chapter; or

(2) the change in corporate name of a surviving corporation described in subsection (b).

SECTION 3. **An emergency is declared for this act.**

P.L.92-2009

[H.1374. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 27-7-3.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 3.7. Escrow Transactions in Real Estate Transactions

Sec. 1. (a) As used in this chapter, "closing agent" means a person that:

(1) closes an escrow transaction in connection with the purchase, sale, or financing of an interest in real estate; and

(2) is required to be licensed as an insurance producer under IC 27-1-15.6.

(b) The term does not include a lender or an employee of a lender that conducts a settlement or closing of a real estate secured loan provided by the lender in the office of the lender.

Sec. 2. As used in this chapter, "escrow account" means a checking account established by a closing agent with a:

(1) bank;

(2) savings and loan association;

(3) credit union; or

(4) savings bank;

that is chartered under the laws of a state or the United States and used exclusively for the deposit and disbursement of funds for an escrow transaction.

Sec. 3. (a) As used in this chapter, "escrow transaction" means a transaction in which a person deposits with a closing agent funds that are to be held until:

(1) a specified event occurs; or

(2) the performance of a prescribed condition;

in connection with the purchase, sale, or financing of an interest in real estate.

(b) The term does not include a loan financing if:

(1) the only parties to the loan transaction are the lender and the borrower; and

(2) the lender is responsible for disbursing all of the funds to the borrower or to a third party in order to pay fees and charges associated with the loan transaction.

Sec. 4. As used in this chapter, "good funds" means funds in any of the following forms:

(1) United States currency.

(2) Wired funds unconditionally held by and irrevocably credited to the escrow account of the closing agent.

(3) Certified or cashier's checks that are drawn on an existing account at a:

(A) bank;

(B) savings and loan association;

(C) credit union; or

(D) savings bank;

chartered under the laws of a state or the United States.

(4) A check drawn on the trust account of a real estate broker licensed under IC 25-34.1, if the closing agent has reasonable and prudent grounds to believe that sufficient funds will be available for withdrawal from the account on which the check is drawn at the time of disbursement of funds from the closing agent's escrow account.

(5) A personal check not to exceed five hundred dollars ($500) per closing.

(6) A check issued by the state, the United States, or a political subdivision of the state or the United States.

(7) A check drawn on the escrow account of another closing agent, if the closing agent in the escrow transaction has reasonable and prudent grounds to believe that sufficient funds will be available for withdrawal from the account upon which the check is drawn at the time of disbursement of funds from the escrow account of the closing agent in the escrow transaction.

(8) A check issued by a farm credit service authorized under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

Sec. 5. (a) As used in this section, "real estate transaction" refers to any:

(1) escrow transaction;

(2) settlement; or

(3) closing;

conducted in connection with the purchase, sale, or financing of an interest in real estate.

(b) The term does not include a real estate secured loan financing if:

(1) the only parties to the loan transaction are the lender and the borrower; and

(2) the lender is responsible for disbursing all of the funds to the borrower or to a third party in order to pay fees and charges associated with the loan transaction.

Sec. 6. Funds received in connection with an escrow transaction

must be deposited in an escrow account unless the parties to the escrow transaction agree in writing to another arrangement.

Sec. 7. A closing agent may not make disbursements from an escrow account in connection with a real estate transaction unless any funds that:

(1) are received from any single party to the real estate transaction; and

(2) in the aggregate are at least ten thousand dollars ($10,000);

are wired funds that are unconditionally held by and irrevocably credited to the escrow account of the closing agent.

Sec. 8. A closing agent may not make disbursements from an escrow account in connection with a real estate transaction unless any funds that:

(1) are received from any single party to the real estate transaction; and

(2) in the aggregate are less than ten thousand dollars ($10,000);

are good funds.

Sec. 9. If:

(1) the closing agent in a real estate transaction receives wired funds unconditionally held and irrevocably credited to the escrow account of the closing agent; and

(2) a holder of a mortgage lien encumbering real estate so requests, as part of written closing instructions or a written payoff statement in advance of closing;

the holder of the mortgage lien is entitled to receive its proceeds from the real estate transaction through funds electronically transferred to an account specified by the holder of the mortgage lien.

Sec. 10. A closing agent may advance an amount not to exceed five hundred dollars ($500) from an escrow account on behalf of a party to an escrow transaction for the purpose of paying incidental fees, including conveyance and recording fees. Incidental fees may be paid in order to:

(1) effect and close the sale of;

(2) purchase;

(3) exchange;

(4) transfer;

(5) encumber; or

(6) lease;

real property that is the subject of the escrow transaction.

P.L.93-2009

[H.1455. Approved May 6, 2009.]

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

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

SECTION 1. IC 5-2-1-9, AS AMENDED BY HEA 1198-2009, SECTION 14, AND AS AMENDED BY SEA 307-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. The rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, law enforcement training centers, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity

awareness that must be required for each person accepted for training at a law enforcement training school or academy.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with:

(A) persons with **autism,** mental illness, addictive disorders, mental retardation, and developmental disabilities; and

(B) missing endangered adults (as defined in IC 12-7-2-131.3); to be provided by persons approved by the secretary of family and social services and the board.

(10) Minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice training programs for law enforcement officers. The course must cover the following topics:

(A) Examination of the human and sexual trafficking laws (IC 35-42-3.5).

(B) Identification of human and sexual trafficking.

(C) Communicating with traumatized persons.

(D) Therapeutically appropriate investigative techniques.

(E) Collaboration with federal law enforcement officials.

(F) Rights of and protections afforded to victims.

(G) Providing documentation that satisfies the Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B) requirements established under federal law.

(H) The availability of community resources to assist human and sexual trafficking victims.

(b) Except as provided in subsection (l), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), (l), (r), and (s), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy or at a law enforcement training center under section 10.5 or 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) This subsection does not apply to:

(1) a gaming agent employed as a law enforcement officer by the Indiana gaming commission; or

(2) an:

(A) attorney; or

(B) investigator;

designated by the securities commissioner as a police officer of the state under IC 23-19-6-1(i).

Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

(1) law enforcement officers;

(2) police reserve officers (as described in IC 36-8-3-20); and

(3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, the lawful use of force, **interacting with individuals with autism,** and the operation of an emergency vehicle. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of at least forty (40) hours of course work. The board may prepare the classroom part of the pre-basic course using available technology in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including postsecondary educational institutions.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes the mandatory inservice training requirements established by rules adopted by the board. Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, **autism,** and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the board, and training concerning human and sexual trafficking. The board may approve courses offered by other public or private training

entities, including postsecondary educational institutions, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to either of the following:

(1) An emergency situation.

(2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

(1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.

(2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having not more than one (1) marshal and two (2) deputies.

(4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(6) The program must require training in interacting with individuals with autism.

(i) The board shall adopt rules under IC 4-22-2 to establish an executive training program. The executive training program must include training in the following areas:

(1) Liability.

(2) Media relations.

(3) Accounting and administration.

(4) Discipline.

(5) Department policy making.

(6) Lawful use of force.

(7) Department programs.

(8) Emergency vehicle operation.

(9) Cultural diversity.

(j) A police chief shall apply for admission to the executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the executive training program within six (6) months of the date the police chief initially takes office. However, if space in the executive training program is not available at a time that will allow completion of the executive training program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available executive training program that is offered after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not continue to serve as the police chief until completion of the executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

(1) the police chief of any city;

(2) the police chief of any town having a metropolitan police department; and

(3) the chief of a consolidated law enforcement department established under IC 36-3-1-5.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the executive training program.

(l) A fire investigator in the division of fire and building safety appointed after December 31, 1993, is required to comply with the basic training standards established under this chapter.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

(n) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) has not been employed as a law enforcement officer for at least two (2) years and less than six (6) years before the officer is

hired under subdivision (1) due to the officer's resignation or retirement; and

(3) completed at any time a basic training course certified by the board before the officer is hired under subdivision (1).

(o) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) has not been employed as a law enforcement officer for at least six (6) years and less than ten (10) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement;

(3) is hired under subdivision (1) in an upper level policy making position; and

(4) completed at any time a basic training course certified by the board before the officer is hired under subdivision (1).

A refresher course established under this subsection may not exceed one hundred twenty (120) hours of course work. All credit hours received for successfully completing the police chief executive training program under subsection (i) shall be applied toward the refresher course credit hour requirements.

(p) Subject to subsection (q), an officer to whom subsection (n) or (o) applies must successfully complete the refresher course described in subsection (n) or (o) not later than six (6) months after the officer's date of hire, or the officer loses the officer's powers of:

(1) arrest;

(2) search; and

(3) seizure.

(q) A law enforcement officer who has worked as a law enforcement officer for less than twenty-five (25) years before being hired under subsection (n)(1) or (o)(1) is not eligible to attend the refresher course described in subsection (n) or (o) and must repeat the full basic training course to regain law enforcement powers. However, a law enforcement officer who has worked as a law enforcement officer for at least twenty-five (25) years before being hired under subsection (n)(1) or (o)(1) and who otherwise satisfies the requirements of subsection (n) or (o) is not required to repeat the full basic training course to regain law enforcement power but shall attend the refresher course described

in subsection (n) or (o) and the pre-basic training course established under subsection (f).

(r) This subsection applies only to a gaming agent employed as a law enforcement officer by the Indiana gaming commission. A gaming agent appointed after June 30, 2005, may exercise the police powers described in subsection (d) if:

(1) the agent successfully completes the pre-basic course established in subsection (f); and

(2) the agent successfully completes any other training courses established by the Indiana gaming commission in conjunction with the board.

(s) This subsection applies only to a securities enforcement officer designated as a law enforcement officer by the securities commissioner. A securities enforcement officer may exercise the police powers described in subsection (d) if:

(1) the securities enforcement officer successfully completes the pre-basic course established in subsection (f); and

(2) the securities enforcement officer successfully completes any other training courses established by the securities commissioner in conjunction with the board.

(t) As used in this section, "upper level policy making position" refers to the following:

(1) If the authorized size of the department or town marshal system is not more than ten (10) members, the term refers to the position held by the police chief or town marshal.

(2) If the authorized size of the department or town marshal system is more than ten (10) members but less than fifty-one (51) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next rank and pay grade immediately below the police chief or town marshal.

(3) If the authorized size of the department or town marshal system is more than fifty (50) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next two (2) ranks and pay grades immediately below the police chief or town

marshal.

SECTION 2. IC 20-26-5-32.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 10, 2010]: **Sec. 32.4. The Department of Education shall create a document explaining aspects of autism including behaviors that students with autism may exhibit. Said document is to be distributed to school corporations for distribution to noncertificated employees (as defined in IC 20-29-2-11).**

SECTION 3. IC 36-8-10.5-7, AS AMENDED BY P.L.148-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) The education board shall adopt rules under IC 4-22-2 establishing minimum basic training requirements for full-time firefighters and volunteer firefighters, subject to subsection (b). The requirements must include training in the following areas:

(1) Orientation.
(2) Personal safety.
(3) Forcible entry.
(4) Ventilation.
(5) Apparatus.
(6) Ladders.
(7) Self-contained breathing apparatus.
(8) Hose loads.
(9) Streams.
(10) Basic recognition of special hazards.

(b) A person who fulfills the certification requirements for:

(1) Firefighter I, as described in 655 IAC 1-2.1-4; or
(2) Firefighter II, as described in 655 IAC 1-2.1-5;

is considered to comply with the requirements established under subsection (a).

(c) In addition to the requirements of subsections (a) and (d), the minimum basic training requirements for full-time firefighters and volunteer firefighters must include successful completion of a basic or inservice course of education and training on sudden infant death syndrome that is certified by the **Indiana** emergency medical services commission (created under IC 16-31-2-1) in conjunction with the state health commissioner.

(d) In addition to the requirements of subsections (a) and (c), the

minimum basic training requirements for full-time and volunteer firefighters must include successful completion of an instruction course on vehicle emergency response driving safety. The education board shall adopt rules under IC 4-22-2 to operate this course.

(e) In addition to the requirements of subsections (a), (c), and (d), the minimum basic training requirements for full-time and volunteer firefighters must include successful completion of a basic or inservice course of education and training in interacting with individuals with autism that is certified by the Indiana emergency medical services commission (created under IC 16-31-2-1).

P.L.94-2009
[H.1487. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-23-12 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 12. Coal: Estates in Land

Sec. 1. This chapter does not do the following:

(1) Provide an exclusive basis by which a joint owner in coal or a lessee of the coal owner may enjoy their estate in the coal land.

(2) Diminish the rights of a joint owner of coal or a lessee of the coal owner under common law.

(3) Diminish the appurtenant rights of a coal owner.

(4) Prohibit a joint owner from filing a petition for partition under IC 32-17-4, provided that the petition for partition is filed in accordance with and subject to IC 32-23-12-9(d).

(5) Prohibit any entity with eminent domain powers from

acquiring all or a portion of the coal land by exercise of eminent domain powers.

Sec. 2. As used in this chapter, "coal land" means the coal estate in land that contains coal and is subject to a vested interest by a plaintiff, under this chapter, to the coal lying within the land.

Sec. 3. As used in this chapter, "coal owner" means a person vested with an undivided fractional fee simple interest or other freehold interest in coal contained within the coal land. However, the term does not include a person with only a leasehold, easement, or right-of-way interest in the coal land.

Sec. 4. As used in this chapter, "joint owner" means a person who is a joint tenant, a tenant in common, a tenant by the entirety, or other person who is a coal owner of less than one hundred percent (100%) of an undivided interest in all the coal within the coal land that is sought to be developed.

Sec. 5. A proceeding under this chapter must be brought in the circuit or superior court of the county:

(1) where the coal land sought to be affected is entirely located; or

(2) if the coal land is located in more than one (1) county, the county where the major part of the coal land is located.

Sec. 6. (a) If the title to coal lying within the land is owned by joint owners, a coal owner or coal lessee of the coal owner that meets the requirements under this chapter is authorized to mine and remove coal from the land subject to this chapter.

(b) The circuit or superior court of the county in which the coal land or the major part of the coal land lies may:

(1) declare a trust in the coal land;

(2) appoint without a bond a trustee for all persons owning an interest in the coal land who are not plaintiffs or the lessor of the plaintiffs under a valid and subsisting coal lease; and

(3) authorize the trustee to sell, execute, and deliver a valid lease on the coal land on behalf of each defendant on terms and conditions approved by the circuit court as provided in this chapter.

(c) A lease created under this chapter continues after the termination of the trust, unless the lease has expired by its own terms.

Sec. 7. Proceedings for the appointment of a trustee may be

instituted by any person who is:

(1) a coal owner of the coal sought to be developed; or

(2) vested with a valid and subsisting coal lease, if the lessor is a person described in subdivision (1).

Sec. 8. (a) The person seeking to create a trust for an interest in coal land for the purpose of leasing and developing the coal interest shall join as a defendant each person who has a legal interest in the coal land, except for any plaintiffs or persons having a legal interest in the coal land who at the time of the action are parties to a valid and existing lease granting to the plaintiff the mining rights sought by the plaintiff. A person who might have a contingent or future interest in the coal land is bound by the judgment entered in the proceedings.

(b) The plaintiff shall file a verified petition that specifically sets forth the following:

(1) The request of each plaintiff that a trustee be appointed to execute a lease granting the plaintiff the right to mine and remove coal from the subject coal land.

(2) The legal description of the coal land.

(3) The interest of the plaintiff in the coal within the coal land.

(4) The apparent interest of each defendant in the coal within the coal land.

(5) A statement that the plaintiff is willing to purchase a mineral lease covering the interest of each defendant and that the existence of these unleased mineral interests is detrimental to and impairs the enjoyment of the interest of the plaintiff.

(c) The Indiana rules of trial procedure govern an action under this chapter to make an unknown party a defendant.

(d) The court shall appoint a guardian ad litem for any defendant to the proceeding who is a ward of the state or a ward to another person.

(e) If it appears to the court that a person who is not in being, but upon coming into being, is or may be entitled to any interest in the property sought to be leased, the court shall appoint a guardian ad litem to appear for and represent the interest in the proceeding and to defend the proceeding on behalf of the person not in being. A judgment or order entered by the circuit court in the proceeding is effective against the person not in being.

(f) The court shall receive evidence and hear testimony

concerning:

(1) the matters in the plaintiff's petition; and

(2) the prevailing terms of similar coal leases obtained in the vicinity of the coal land in the petition, including the length of the lease term, bonus money, delay rentals, royalty rates, and other forms of lease payments.

If, upon taking evidence and hearing testimony, the court determines that the material allegations of the petition are true and that there has been compliance with the required notice provisions, the court shall enter an order determining the interest of each defendant in the coal land sought to be leased. The court shall also appoint a trustee for the purpose of executing in favor of the plaintiff a coal lease covering the interest of each defendant. The court's judgment appointing the trustee and authorizing the execution of the lease must specify the minimum terms that may be accepted by the trustee. Those terms must be substantially consistent with the terms of other similar coal leases obtained in the vicinity as determined by the court. The terms of the coal lease also must be substantially consistent with the terms of other existing leases, if any, covering the remaining coal interests in the land described in the petition.

(g) The coal land to be covered by a coal lease must be contiguous. To the extent that any of the coal land described in the petition is not contiguous to other coal land in the petition, that coal land must be subject to separate coal leases.

(h) The court shall determine a reasonable fee to be paid to the trustee and the trustee's reasonable attorney's fees and costs of the proceeding, which shall be paid by the plaintiff.

(i) Each plaintiff shall promptly furnish to the court a report of proceedings of the evidence received and testimony taken at the hearing on the petition. The report of proceedings shall be filed and made a part of the case record.

(j) In proceedings under this chapter, the circuit or superior court may:

(1) investigate and determine questions of conflicting or controverted titles;

(2) remove invalid and inapplicable encumbrances from the title to the coal land; and

(3) establish and confirm the title to the coal or the right to

mine and remove coal from any of the coal land.

Sec. 9. (a) The trustee shall:

(1) enter into negotiations with the plaintiff;

(2) execute a coal lease in favor of the plaintiff covering the interest of the defendant that reflects the findings and judgment of the circuit or superior court; and

(3) promptly prepare and file a report of the coal lease stating the terms of the lease and the payments received for the lease and give notice to all parties appearing of record.

(b) The circuit or superior court shall review the coal lease under subsection (a) to determine if the sale is in accordance with the court's findings and judgment. If the circuit or superior court approves the sale of the coal lease, the court shall:

(1) issue an order confirming the sale; and

(2) issue an order terminating the trust.

(c) If, before an order confirming the lease pursuant to subsection (b) is issued, a party to the proceedings files, in accordance with subsection (d), a petition for partition under IC 32-17-4 applicable to the coal land, whether solely for the coal estate or for estates in the subject land in addition to and including the coal estate, the proceedings under this chapter shall be stayed during the pendency of the proceeding initiated under IC 32-17-4, and upon any final order of partition or sale in that procceding, the proceedings under this chapter shall be terminated.

(d) Any petition for partition under IC 32-17-4 applicable to the coal land filed during the pendency of any petition filed under this chapter shall be filed in the same court exercising jurisdiction over the petition filed under this chapter. If any defendant in a proceeding under this chapter files during the pendency of any proceeding under this chapter a petition for partition under IC 32-17-4 applicable to the coal land, and the petition for partition is subsequently dismissed or terminated prior to a final order of partition or sale, the same defendant may not refile a subsequent petition for partition applicable to the coal land under IC 32-17-4 until the proceedings under this chapter are concluded.

(e) If a petition for partition is filed under IC 32-17-4 after an order confirming a lease pursuant to subsection (b) has been issued, any land partitioned or sold shall be partitioned or sold subject to the lease.

Sec. 10. Any payment that is owed to a defendant under a coal lease executed by the trustee must be paid by the plaintiff directly to the defendant.

Sec. 11. The sale of and execution of any coal lease under this chapter is binding concerning the interest in the coal and the right to mine and remove the coal owned by any defendant to the action in the same manner as if the defendant had personally signed and delivered the lease. The coal lease is binding on the heirs, legatees, personal representatives, successors, and assigns of the defendant.

Sec. 12. (a) If a trustee:

(1) dies or resigns; or

(2) refuses or is unable to act;

the circuit or superior court shall, upon either the court's motion or the motion of a plaintiff, appoint a successor trustee.

(b) After the entry of the initial judgment authorizing a lease, all subsequent proceedings pertaining to the coal land and the coal interest involved in the initial litigation, including subsequent leasing proceedings or proceedings by the trustee requesting authority to execute and deliver additional documents pertaining to a coal lease, must be commenced in the same court as the proceedings for the initial lease. The acting trustee at the time of any subsequent proceedings shall act as the trustee in the subsequent proceedings. The circuit or superior court retains continuing jurisdiction over any subsequent proceedings.

Sec. 13. The court costs related to the proceedings allowed under this chapter must be paid by the plaintiff.

Sec. 14. This chapter shall be liberally construed so that any lease issued under this chapter conveys marketable title.

P.L.95-2009
[H.1511. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

SECTION 1. IC 31-9-2-67 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 67. "Joint legal custody", for purposes of **IC 31-14-13,** IC 31-17-2-13, IC 31-17-2-14, and IC 31-17-2-15, means that the persons awarded joint custody will share authority and responsibility for the major decisions concerning the child's upbringing, including the child's education, health care, and religious training.

SECTION 2. IC 31-14-13-2.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.3. (a) In a proceeding to which this chapter applies, the court may award legal custody of a child jointly if the court finds that an award of joint legal custody would be in the best interest of the child.**

(b) An award of joint legal custody under this section does not require an equal division of physical custody of the child.

(c) In determining whether an award of joint legal custody under this section would be in the best interest of the child, the court shall consider it a matter of primary, but not determinative, importance that the persons awarded joint legal custody have agreed to an award of joint legal custody. The court shall also consider:

(1) the fitness and suitability of each of the persons awarded joint legal custody;

(2) whether the persons awarded joint legal custody are willing and able to communicate and cooperate in advancing the child's welfare;

(3) the wishes of the child, with more consideration given to the child's wishes if the child is at least fourteen (14) years of age;

(4) whether the child has established a close and beneficial relationship with both of the persons awarded joint legal custody;

(5) whether the persons awarded joint legal custody:

(A) live in close proximity to each other; and

(B) plan to continue to do so;

(6) the nature of the physical and emotional environment in the home of each of the persons awarded joint legal custody; and

(7) whether there is a pattern of domestic or family violence.

SECTION 3. IC 31-14-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. **Except as otherwise provided in an order by a court,** the custodial parent may determine the child's upbringing, which includes education, health care, and religious training, unless the court determines that the best interests of the child require a limitation on this authority.

SECTION 4. IC 31-14-14-1, AS AMENDED BY P.L.68-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A noncustodial parent is entitled to reasonable parenting time rights unless the court finds, after a hearing, that parenting time might:

(1) endanger the child's physical health and well-being; or

(2) significantly impair the child's emotional development.

(b) The court may interview the child in chambers to assist the court in determining the child's perception of whether parenting time by the noncustodial parent might endanger the child's physical health or significantly impair the child's emotional development.

(c) In a hearing under subsection (a), there is a rebuttable presumption that a person who has been convicted of:

(1) child molesting (IC 35-42-4-3); or

(2) child exploitation (IC 35-42-4-4(b));

might endanger the child's physical health and well-being or significantly impair the child's emotional development.

(d) If a court grants parenting time rights to a person who has been convicted of:

(1) child molesting (IC 35-42-4-3); or

(2) child exploitation (IC 35-42-4-4(b));

there is a rebuttable presumption that the parenting time with the child must be supervised.

~~(c)~~ **(e)** The court may permit counsel to be present at the interview. If counsel is present:

(1) a record may be made of the interview; and

(2) the interview may be made part of the record for purposes of appeal.

P.L.96-2009

[H.1535. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-13-14-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 13. (a) Before January 1, 2010, the division shall implement a program that provides a farmer's market administrator or a retailer who sells food at a farmers' market with a wired or wireless point of sale terminal that is connected to the EBT system.**

(b) Notwithstanding subsection (a), the director of the division of family resources may limit, to a number not less than twenty (20), the number of wired or wireless point of sale terminals that are:

(1) connected to the EBT system; and

(2) issued to a farmer's market administrator or a retailer who sells food at a farmers' market.

This subsection expires July 1, 2010.

P.L.97-2009
[H.1593. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 25-36.1-2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 2. Practicing Surgical Technology

Sec. 1. As used in this chapter, "health care facility" means the following:

(1) A hospital that is licensed under IC 16-21-2.

(2) An ambulatory outpatient surgical center licensed under IC 16-21-2.

(3) A birthing center licensed under IC 16-21-2.

(4) An abortion clinic licensed under IC 16-21-2.

Sec. 2. As used in this chapter, "operating room circulator" means an individual who is:

(1) licensed as a registered nurse under IC 25-23;

(2) educated, trained, and experienced in perioperative nursing, as determined by the health care facility; and

(3) responsible for coordinating all nursing care, patient safety needs, and needs of the surgical team in the operating room during a surgical procedure.

Sec. 3. As used in this chapter, "surgical technology" means intraoperative surgical patient care that involves the following:

(1) Preparing the operating room for surgical procedures by:

(A) ensuring that surgical equipment is functioning properly and safely; and

(B) preparing sterile supplies, instruments, and equipment using sterile technique.

(2) Anticipating the needs of the surgical team based on knowledge of human anatomy and pathophysiology relating to the surgical patient and the patient's surgical procedure.

(3) Performing tasks in an operating room setting in the sterile field, including the following:

(A) Passing supplies, equipment, or instruments.

(B) Suctioning or sponging an operative site.

(C) Preparing and cutting suture material.

(D) Transferring and irrigating with fluids.

(E) Transferring, without administering, drugs within the sterile field.

(F) Handling specimens.

(G) Holding retractors.

(H) Assisting in counting sponges, needles, supplies, and instruments with an operating room circulator as allowed under section 6 of this chapter.

Sec. 4. This chapter does not prohibit a licensed practitioner from performing surgical technology functions if the practitioner is acting within the scope of the practitioner's license.

Sec. 5. (a) Except as provided in section 4 of this chapter, an individual may not practice surgical technology in a health care facility unless the individual meets one (1) of the following requirements:

(1) Is certified under IC 25-36.1-1.

(2) Has completed a surgical technology program provided by the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, or the commissioned corps of the United States Public Health Service.

(3) Provides evidence to the health care facility that the individual was employed to practice surgical technology in a health care facility before July 1, 2009.

(4) Is performing duties related to the individual's employment by the federal government.

(5) Is practicing surgical technology during the twelve (12) month period immediately following the completion of a degree from an accredited school of surgical technology.

(6) Has the appropriate abilities, as determined by the health care facility.

(b) An individual who is:

(1) described in subsection (a)(1), (a)(2), or (a)(3); and

(2) practicing surgical technology in a health care facility;

annually shall complete fifteen (15) hours of continuing education concerning surgical technology in order to continue practicing surgical technology.

(c) An individual who wants to practice surgical technology in a health care facility is responsible for establishing to the satisfaction of the health care facility that the individual has complied with this section.

(d) An individual practicing surgical technology in a health care facility is responsible for immediately notifying in writing the governing body of the health care facility, or the governing body's designee, of any changes in the individual's compliance with this section.

(e) A health care facility shall maintain copies of any written documentation provided by the individual to the health care facility under subsection (c) or (d) to show compliance with this section.

(f) This chapter does not require a health care facility to permit an individual described in subsection (a) to perform surgical technology services at the health care facility.

Sec. 6. (a) An individual described in section 5(a) of this chapter may assist an operating room circulator in performing circulating duties if the individual:

(1) has the necessary education, training, and experience, as determined by the health care facility; and

(2) is:

(A) assigned to perform the tasks by the health care facility; and

(B) supervised;

by the operating room circulator.

(b) An operating room circulator that is being assisted by an individual described in section 5(a) of this chapter shall be present in the operating room for the duration of the surgical procedure. However, the operating room circulator may leave the operating room for short periods of time as prescribed by the health care facility's policies.

P.L.98-2009
[H.1610. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 5-10.2-3-6.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6.3. (a) Notwithstanding any other provision in this article, IC 5-10.3, or IC 5-10.4, a member who:**

(1) has not attained vested status in the fund;

(2) is not an active participant in the fund; and

(3) is an active participant in a retirement plan established under IC 36-8-10-12;

may suspend membership in the fund and transfer the entire amount in the member's annuity savings account in accordance with the member's purchase of service credit under IC 36-8-10-12.5.

(b) A member who makes a transfer under IC 36-8-10-12.5 from the member's annuity savings account shall provide notice of the transfer on a form provided by the board.

(c) A transfer under IC 36-8-10-12.5 is irrevocable.

(d) A member who makes a transfer under this section waives all credit for service in the fund.

SECTION 2. IC 36-8-10-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 12.5. (a) This section applies after June 30, 2009, to active employee beneficiaries in a retirement plan established under this chapter.**

(b) As used in this section, "public retirement fund" refers to any of the following, either singly or collectively:

(1) The public employees' retirement fund (IC 5-10.3).

(2) The Indiana state teachers' retirement fund (IC 5-10.4).

(3) The state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement fund (IC 5-10-5.5).

(4) The state police pension trust (IC 10-12).

(5) The 1977 police officers' and firefighters' pension and disability fund (IC 36-8-8).

(6) A retirement plan established under this chapter by a department other than the department that employs the employee beneficiary who desires to purchase service credit under this section.

(c) Subject to subsection (j), if an employee beneficiary:

(1) has not attained vested status in; and

(2) is not an active participant in;

a public retirement fund other than the retirement plan established under this chapter by the department that employs the employee beneficiary, the employee beneficiary may make a transfer described in subsection (d) for the amount in the public retirement fund that is attributable to contributions made by or on behalf of the employee beneficiary (plus credited earnings).

(d) An employee beneficiary described in subsection (c) may transfer the amount described in subsection (c) to a retirement plan established under this chapter by the department that employs the employee beneficiary in order to purchase service credit in the retirement plan for the employee beneficiary's prior service in a public retirement fund.

(e) A transfer under subsection (d) is irrevocable. A transfer cannot exceed the amount necessary to fund the service purchase under subsection (d). Any amounts in the public retirement fund after the transfer shall remain subject to the public retirement fund's provisions.

(f) If an employee beneficiary makes a transfer under subsection (d), the employee beneficiary is entitled to receive service credit for the transferred amount equal to the service credit that would be purchased by a contribution of the same amount computed at the actuarial present value for an individual whose salary or wages and age would be the same as the salary or wages and age of the employee beneficiary on the transfer date.

(g) Before a transfer is made under this section, the employee

beneficiary must complete any forms required by:

(1) the public retirement fund from which the employee beneficiary is requesting a transfer; and

(2) the retirement plan established under this chapter to which the transfer is being made.

(h) An employee beneficiary who makes a transfer under subsection (d) must have at least the number of years of credited service necessary to receive an unreduced pension benefit in a retirement plan established under this chapter by the department that employs the employee beneficiary before the employee beneficiary may receive a benefit based on the amount transferred under this section.

(i) An employee beneficiary who:

(1) makes a transfer under subsection (d); and

(2) terminates employment before satisfying the eligibility requirements necessary to receive a monthly pension;

may withdraw the transferred amount, plus accumulated interest, from the retirement plan established under this chapter by the department that employs the employee beneficiary after submitting to the retirement plan established under this chapter a properly completed application for a refund. If a withdrawal of the transferred amount occurs under this subsection, the benefit payable to the employee beneficiary from the retirement plan established under this chapter shall be adjusted as necessary to ensure that the plan remains actuarially cost neutral to the county.

(j) The department may deny an application to transfer an amount under this section if the transfer would exceed the limitations under Section 415 of the Internal Revenue Code.

(k) If an employee beneficiary makes a transfer under subsection (d), the employee beneficiary waives all credit for the employee beneficiary's service in the public retirement fund from which the amount is transferred or paid.

(l) To the extent permitted by the Internal Revenue Code and applicable regulations, a retirement plan established under this chapter may accept, on behalf of an employee beneficiary who is purchasing permissive service credit under this section, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(m) To the extent permitted by the Internal Revenue Code and applicable regulations, a retirement plan established under this chapter may accept, on behalf of an employee beneficiary who is purchasing permissive service credit under this section, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

P.L.99-2009

[H.1669. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 4-13.6-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) After reviewing the proposals submitted and after receiving a recommendation from the budget committee, the department may approve an energy cost savings contract with a qualified provider that best meets the needs of the

governmental body if the department reasonably expects the cost of the qualified energy savings project recommended in the proposal would not exceed the amount to be saved in:

(1) energy costs;

(2) operational costs; or

(3) both energy and operational costs;

not later than ~~ten (10)~~ **twenty (20)** years after the date installation is completed if the recommendations in the proposal are followed.

(b) An energy cost savings contract must include a guarantee from the qualified provider to the state that:

(1) energy cost savings;

(2) operational cost savings; or

(3) both energy and operational cost savings;

will meet or exceed the cost of the qualified energy project not later than ~~ten (10)~~ **twenty (20)** years after the date installation is completed.

SECTION 2. IC 20-20-37.4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 37.4. Geothermal Conversion Revolving Fund

Sec. 1. As used in this chapter, "fund" refers to the geothermal conversion revolving fund established by section 3 of this chapter.

Sec. 2. As used in this chapter, "geothermal heating and cooling system" means a heating and cooling system that uses the natural temperature of the earth to generate heating and cooling.

Sec. 3. The geothermal conversion revolving fund is established for the purpose of making loans to school corporations that:

(1) install a geothermal heating and cooling system in a new facility; or

(2) install a geothermal heating and cooling system that replaces a conventional heating and cooling system.

Sec. 4. (a) The fund shall be administered by the Indiana bond bank. The expenses of administering the fund shall be paid from money in the fund.

(b) The fund consists of the following:

(1) Money appropriated by the general assembly.

(2) The repayment proceeds of loans made to school corporations from the fund.

(3) Any gifts and grants made to the fund or other money

required by law to be deposited in the fund.

(4) Any federal grants that are received to capitalize or supplement the fund.

(5) Any earnings on money in the fund.

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

(d) The fund shall be used by the Indiana bond bank as a revolving fund. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 5. Subject to the requirements of this chapter, the Indiana bond bank may loan money from the fund to a school corporation to assist the school corporation in paying for:

(1) the installation of a geothermal heating and cooling system in a new facility; or

(2) the installation of a geothermal heating and cooling system that replaces a conventional heating and cooling system.

Sec. 6. (a) The Indiana bond bank shall establish a written procedure for providing loans from the fund to school corporations. The written procedure must include at least the following:

(1) An application procedure.

(2) A procedure to identify projects that may qualify for a loan.

(3) Criteria for establishing the priority of projects for which loans will be made.

(4) Procedures for selecting projects for which loans will be made.

(b) To apply for a loan from the fund, a school corporation must submit an application that contains at least the following information:

(1) A description of the geothermal heating and cooling system that the school corporation proposes to install.

(2) An estimate of the cost of the geothermal heating and cooling system.

(3) An estimate of the amount by which the cost of installing the geothermal heating and cooling system exceeds the cost of installing a conventional heating and cooling system.

(4) Any other information required by the Indiana bond bank

in accordance with the written procedures established under this section.

Sec. 7. The following apply to a loan from the fund to a school corporation under this chapter:

(1) The loan may not exceed the difference between:

(A) the cost of installing a geothermal heating and cooling system; minus

(B) the cost of installing a conventional heating and cooling system.

(2) The Indiana bond bank shall determine the interest rate and other terms for the loan.

(3) A school corporation must enter into a loan agreement with the Indiana bond bank before receiving a loan from the fund. The loan agreement is a valid, binding, and enforceable agreement between the school corporation and the Indiana bond bank. The loan agreement must contain the following terms:

(A) A requirement that the loan proceeds be used to pay for:

(i) the installation of a geothermal heating and cooling system in a new facility; or

(ii) the installation of a geothermal heating and cooling system that replaces a conventional heating and cooling system.

(B) The term of the loan, which may not be longer than fifteen (15) years after the date of the loan.

(C) The repayment schedule.

(D) The interest rate of the loan.

(E) Any other terms and provisions that the Indiana bond bank requires.

Sec. 8. A school corporation receiving a loan under this chapter shall repay the loan from:

(1) the school corporation's general fund; or

(2) the school corporation's capital projects fund.

Sec. 9. The Indiana bond bank shall annually present a report to the budget committee that describes the projects funded with loans under this chapter.

SECTION 3. IC 36-1-12-1, AS AMENDED BY P.L.168-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]: Sec. 1. (a) Except as provided in this section, this chapter applies to all public work performed or contracted for by:

(1) political subdivisions; and

(2) their agencies;

regardless of whether it is performed on property owned or leased by the political subdivision or agency.

(b) This chapter does not apply to an officer or agent who, on behalf of a municipal utility, maintains, extends, and installs services of the utility if the necessary work is done by the employees of the utility.

(c) This chapter does not apply to hospitals organized or operated under IC 16-22-1 through IC 16-22-5 or IC 16-23-1, unless the public work is financed in whole or in part with cumulative building fund revenue.

(d) This chapter does not apply to tax exempt Indiana nonprofit corporations leasing and operating a city market owned by a political subdivision.

(e) As an alternative to this chapter, the governing body of a ~~school corporation~~ **political subdivision or its agencies** may **do the following:**

(1) Enter into a design-build contract as permitted under IC 5-30.

(2) Participate in a utility efficiency program or may enter into a guaranteed savings contract as permitted under IC 36-1-12.5.

(f) This chapter does not apply to a person that has entered into an operating agreement with a political subdivision or an agency of a political subdivision under IC 5-23.

SECTION 4. IC 36-1-12.5-1, AS AMENDED BY P.L.168-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) As used in this chapter, "conservation measure":

(1) means:

(A) a ~~school~~ facility alteration;

(B) an alteration of a structure (as defined in IC 36-1-10-2);

(C) a technology upgrade; or

(D) with respect to an installation described in subdivision (2)(G) or (2)(H), an alteration of a structure or system;

designed to provide billable revenue increases or reduce energy or water consumption costs, wastewater costs, or other operating

costs; and

(2) includes the following:

(A) Providing insulation of the ~~school~~ facility or structure and systems in the ~~school~~ facility or structure.

(B) Installing or providing for window and door systems, including:

(i) storm windows and storm doors;

(ii) caulking or weatherstripping;

(iii) multi-glazed windows and doors;

(iv) heat absorbing or heat reflective glazed and coated windows and doors;

(v) additional glazing;

(vi) the reduction in glass area; and

(vii) other modifications that reduce energy consumption.

(C) Installing automatic energy control systems.

(D) Modifying or replacing heating, ventilating, or air conditioning systems.

(E) Unless an increase in illumination is necessary to conform to Indiana laws or rules or local ordinances, modifying or replacing lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility or structure.

(F) Providing for other conservation measures that provide billable revenue increases or reduce energy or water consumption, reduce operating costs, or reduce wastewater costs, including future:

(i) labor costs;

(ii) costs or revenues for contracted services; and

(iii) related capital expenditures.

(G) Installing equipment upgrades that improve accuracy of billable revenue generating systems.

(H) Installing automated, electronic, or remotely controlled systems or measures that reduce direct personnel costs.

(b) The term does not include an alteration of a water or wastewater structure or system that increases the capacity of the structure or system.

SECTION 5. IC 36-1-12.5-5, AS AMENDED BY P.L.168-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]: Sec. 5. (a) The governing body may enter into an agreement with a public utility to participate in a utility efficiency program or enter into a guaranteed savings contract with a qualified provider to increase the political subdivision's billable revenues or reduce the school corporation's or the political subdivision's energy or water consumption, wastewater usage costs, or operating costs if, after review of the report described in section 6 of this chapter, the governing body finds:

(1) in the case of conservation measures other than those that are part of a project related to the alteration of a water or wastewater structure or system, that the amount the governing body would spend on the conservation measures under the contract and that are recommended in the report is not likely to exceed the amount to be saved in energy consumption costs and other operating costs over ~~ten (10)~~ **twenty (20)** years from the date of installation if the recommendations in the report were followed;

(2) in the case of conservation measures that are part of a project related to the alteration of a water or wastewater structure or system, that the amount the governing body would spend on the conservation measures under the contract and that are recommended in the report is not likely to exceed the amount of increased billable revenues or the amount to be saved in energy and water consumption costs, wastewater usage costs, and other operating costs over ~~fifteen (15)~~ **twenty (20)** years from the date of installation if the recommendations in the report were followed; and

(3) in the case of a guaranteed savings contract, the qualified provider provides a written guarantee as described in subsection (d)(3).

(b) Before entering into an agreement to participate in a utility efficiency program or a guaranteed savings contract under this section, the governing body must publish notice under subsection (c) indicating:

(1) that the governing body is requesting public utilities or qualified providers to propose conservation measures through:

(A) a utility efficiency program; or

(B) a guaranteed savings contract; and

(2) the date, the time, and the place where proposals must be

received.

(c) The notice required by subsection (b) must:

(1) be published in two (2) newspapers of general circulation in the county where the school corporation or the political subdivision is located;

(2) be published two (2) times with at least one (1) week between publications and with the second publication made at least thirty (30) days before the date by which proposals must be received; and

(3) meet the requirements of IC 5-3-1-1.

(d) An agreement to participate in a utility efficiency program or guaranteed savings contract under this section must provide that:

(1) in the case of conservation measures other than those that are part of a project related to the alteration of a water or wastewater structure or system, all payments, except obligations upon the termination of the agreement or contract before the agreement or contract expires, may be made to the public utility or qualified provider (whichever applies) in installments, not to exceed the lesser of ~~ten (10)~~ **twenty (20)** years or the average life of the conservation measures installed from the date of final installation;

(2) in the case of conservation measures that are part of a project related to the alteration of a water or wastewater structure or system, all payments, except obligations upon the termination of the agreement or contract before the agreement or contract expires, may be made to the public utility or qualified provider (whichever applies) in installments, not to exceed the lesser of ~~fifteen (15)~~ **twenty (20)** years or the average life of the conservation measures installed from the date of final installation;

(3) in the case of the guaranteed savings contract:

(A) the:

(i) savings in energy and water consumption costs, wastewater usage costs, and other operating costs; and

(ii) increase in billable revenues;

due to the conservation measures are guaranteed to cover the costs of the payments for the measures; and

(B) the qualified provider will reimburse the school corporation or political subdivision for the difference between the guaranteed savings and the actual savings; and

(4) payments are subject to annual appropriation by the fiscal body of the school corporation or political subdivision and do not constitute an indebtedness of the school corporation or political subdivision within the meaning of a constitutional or statutory debt limitation.

(e) An agreement or a contract under this chapter is subject to IC 5-16-7.

SECTION 6. IC 36-1-12.5-7, AS AMENDED BY P.L.168-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) If the governing body enters into an installment payment contract for the purchase and installation of conservation measures under this chapter that are part of a project that is not related to the alteration of a water or wastewater structure or system, the balance of the payments must be paid in installments not to exceed the lesser of ~~ten (10)~~ **twenty (20)** years or the average life of the conservation measure installed from the date of final installation. Payments under an installment payment contract are subject to annual appropriation by the fiscal body of the school corporation or political subdivision and do not constitute an indebtedness of the school corporation or political subdivision within the meaning of a constitutional or statutory debt limitation.

(b) If the governing body enters into an installment payment contract for the purchase and installation of conservation measures under this chapter that are part of a project that is related to the alteration of a water or wastewater structure or system, the balance of the payments must be paid in installments not to exceed the lesser of ~~fifteen (15)~~ **twenty (20)** years or the average life of the conservation measure installed from the date of final installation. Payments under an installment payment contract are subject to annual appropriation by the fiscal body of the school corporation or political subdivision and do not constitute an indebtedness of the school corporation or political subdivision within the meaning of a constitutional or statutory debt limitation.

(c) With respect to a conservation measure described in section 1(a)(2)(G) or 1(a)(2)(H) of this chapter, annual revenues or savings from a guaranteed savings contract may be less than annual payments on the contract if during the length of the contract total savings and increased billable revenues occur as provided for by the contract.

(d) The financing of a guaranteed savings contract may be provided by:

(1) the vendor under the guaranteed savings contract; or

(2) a third party financial institution or company.

P.L.100-2009

[H.1681. Approved May 6, 2009.]

AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

SECTION 1. IC 21-11-3-2, AS ADDED BY P.L.2-2007, SECTION 252, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. The commission shall do the following:

(1) Prepare and supervise the issuance of public information concerning all of the commission's programs.

(2) Prescribe the form and regulate the submission of applications for all of the commission's programs.

(3) Determine the amounts of grants and scholarships.

(4) Determine eligibility for grants and scholarships.

(5) Receive federal funds made available to the commission for awards, grants, and scholarships, and disburse these funds in the manner prescribed by federal law.

(6) One (1) time every year, submit a report to the legislative council that provides data and statistical information regarding the number of individuals who received assistance under IC 21-12-6 and IC 21-12-6.5. The report made to the legislative council must be in an electronic format under IC 5-14-6.

SECTION 2. IC 21-12-6-14, AS ADDED BY P.L.168-2007,

SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) This section applies to a student described in section ~~2(b)~~ **5(b)** of this chapter.

(b) A caseworker **(as defined in IC 31-9-2-11)** shall provide each student to whom the caseworker is assigned information concerning the program at the appropriate time for the student to receive the information, ~~and~~ **shall** explain the program to the student, **and shall provide the student with information concerning:**

(1) Pell grants;

(2) Chafee grants;

(3) federal supplemental grants;

(4) the Free Application for Federal Student Aid; and

(5) the state student assistance commission.

(c) A student who receives information under this section shall sign a written acknowledgment that the student received the information. The written acknowledgment must be placed in the student's case file.

SECTION 3. IC 21-12-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 6.5. Eligibility for Twenty-First Century Scholars Program for Foster Care Youth

Sec. 1. This chapter applies to an individual who:

(1) is receiving foster care;

(2) is in grades 9 through 12; and

(3) is a resident of Indiana as determined under IC 21-11-7;

at the time the individual applies for the twenty-first century scholars program under IC 21-12-6.

Sec. 2. An individual described in section 1 of this chapter may enroll in the twenty-first century scholars program under IC 21-12-6 and is eligible for higher education benefits under IC 21-12-6.

Sec. 3. Determination of initial eligibility for higher education benefits authorized under this chapter is vested exclusively in the commission. Any individual described in section 1 of this chapter may make a written request for a determination by the commission of eligibility for benefits under this chapter. The commission shall make a written determination of eligibility in response to each request. In determining the amount of an eligible individual's

benefit, the commission shall consider other higher education financial assistance in conformity with this chapter.

Sec. 4. An appeal from an adverse determination under section 3 of this chapter must be made in writing to the commission not more than fifteen (15) working days after the applicant's receipt of the determination. A final order must be made not more than fifteen (15) days after receipt of the written appeal.

Sec. 5. A person who knowingly or intentionally submits a false or misleading application or other document under this chapter commits a Class A misdemeanor.

SECTION 4. IC 31-25-2-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4.5. One (1) time every year, the department shall submit a report to the legislative council that provides:**

(1) data and statistical information regarding the number of individuals receiving foster care who are notified of the twenty-first century scholars program under IC 21-12-6 and IC 21-12-6.5, including the percentage of individuals receiving foster care who are notified; and

(2) information regarding how the department notifies individuals in foster care of the twenty-first century scholars program under IC 21-12-6 and IC 21-12-6.5.

The report made to the legislative council must be in an electronic format under IC 5-14-6.

SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) The department of education, the department of child services, the state student assistance commission, and the commission for higher education shall jointly:**

(1) study whether there is a need for a foster care educational assistance program to assist a person who received foster care with educational assistance to supplement federal and state educational grants and assistance programs; and

(2) submit a report containing recommendations to the legislative council by October 1, 2009, concerning:

(A) whether legislation should be proposed to establish a foster care education assistance program; and

(B) the best agency to administer a foster care education assistance program.

The report made to the legislative council must be in an electronic

format under IC 5-14-6.

(b) This section expires December 31, 2009.

SECTION 6. **An emergency is declared for this act.**

P.L.101-2009

[S.16. Approved May 7, 2009.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 5-2-6.5-9, AS ADDED BY P.L.107-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) To establish or operate a commercial driver training school, the commercial driver training school must obtain a commercial driver training school license from the institute in the manner and form prescribed by the institute.

(b) Subject to subsections (c) and (d), the institute shall adopt rules under IC 4-22-2 that state the requirements for obtaining a commercial driver training school license, including the following:

(1) Location of the commercial driver training school.

(2) Equipment required.

(3) Courses of instruction.

(4) Instructors.

(5) Previous records of the commercial driver training school and instructors.

(6) Financial statements.

(7) Schedule of fees and charges.

(8) Character and reputation of the operators and instructors.

(9) Insurance in the amount and with the provisions the institute considers necessary to adequately protect the interests of the public.

(10) Other matters the institute prescribes for the protection of the

public.

(c) The rules adopted under subsection (b) must permit a licensed commercial driver training school to provide classroom training during which an instructor is present in a county outside the county where the commercial driver training school is located to the students of:

(1) a school corporation (as defined in IC 36-1-2-17);

(2) a nonpublic secondary school that voluntarily becomes accredited under IC 20-19-2-8;

(3) a nonpublic secondary school recognized under IC 20-19-2-10;

(4) a state educational institution; or

(5) a nonaccredited nonpublic school.

However, the rules must provide that a licensed commercial driver training school may provide classroom training in an entity listed in subdivisions (1) through (3) only if the governing body of the entity approves the delivery of the training to its students.

(d) Notwithstanding subsection (b)(3), the rules adopted under subsection (b) must provide that the classroom instruction and the practice driving instruction required for students of a commercial driver training school be the same as the rules adopted by the state board of education under IC 20-19-2-8(4) concerning the standards for driver education programs, including classroom instruction and practice driving.

(e) The rules adopted under subsection (b) must provide, effective July 1, 2010, that the classroom training part of driver education instruction may not be provided to a child less than fifteen (15) years and one hundred eighty (180) days of age.

SECTION 2. IC 9-13-2-177.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 177.3. "Telecommunications device", for purposes of IC 9-24-11-3.3, has the meaning set forth in IC 9-24-11-0.5.**

SECTION 3. IC 9-24-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. Except as otherwise provided in this article, the bureau shall issue an operator's license to an individual who meets the following conditions:

(1) Satisfies the age requirements ~~described~~ **set forth** in section 2 **or 2.5** of this chapter.

(2) Makes proper application to the bureau under IC 9-24-9 upon a form prescribed by the bureau. **Effective July 1, 2010, the form must include a verification concerning the number of hours of supervised driving practice that the individual has completed if the individual is required under section 2.5 of this chapter to complete a certain number of hours of supervised driving practice in order to receive an operator's license.**

(3) Satisfactorily passes the examination and tests required for issuance of an operator's license under IC 9-24-10.

(4) Pays the fee prescribed by IC 9-29-9.

SECTION 4. IC 9-24-3-2, AS AMENDED BY P.L.156-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. **(a)** Except as provided in section 3 of this chapter, an individual must meet one (1) of the following conditions to receive an operator's license:

(1) The applicant meets the following conditions:

(A) Is at least sixteen (16) years and thirty (30) days of age.

(B) Has held a valid learner's permit at least sixty (60) days.

(C) Has obtained an instructor's certification that the applicant has satisfactorily completed an approved driver education course.

(D) Has passed the required examination.

(2) The applicant meets the following conditions:

(A) Is at least sixteen (16) years and one hundred eighty (180) days of age.

(B) Has held a valid learner's permit for at least sixty (60) days.

(C) Has passed the required examination.

(3) The applicant meets the following conditions:

(A) Is at least sixteen (16) years and one hundred eighty (180) days of age.

(B) Has, within the past three (3) years, held an Indiana operator's, chauffeur's, or public passenger chauffeur's license that has not been suspended or revoked.

(C) Passes the required examination.

(4) The applicant meets the following conditions:

(A) Is at least sixteen (16) years and one hundred eighty (180) days of age.

(B) Has previously been a nonresident of Indiana but who, at the time of application, qualifies as an Indiana resident.

(C) Has held for at least one (1) year an unrevoked operator's, chauffeur's, or public passenger chauffeur's license in the state, district, or county in which the applicant has been a resident.

(D) Passes the required examination.

(b) This section expires June 30, 2010. The expiration of this section does not affect the validity of an operator's license issued under this section.

SECTION 5. IC 9-24-3-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.5. (a) This section applies beginning July 1, 2010.**

(b) Except as provided in section 3 of this chapter, an individual must satisfy the requirements set forth in one (1) of the following subdivisions to receive an operator's license:

(1) The individual meets the following conditions:

(A) Is at least sixteen (16) years and one hundred eighty (180) days of age.

(B) Has held a valid learner's permit for at least one hundred eighty (180) days.

(C) Obtains an instructor's certification that the individual has satisfactorily completed an approved driver education course.

(D) Passes the required examination.

(E) Completes at least fifty (50) hours of supervised driving practice, of which at least ten (10) hours are nighttime driving, with:

(i) a licensed instructor or a licensed driver who is at least twenty-five (25) years of age; or

(ii) the spouse of the individual who is at least twenty-one (21) years of age.

(2) The individual meets the following conditions:

(A) Is at least sixteen (16) years and two hundred seventy (270) days of age.

(B) Has held a valid learner's permit for at least one hundred eighty (180) days.

(C) Passes the required examination.

(D) Completes at least fifty (50) hours of supervised

driving practice, of which at least ten (10) hours are nighttime driving, with:

(i) a licensed instructor or a licensed driver who is at least twenty-five (25) years of age; or

(ii) the spouse of the individual who is at least twenty-one (21) years of age.

(3) The individual meets the following conditions:

(A) Is at least sixteen (16) years and one hundred eighty (180) days of age but less than eighteen (18) years of age.

(B) Has previously been a nonresident of Indiana, but, at the time of application, qualifies as an Indiana resident.

(C) Holds an unrevoked driver's license, excluding a learner's permit or the equivalent, in the state or a combination of states in which the individual formerly resided for at least one hundred eighty (180) days.

(D) Passes the required examination.

(4) The individual meets the following conditions:

(A) Is at least eighteen (18) years of age.

(B) Has previously been a nonresident of Indiana but, at the time of application, qualifies as an Indiana resident.

(C) Has held an unrevoked operator's, chauffeur's, commercial driver's, or public passenger chauffeur's license from the state of prior residence.

(D) Passes the required examination.

SECTION 6. IC 9-24-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a) This subsection expires June 30, 2010.** The bureau shall issue a learner's permit to an individual who meets the following conditions:

(1) Is at least fifteen (15) years of age.

(2) If less than eighteen (18) years of age, is not ineligible under IC 9-24-2-1.

(3) Is enrolled in an approved driver education course.

(b) This subsection applies beginning July 1, 2010. The bureau shall issue a learner's permit to an individual who meets the following conditions:

(1) Is at least fifteen (15) years and one hundred eighty (180) days of age.

(2) If less than eighteen (18) years of age, is not ineligible under IC 9-24-2-1.

(3) Is enrolled in an approved driver education course.

SECTION 7. IC 9-24-11-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. As used in this chapter, "telecommunications device" means an electronic or digital telecommunications device.**

SECTION 8. IC 9-24-11-3, AS AMENDED BY P.L.184-2007, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a) This section applies to a probationary operator's license issued before July 1, 2009.**

~~(a)~~ **(b)** A license issued to an individual less than eighteen (18) years of age is a probationary license.

~~(b)~~ **(c)** An individual holds a probationary license subject to the following conditions:

(1) Except as provided in IC 31-37-3, the individual may not operate a motor vehicle during the curfew hours specified in IC 31-37-3-2.

(2) During the ninety (90) days following the issuance of the probationary license, the individual may not operate a motor vehicle in which there are passengers unless another individual who:

(A) is at least twenty-one (21) years of age and

~~(B)~~ holds a valid operator's license issued under this article; **or**

(B) is the parent, guardian, or stepparent of the operator who is at least twenty-one (21) years of age;

is present in the front seat of the motor vehicle.

(3) The individual may operate a motor vehicle only if the individual and each occupant of the motor vehicle has a safety belt properly fastened about the occupant's body at all times when the motor vehicle is in motion.

~~(c)~~ **(d)** An individual who holds a probationary license issued under this section may receive an operator's license, a chauffeur's license, a public passenger chauffeur's license, or a commercial driver's license when the individual is at least eighteen (18) years of age.

~~(d)~~ **(e)** Except as provided in subsection ~~(e),~~ **(f),** a probationary license issued under this section:

(1) expires at midnight of the twenty-first birthday of the holder; and

(2) may not be renewed.

~~(c)~~ **(f)** A probationary license issued under this section to an individual who complies with IC 9-24-9-2.5(5) through IC 9-24-9-2.5(9) expires:

(1) at midnight one (1) year after issuance if there is no expiration date on the authorization granted to the individual to remain in the United States; or

(2) if there is an expiration date on the authorization granted to the individual to remain in the United States, the earlier of the following:

(A) At midnight of the date the authorization to remain in the United States expires.

(B) At midnight of the twenty-first birthday of the holder.

SECTION 9. IC 9-24-11-3.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.3. (a) This section applies to a probationary operator's license issued after June 30, 2009.**

(b) A license issued to an individual less than eighteen (18) years of age is a probationary license. An individual holds a probationary license subject to the following conditions:

(1) Except as provided in subdivision (3), the individual may not operate a motor vehicle from 10 p.m. until 5 a.m. of the following morning during the first one hundred eighty (180) days after issuance of the probationary license.

(2) Except as provided in subdivision (3), after one hundred eighty (180) days after issuance of the probationary license, and until the individual becomes eighteen (18) years of age, an individual may not operate a motor vehicle:

(A) between 1 a.m. and 5 a.m. on a Saturday or Sunday;

(B) after 11 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday; or

(C) before 5 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.

(3) The individual may operate a motor vehicle during the periods described in subdivisions (1) and (2) if the individual operates the motor vehicle while:

(A) participating in, going to, or returning from:

(i) lawful employment;

(ii) a school sanctioned activity; or

(iii) a religious event; or

(B) accompanied by a licensed driver at least twenty-five (25) years of age.

(4) The individual may not operate a motor vehicle while using a telecommunications device until the individual becomes eighteen (18) years of age unless the telecommunications device is being used to make a 911 emergency call.

(5) Except as provided in subdivision (6), during the one hundred eighty (180) days after the issuance of the probationary license, the individual may not operate a motor vehicle in which there are passengers until the individual becomes eighteen (18) years of age unless another individual:

(A) who:

(i) is at least twenty-five (25) years of age; and

(ii) holds a valid operator's, chauffeur's, public passenger chauffeur's, or commercial driver's license issued under this article;

(B) who is a certified driver education instructor; or

(C) who is the parent, guardian, or stepparent of the operator who is at least twenty-one (21) years of age;

is present in the front seat of the motor vehicle.

(6) The individual may operate a motor vehicle and transport:

(A) a child of the individual;

(B) a sibling of the individual;

(C) a child and a sibling of the individual;

(D) the spouse of the individual; or

(E) a child and the spouse of the individual;

without another accompanying individual present in the motor vehicle.

(7) The individual may operate a motor vehicle only if the individual and each occupant of the motor vehicle:

(A) are properly restrained by a properly fastened safety belt; or

(B) if the occupant is a child, the child must be properly fastened and restrained in a child restraint system according to the manufacturer's instructions under IC 9-19-11;

properly fastened about the occupant's body at all times when

the motor vehicle is in motion.

(c) An individual who holds a probationary license issued under this section may receive an operator's license, a chauffeur's license, a public passenger chauffeur's license, or a commercial driver's license when the individual is at least eighteen (18) years of age.

(d) Except as provided in IC 9-24-12-1(e), a probationary license issued under this section:

(1) expires at midnight of the date thirty (30) days after the twenty-first birthday of the holder; and

(2) may not be renewed.

SECTION 10. IC 9-24-12-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. This section applies beginning January 1, 2010. A learner's permit issued under this article expires two (2) years after the date of issuance.**

SECTION 11. IC 9-24-12-1, AS AMENDED BY P.L.184-2007, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided in ~~subsection~~ **subsections** (b) and (d) and section 10 of this chapter, an operator's license issued under this article before January 1, 2006, expires at midnight of the birthday of the holder that occurs four (4) years following the date of issuance.

(b) Except as provided in sections 10, 11, and 12 of this chapter, an operator's license issued to an applicant who is at least seventy-five (75) years of age expires at midnight of the birthday of the holder that occurs three (3) years following the date of issuance.

(c) Except as provided in subsections (b) and (d) and sections 10, 11, and 12 of this chapter, ~~after December 31, 2005,~~ an operator's license issued under this article expires at midnight of the birthday of the holder that occurs six (6) years following the date of issuance.

(d) A probationary operator's license issued under IC 9-24-11-3 **or IC 9-24-11-3.3** expires at midnight of the twenty-first birthday of the holder.

(e) A probationary license issued under IC 9-24-11-3.3 to an individual who complies with IC 9-24-9-2.5(5) through IC 9-24-9-2.5(9) expires:

(1) at midnight one (1) year after issuance if there is no expiration date on the authorization granted to the individual

to remain in the United States; or

(2) if there is an expiration date on the authorization granted to the individual to remain in the United States, the earlier of the following:

(A) At midnight of the date the authorization to remain in the United States expires.

(B) At midnight of the twenty-first birthday of the holder.

SECTION 12. IC 9-29-9-2, AS AMENDED BY P.L.156-2006, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The fee for an operator's license issued under IC 9-24-3 or renewed under IC 9-24-12 to an individual who is:

(1) less than seventy-five (75) years of age is nine dollars ($9); and

(2) at least seventy-five (75) years of age is six dollars ($6).

(b) ~~After June 30, 2006,~~ The fee for a probationary license issued under ~~IC 9-24-11-3(d)~~ **IC 9-24-11-3 or IC 9-24-11-3.3** is six dollars ($6).

SECTION 13. IC 9-30-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) If during any twelve (12) month period a person has committed moving traffic violations for which the person has:

(1) been convicted of at least two (2) traffic misdemeanors;

(2) had at least two (2) traffic judgments entered against the person; or

(3) been convicted of at least one (1) traffic misdemeanor and has had at least one (1) traffic judgment entered against the person;

the bureau may require the person to attend and satisfactorily complete a defensive driving school program. The person shall pay all applicable fees required by the bureau.

(b) This subsection applies to an individual who holds a probationary license under IC 9-24-11-3 **or IC 9-24-11-3.3** or is less than eighteen (18) years of age. An individual is required to attend and satisfactorily complete a defensive driving school program if either of the following occurs at least twice or if both of the following have occurred **when the individual was less than eighteen (18) years of age:**

(1) The individual has been convicted of a moving traffic offense (as defined in section 14(a) of this chapter), other than an offense

that solely involves motor vehicle equipment.

(2) The individual has been the operator of a motor vehicle involved in an accident for which a report is required to be filed under IC 9-26-2.

The individual shall pay all applicable fees required by the bureau.

(c) The bureau may suspend the driving license of any person who:

(1) fails to attend a defensive driving school program; or

(2) fails to satisfactorily complete a defensive driving school program;

as required by this section.

(d) Notwithstanding IC 33-37-4-2, any court may suspend one-half (1/2) of each applicable court cost for which a person is liable due to a traffic violation if the person enrolls in and completes a defensive driving school or a similar school conducted by an agency of the state or local government.

SECTION 14. IC 20-19-2-8, AS AMENDED BY P.L.146-2008, SECTION 450, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) In addition to any other powers and duties prescribed by law, the state board shall adopt rules under IC 4-22-2 concerning, but not limited to, the following matters:

(1) The designation and employment of the employees and consultants necessary for the department. The state board shall fix the compensation of employees of the department, subject to the approval of the budget committee and the governor under IC 4-12-2.

(2) The establishment and maintenance of standards and guidelines for media centers, libraries, instructional materials centers, or any other area or system of areas in a school where a full range of information sources, associated equipment, and services from professional media staff are accessible to the school community. With regard to library automation systems, the state board may only adopt rules that meet the standards established by the state library board for library automation systems under IC 4-23-7.1-11(b).

(3) The establishment and maintenance of standards for student personnel and guidance services.

(4) The establishment and maintenance of minimum standards for driver education programs (including classroom instruction and

practice driving) and equipment. Classroom instruction standards established under this subdivision must include instruction about:

(A) railroad-highway grade crossing safety; and

(B) the procedure for participation in the human organ donor program;

and must provide, effective July 1, 2010, that the classroom instruction may not be provided to a child less than fifteen (15) years and one hundred eighty (180) days of age.

(5) The inspection of all public schools in Indiana to determine the condition of the schools. The state board shall establish standards governing the accreditation of public schools. Observance of:

(A) IC 20-31-4;

(B) IC 20-28-5-2;

(C) IC 20-28-6-3 through IC 20-28-6-7;

(D) IC 20-28-9-7 and IC 20-28-9-8;

(E) IC 20-28-11; and

(F) IC 20-31-3, IC 20-32-4, IC 20-32-5, IC 20-32-6, and IC 20-32-8;

is a prerequisite to the accreditation of a school. Local public school officials shall make the reports required of them and otherwise cooperate with the state board regarding required inspections. Nonpublic schools may also request the inspection for classification purposes. Compliance with the building and site guidelines adopted by the state board is not a prerequisite of accreditation.

(6) Subject to section 9 of this chapter, the adoption and approval of textbooks under IC 20-20-5.

(7) The distribution of funds and revenues appropriated for the support of schools in the state.

(8) The state board may not establish an accreditation system for nonpublic schools that is less stringent than the accreditation system for public schools.

(9) A separate system for recognizing nonpublic schools under IC 20-19-2-10. Recognition of nonpublic schools under this subdivision constitutes the system of regulatory standards that apply to nonpublic schools that seek to qualify for the system of recognition.

(10) The establishment and enforcement of standards and guidelines concerning the safety of students participating in cheerleading activities.

(b) Before final adoption of any rule, the state board shall make a finding on the estimated fiscal impact that the rule will have on school corporations.

SECTION 15. IC 26-2-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) A person who knowingly violates this chapter commits a Class C infraction. Each violation of this chapter constitutes a separate infraction.

(b) In addition to any other available legal remedy, a person who violates the terms of an injunction issued under section 5 of this chapter commits a Class A infraction. Each violation of the terms of an injunction issued under section 5 of this chapter constitutes a separate infraction. Whenever the court determines that the terms of an injunction issued under section 5 of this chapter have been violated, the court shall award reasonable costs to the state.

(c) Notwithstanding ~~IC 34-28-5-1(a),~~ **IC 34-28-5-1(b),** the prosecuting attorney or the attorney general in the name of the state may bring an action to petition for the recovery of the penalties outlined in this section.

SECTION 16. IC 33-39-1-8, AS AMENDED BY P.L.234-2007, SECTION 168, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) After June 30, 2005, this section does not apply to a person who:

(1) holds a commercial driver's license; and

(2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).

(b) This section does not apply to a person arrested for or charged with:

(1) an offense under IC 9-30-5-1 through IC 9-30-5-5; or

(2) if a person was arrested or charged with an offense under IC 9-30-5-1 through IC 9-30-5-5, an offense involving:

(A) intoxication; or

(B) the operation of a motor vehicle;

if the offense involving intoxication or the operation of a motor vehicle

was part of the same episode of criminal conduct as the offense under IC 9-30-5-1 through IC 9-30-5-5.

(c) This section does not apply to a person:

(1) who is arrested for or charged with an offense under:

(A) IC 7.1-5-7-7(a), if the alleged offense occurred while the person was operating a motor vehicle;

(B) IC 9-30-4-8(a), if the alleged offense occurred while the person was operating a motor vehicle;

(C) IC 35-42-2-2(c)(1);

(D) IC 35-42-2-4(b)(1); or

(E) IC 35-43-1-2(a), if the alleged offense occurred while the person was operating a motor vehicle; and

(2) who held a probationary license (as defined in IC 9-24-11-3(b) or IC 9-24-11-3.3(b)) and was less than eighteen (18) years of age at the time of the alleged offense.

~~(c)~~ **(d)** A prosecuting attorney may withhold prosecution against an accused person if:

(1) the person is charged with a misdemeanor;

(2) the person agrees to conditions of a pretrial diversion program offered by the prosecuting attorney;

(3) the terms of the agreement are recorded in an instrument signed by the person and the prosecuting attorney and filed in the court in which the charge is pending; and

(4) the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council.

~~(d)~~ **(e)** An agreement under subsection ~~(c)~~ **(d)** may include conditions that the person:

(1) pay to the clerk of the court an initial user's fee and monthly user's fees in the amounts specified in IC 33-37-4-1;

(2) work faithfully at a suitable employment or faithfully pursue a course of study or career and technical education that will equip the person for suitable employment;

(3) undergo available medical treatment or counseling and remain in a specified facility required for that purpose;

(4) support the person's dependents and meet other family

responsibilities;

(5) make restitution or reparation to the victim of the crime for the damage or injury that was sustained;

(6) refrain from harassing, intimidating, threatening, or having any direct or indirect contact with the victim or a witness;

(7) report to the prosecuting attorney at reasonable times;

(8) answer all reasonable inquiries by the prosecuting attorney and promptly notify the prosecuting attorney of any change in address or employment; and

(9) participate in dispute resolution either under IC 34-57-3 or a program established by the prosecuting attorney.

~~(e)~~ **(f)** An agreement under subsection ~~(c)(2)~~ **(d)(2)** may include other provisions reasonably related to the defendant's rehabilitation, if approved by the court.

~~(f)~~ **(g)** The prosecuting attorney shall notify the victim when prosecution is withheld under this section.

~~(g)~~ **(h)** All money collected by the clerk as user's fees under this section shall be deposited in the appropriate user fee fund under IC 33-37-8.

~~(h)~~ **(i)** If a court withholds prosecution under this section and the terms of the agreement contain conditions described in subsection ~~(d)(6).~~ **(e)(6):**

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 17. IC 34-28-5-1, AS AMENDED BY P.L.200-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a) As used in this section, "probationary license" refers to a license described in IC 9-24-11-3(b) or IC 9-24-11-3.3(b).**

~~(a)~~ **(b)** An action to enforce a statute defining an infraction shall be brought in the name of the state of Indiana by the prosecuting attorney for the judicial circuit in which the infraction allegedly took place. However, if the infraction allegedly took place on a public highway (as defined in IC 9-25-2-4) that runs on and along a common boundary shared by two (2) or more judicial circuits, a prosecuting attorney for any judicial circuit sharing the common boundary may bring the action.

~~(b)~~ **(c)** An action to enforce an ordinance shall be brought in the name of the municipal corporation. The municipal corporation need not prove that it or the ordinance is valid unless validity is controverted by affidavit.

~~(c)~~ **(d)** Actions under this chapter (or IC 34-4-32 before its repeal):

(1) shall be conducted in accordance with the Indiana Rules of Trial Procedure; and

(2) must be brought within two (2) years after the alleged conduct or violation occurred.

~~(d)~~ **(e)** The plaintiff in an action under this chapter must prove the commission of an infraction or ordinance violation by a preponderance of the evidence.

~~(e)~~ **(f)** The complaint and summons described in IC 9-30-3-6 may be used for any infraction or ordinance violation.

~~(f)~~ **(g) Subsection (h) does not apply to an individual holding a probationary license who is alleged to have committed an infraction under any of the following when the individual was less than eighteen (18) years of age at the time of the alleged offense:**

IC 9-19
IC 9-21
IC 9-24
IC 9-25
IC 9-26
IC 9-30-5
IC 9-30-10
IC 9-30-15.

(h) This subsection does not apply to an offense or violation under IC 9-24-6 involving the operation of a commercial motor vehicle. The prosecuting attorney or the attorney for a municipal corporation may establish a deferral program for deferring actions brought under this section. Actions may be deferred under this section if:

(1) the defendant in the action agrees to conditions of a deferral program offered by the prosecuting attorney or the attorney for a municipal corporation;

(2) the defendant in the action agrees to pay to the clerk of the court an initial user's fee and monthly user's fee set by the prosecuting attorney or the attorney for the municipal corporation in accordance with IC 33-37-4-2(e);

(3) the terms of the agreement are recorded in an instrument signed by the defendant and the prosecuting attorney or the attorney for the municipal corporation;

(4) the defendant in the action agrees to pay a fee of seventy dollars ($70) to the clerk of court if the action involves a moving traffic offense (as defined in IC 9-13-2-110);

(5) the agreement is filed in the court in which the action is brought; and

(6) if the deferral program is offered by the prosecuting attorney, the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council.

When a defendant complies with the terms of an agreement filed under this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting attorney or the attorney for the municipal corporation shall request the court to dismiss the action. Upon receipt of a request to dismiss an action under this subsection, the court shall dismiss the action. An action dismissed under this subsection (or IC 34-4-32-1(f) before its repeal) may not be refiled.

~~(g)~~ **(i)** If a judgment is entered against a defendant in an action to enforce an ordinance, the defendant may perform community restitution or service (as defined in IC 35-41-1-4.6) instead of paying a monetary judgment for the ordinance violation as described in section 4(e) of this chapter if:

(1) the:

(A) defendant; and

(B) attorney for the municipal corporation;

agree to the defendant's performance of community restitution or service instead of the payment of a monetary judgment;

(2) the terms of the agreement described in subdivision (1):

(A) include the amount of the judgment the municipal corporation requests that the defendant pay under section 4(e) of this chapter for the ordinance violation if the defendant fails to perform the community restitution or service provided for in the agreement as approved by the court; and

(B) are recorded in a written instrument signed by the

defendant and the attorney for the municipal corporation;

(3) the agreement is filed in the court where the judgment was entered; and

(4) the court approves the agreement.

If a defendant fails to comply with an agreement approved by a court under this subsection, the court shall require the defendant to pay up to the amount of the judgment requested in the action under section 4(e) of this chapter as if the defendant had not entered into an agreement under this subsection.

SECTION 18. IC 34-28-5-4, AS AMENDED BY P.L.200-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A judgment of up to ten thousand dollars ($10,000) may be entered for a violation constituting a Class A infraction.

(b) A judgment of up to one thousand dollars ($1,000) may be entered for a violation constituting a Class B infraction.

(c) A judgment of up to five hundred dollars ($500) may be entered for a violation constituting a Class C infraction.

(d) A judgment of up to twenty-five dollars ($25) may be entered for a violation constituting a Class D infraction.

(e) Subject to section ~~1(g)~~ **1(i)** of this chapter, a judgment:

(1) up to the amount requested in the complaint; and

(2) not exceeding any limitation under IC 36-1-3-8;

may be entered for an ordinance violation.

SECTION 19. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 5-2-6.5-9(e), as added by this act, the Indiana criminal justice institute established by IC 5-2-6-3 shall, under interim written guidelines approved by the executive director of the Indiana criminal justice institute, provide that after June 30, 2010, the classroom training provided by licensed commercial driver training schools may not be provided to a child less than fifteen (15) years and one hundred eighty (180) days of age.**

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 5-2-6.5-9(e), as added by this act.

(2) December 31, 2011.

SECTION 20. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 20-19-2-8(a)(4), as amended by this act, the**

Indiana state board of education shall, under interim written guidelines approved by the state superintendent of public instruction, provide that after June 30, 2010, the classroom training provided by public schools and private schools under the authority of the department of education may not be provided to a child less than fifteen (15) years and one hundred eighty (180) days of age.

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 20-19-2-8(a)(4), as amended by this act.

(2) December 31, 2011.

SECTION 21. [EFFECTIVE UPON PASSAGE] **(a) As used in this section, "committee" refers to the interim study committee on driver education established by this SECTION.**

(b) There is established the interim study committee on driver education. The committee shall study:

(1) the administration of driver education by the bureau of motor vehicles and the department of education;

(2) standards for an Internet component of driver instruction;

(3) standards for a classroom component of driver instruction;

(4) penalties for instructional providers that fail to follow the standards for instruction driving experience;

(5) statistics for moving violations accrued by individuals less than eighteen (18) years of age who had:

(A) taken driver education with a classroom component of driver instruction;

(B) taken an Internet component of driver instruction; and

(C) no formal driver education;

(6) the effectiveness of driver education courses on the accident rates of young drivers; and

(7) the standards and curriculum content for an effective driver education program.

(c) Not later than November 1 in the years 2009 through 2014, the state police department shall make a written report to the:

(1) legislative council; and

(2) governor;

concerning motor vehicle accidents and fatalities resulting from motor vehicle accidents in the preceding year involving operators

of a motor vehicle who were at least fifteen (15) years and one hundred eighty (180) days of age and less than twenty (20) years of age. The report to the legislative council must be in an electronic format under IC 5-14-6.

(d) The committee shall operate under the policies governing study committees adopted by the legislative council.

(e) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

(f) This SECTION expires December 31, 2014.

SECTION 22. **An emergency is declared for this act.**

P.L.102-2009

[S.39. Approved May 7, 2009.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 21-14-10-1, AS ADDED BY P.L.141-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter applies to a person who:

(1) ~~after September 10, 2001,~~ enters ~~on~~ active duty service from a permanent home address in Indiana;

(2) receives an honorable discharge;

(3) receives the Purple Heart decoration for service described in subdivision (1);

(4) is eligible to pay the resident tuition rate at the state educational institution the person will attend as determined by the institution; and

(5) possesses the requisite academic qualifications.

SECTION 2. IC 25-25-2-3 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 3. **An emergency is declared for this act.**

P.L.103-2009
[S.102. Approved May 7, 2009.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-17.6-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The benefit package provided under the program shall focus on age appropriate preventive, primary, and acute care services.

(b) The office shall offer health insurance coverage for the following basic services:

(1) Inpatient and outpatient hospital services.

(2) Physicians' services provided by a physician (as defined in 42 U.S.C. 1395x(r)).

(3) Laboratory and x-ray services.

(4) Well-baby and well-child care, including:

(A) age appropriate immunizations; and

(B) periodic screening, diagnosis, and treatment services according to a schedule developed by the office.

The office may offer services in addition to those listed in this subsection if appropriations to the program exist to pay for the additional services.

(c) The office shall offer health insurance coverage for the following additional services if the coverage for the services has an actuarial value equal to or greater than the actuarial value of the services provided by the benchmark program determined by the children's health policy board established by IC 4-23-27-2:

(1) Prescription drugs.

(2) Mental health services.

(3) Vision services.

(4) Hearing services.

(5) Dental services.

(d) Notwithstanding subsections (b) and (c), the office may not impose treatment limitations or financial requirements on the coverage of services for a mental illness if similar treatment limitations or financial requirements are not imposed on coverage for services for other illnesses. **Coverage for mental illness under the program must include the following:**

(1) Inpatient mental health services and substance abuse services provided in an institution that:

(A) treats mental disease; and

(B) has more than sixteen (16) beds;

unless coverage is prohibited by federal law.

(2) Psychiatric residential treatment services.

(3) Community mental health rehabilitation services.

(4) Outpatient mental health services and substance abuse services, with no greater limitations on the number of units per rolling year than are required under the Medicaid program.

However, the office may require prior authorization for the services specified in subdivisions (1) through (4).

P.L.104-2009

[S.244. Approved May 7, 2009.]

AN ACT to amend the Indiana Code concerning corrections.

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

SECTION 1. IC 11-10-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A confined person may be required to keep his own living quarters clean and

orderly.

(b) A confined offender may be required to:

(1) perform general maintenance work and assist in providing other services essential to the administration of the facility or program; and

(2) work in a business, commercial, industrial, or agricultural enterprise operated by the department.

(c) A confined offender may not be denied the opportunity to participate in educational, training, or voluntary employment programs solely because of compulsory work.

(d) If an offender is eligible for an offender reentry administrative account under IC 11-10-15, at least ten percent (10%) and not more than twenty percent (20%) of the offender's gross earnings earned under subsection (b)(2) shall be deposited in the offender's reentry administrative account.

SECTION 2. IC 11-10-7-5, AS AMENDED BY SEA 344-2009, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) The earnings of an offender employed under this chapter shall be surrendered to the department. This amount shall be distributed in the following order:

(1) Not less than twenty percent (20%) of the offender's gross earnings to be given to the offender or retained by the department. If retained by the department, the amount, with accrued interest if interest on the amount is earned, must be returned to the offender not later than at the time of the offender's release on parole or discharge.

(2) State and federal income taxes and Social Security deductions.

(3) The expenses of room and board, as fixed by the department and the budget agency, in facilities operated by the department, or, if the offender is housed in a facility not operated by the department, the amount paid by the department to the operator of the facility or other appropriate authority for room and board and other incidentals as established by agreement between the department and the appropriate authority.

(4) The support of the offender's dependents, when directed by the offender or ordered by the court to pay this support. If the offender's dependents are receiving welfare assistance, the appropriate county office of the division of family resources or

welfare department in another state shall be notified of these disbursements.

(5) Ten percent (10%) of the offender's gross earnings, to be deposited in the violent crime victims compensation fund established by IC 5-2-6.1-40.

(6) If an offender is eligible for an offender reentry administrative account under IC 11-10-15, at least ten percent (10%) and not more than twenty percent (20%) of the offender's gross earnings, to be deposited in the offender's reentry administrative account.

(b) Any remaining amount shall be given to the offender or retained by the department in accord with subsection (a)(1).

(c) The department may, when special circumstances warrant or for just cause, waive the collection of room and board charges by or on behalf of a facility operated by the department or, if the offender is housed in a facility not operated by the department, authorize payment of room and board charges from other available funds.

SECTION 3. IC 11-10-8-6, AS AMENDED BY SEA 344-2009, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The earnings of an offender employed in a work release program under this chapter, less payroll deductions required by law and court ordered deductions for satisfaction of a judgment against the offender, shall be surrendered to the department or its designated representative. The remaining earnings shall be distributed in the following order:

(1) State and federal income taxes and Social Security deductions not otherwise withheld.

(2) The cost of membership in an employee organization.

(3) Ten percent (10%) of the offender's gross earnings, to be deposited in the violent crime victims compensation fund established by IC 5-2-6.1-40.

(4) Not less than fifteen percent (15%) of the offender's gross earnings, if that amount of the gross is available after the above deductions, to be given to the offender or retained by the department. If retained by the department, the amount, with accrued interest, must be returned to the offender not later than at the time of the offender's release on parole or discharge.

(5) The expense of room and board, as fixed by the department

and the budget agency, in facilities operated by the department, or, if the offender is housed in a facility not operated by the department, the amount paid by the department to the operator of the facility or other appropriate authority for room and board and other incidentals as established by agreement between the department and the appropriate authority.

(6) Transportation cost to and from work, and other work related incidental expenses.

(7) Court ordered costs or fines imposed as a result of conviction of an offense under Indiana law, unless the costs or fines are being paid through other means.

(8) If an offender is eligible for an offender reentry administrative account under IC 11-10-15, at least ten percent (10%) and not more than twenty percent (20%) of the offender's gross earnings, to be deposited in the offender's reentry administrative account.

(b) After the amounts prescribed in subsection (a) are deducted, the department may, out of the remaining amount:

(1) when directed by the offender or ordered by the court, pay for the support of the offender's dependents (if the offender's dependents are receiving welfare assistance, the appropriate county office of the division of family resources or welfare department in another state shall be notified of these disbursements); and

(2) with the consent of the offender, pay to the offender's victims or others any unpaid obligations of the offender.

(c) Any remaining amount shall be given to the offender or retained by the department in accord with subsection (a)(4).

(d) The department may, when special circumstances warrant or for just cause, waive the collection of room and board charges by or on behalf of a facility operated by the department or, if the offender is housed in a facility not operated by the department, authorize payment of room and board charges from other available funds.

SECTION 4. IC 11-10-15 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 15. Offender Reentry Administrative Account

Sec. 1. (a) An offender is not eligible for an offender reentry

administrative account under this chapter if the offender's expected release date is after the date when the offender would be eighty (80) years of age, except if:

(1) the offender's appeals have not been exhausted;

(2) the department determines the offender may have an offender reentry administrative account; and

(3) the offender agrees to have an offender reentry administrative account.

An offender reentry administrative account established for an offender described in this subsection is subject to all other department rules concerning offender reentry administrative accounts.

(b) Except as provided in subsection (a), the department shall provide each offender who has earnings under IC 11-10-6, IC 11-10-7, or IC 11-10-8 with an offender reentry administrative account.

Sec. 2. The part of an offender's earnings distributed under IC 11-10-6-3(d), IC 11-10-7-5(a)(6), or IC 11-10-8-6(a)(8) shall be deposited in the offender reentry administrative account of the offender.

Sec. 3. The funds in the offender reentry administrative account of an offender may not be withdrawn before the offender's release or discharge from incarceration by the department.

Sec. 4. When an offender is released or discharged from incarceration by the department, the department shall issue the offender a check for the balance in the offender's offender reentry administrative account.

Sec. 5. Once an offender reentry administrative account has been established under this chapter, the account may not be closed until the offender is no longer confined with the department.

Sec. 6. The department owes a fiduciary duty to an offender who has an offender reentry administrative account for any funds deposited into the offender's reentry administrative account.

P.L.105-2009
[S.492. Approved May 7, 2009.]

AN ACT to amend the Indiana Code concerning trade regulation, property, and courts and court officers.

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

SECTION 1. IC 5-20-1-4, AS AMENDED BY P.L.133-2008, SECTION 1, AND AS AMENDED BY P.L.145-2008, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The authority has all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the power:

(1) to make or participate in the making of construction loans ~~*to sponsors of*~~ *for* multiple family residential housing ~~*that is federally assisted or assisted by a government sponsored enterprise, such as the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Agricultural Mortgage Corporation, the Federal Home Loan Bank, and other similar entities*~~ *under terms that are* approved by the authority;

(2) to make or participate in the making of mortgage loans ~~*to sponsors of*~~ *for* multiple family residential housing ~~*that is federally assisted or assisted by a government sponsored enterprise, such as the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Agricultural Mortgage Corporation, the Federal Home Loan Bank, and other similar entities*~~ *under terms that are* approved by the authority;

(3) to purchase or participate in the purchase from mortgage lenders of mortgage loans made to persons of low and moderate income for residential housing;

(4) to make loans to mortgage lenders for the purpose of

furnishing funds to such mortgage lenders to be used for making mortgage loans for persons and families of low and moderate income. However, the obligation to repay loans to mortgage lenders shall be general obligations of the respective mortgage lenders and shall bear such date or dates, shall mature at such time or times, shall be evidenced by such note, bond, or other certificate of indebtedness, shall be subject to prepayment, and shall contain such other provisions consistent with the purposes of this chapter as the authority shall by rule or resolution determine;

(5) to collect and pay reasonable fees and charges in connection with making, purchasing, and servicing of its loans, notes, bonds, commitments, and other evidences of indebtedness;

(6) to acquire real property, or any interest in real property, by conveyance, including purchase in lieu of foreclosure, or foreclosure, to own, manage, operate, hold, clear, improve, and rehabilitate such real property and sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purposes of the authority;

(7) to sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction loan, a land development loan, a mortgage loan, or a loan of any type permitted by this chapter;

(8) to procure insurance against any loss in connection with its operations in such amounts and from such insurers as it may deem necessary or desirable;

(9) to consent, subject to the provisions of any contract with noteholders or bondholders which may then exist, whenever it deems it necessary or desirable in the fulfillment of its purposes to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, loan to lender, or contract or agreement of any kind to which the authority is a party;

(10) to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families

in cities and counties where a need has been found for such housing;

(11) to include in any borrowing such amounts as may be deemed necessary by the authority to pay financing charges, interest on the obligations (for a period not exceeding the period of construction and a reasonable time thereafter or if the housing is completed, two (2) years from the date of issue of the obligations), consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) to make and publish rules respecting its lending programs and such other rules as are necessary to effectuate the purposes of this chapter;

(13) to provide technical and advisory services to sponsors, builders, and developers of residential housing and to residents and potential residents, including housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) to promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) to encourage community organizations to participate in residential housing development;

(16) to make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, limited liability company, or other organization or entity necessary or convenient to accomplish the purposes of this chapter;

(17) to accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) to sue and be sued in its own name, plead and be impleaded;

(19) to maintain an office in the city of Indianapolis and at such other place or places as it may determine;

(20) to adopt an official seal and alter the same at pleasure;

(21) to adopt and from time to time amend and repeal bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules and policies in connection with the performance of its functions and duties;

(22) to employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor;

(23) notwithstanding IC 5-13, but subject to the requirements of any trust agreement entered into by the authority, to invest:

(A) the authority's money, funds, and accounts;

(B) any money, funds, and accounts in the authority's custody; and

(C) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority;

(24) to make or participate in the making of construction loans, mortgage loans, or both, to individuals, partnerships, limited liability companies, corporations, and organizations for the construction of residential facilities for individuals with a developmental disability or for individuals with a mental illness or for the acquisition or renovation, or both, of a facility to make it suitable for use as a new residential facility for individuals with a developmental disability or for individuals with a mental illness;

(25) to make or participate in the making of construction and mortgage loans to individuals, partnerships, corporations, limited liability companies, and organizations for the construction, rehabilitation, or acquisition of residential facilities for children;

(26) to purchase or participate in the purchase of mortgage loans from:

(A) public utilities (as defined in IC 8-1-2-1); or

(B) municipally owned gas utility systems organized under IC 8-1.5;

if those mortgage loans were made for the purpose of insulating and otherwise weatherizing single family residences in order to conserve energy used to heat and cool those residences;

(27) to provide financial assistance to mutual housing associations (IC 5-20-3) in the form of grants, loans, or a combination of grants and loans for the development of housing for low and moderate income families;

(28) to service mortgage loans made or acquired by the authority

and to impose and collect reasonable fees and charges in connection with such servicing;

(29) subject to the authority's investment policy, to enter into swap agreements (as defined in IC 8-9.5-9-4) in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7;

(30) to promote and foster community revitalization through community services and real estate development;

(31) to coordinate and establish linkages between governmental and other social services programs to ensure the effective delivery of services to low income individuals *and families, including individuals or families facing or experiencing homelessness;*

(32) to cooperate with local housing officials and plan commissions in the development of projects that the officials or commissions have under consideration;

(33) to take actions necessary to implement its powers that the authority determines to be appropriate and necessary to ensure the availability of state or federal financial assistance; and

(34) to administer any program or money designated by the state or available from the federal government or other sources that is consistent with the authority's powers and duties.

The omission of a power from the list in this subsection does not imply that the authority lacks that power. The authority may exercise any power that is not listed in this subsection but is consistent with the powers listed in this subsection to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.

(b) The authority shall ~~*structure and administer any program conducted*~~ *ensure that a mortgage loan acquired by the authority* under subsection (a)(3) or *made by a mortgage lender with funds provided by the authority under subsection* (a)(4) ~~*in order to assure that no mortgage loan shall*~~ *is not* knowingly ~~*be*~~ made to a person whose adjusted family income, ~~*shall exceed*~~ *as determined by the authority, exceeds* one hundred twenty-five percent (125%) of the median income for the geographic area ~~*within which the person resides and at least forty percent (40%) of the mortgage loans so financed shall be for persons whose adjusted family income shall be below eighty percent (80%) of the median income for such area.*~~ *involved. However, if the authority determines that additional encouragement is*

needed for the development of the geographic area involved, a mortgage loan acquired or made under subsection (a)(3) or (a)(4) may be made to a person whose adjusted family income, as determined by the authority, does not exceed one hundred forty percent (140%) of the median income for the geographic area involved. The authority shall establish procedures that the authority determines are appropriate to structure and administer any program conducted under subsection (a)(3) or (a)(4) for the purpose of acquiring or making mortgage loans to persons of low or moderate income. In determining what constitutes low income, moderate income, or median income for purposes of any program conducted under subsection (a)(3) or (a)(4), the authority shall consider:

(1) the appropriate geographic area in which to measure income levels; and

(2) the appropriate method of calculating low income, moderate income, or median income levels including:

(A) sources of;

(B) exclusions from; and

(C) adjustments to;

income.

~~*(c) In addition to the powers set forth in subsection (a), the authority may, with the proceeds of bonds and notes sold to retirement plans covered by IC 5-10-1.7, structure and administer a program of purchasing or participating in the purchasing from mortgage lenders of mortgage loans made to qualified members of retirement plans and other individuals. The authority shall structure and administer any program conducted under this subsection to assure that:*~~

~~*(1) each mortgage loan is made as a first mortgage loan for real property:*~~

~~*(A) that is a single family dwelling, including a condominium or townhouse, located in Indiana;*~~

~~*(B) for a purchase price of not more than ninety-five thousand dollars ($95,000);*~~

~~*(C) to be used as the purchaser's principal residence; and*~~

~~*(D) for which the purchaser has made a down payment in an amount determined by the authority;*~~

~~*(2) no mortgage loan exceeds seventy-five thousand dollars ($75,000);*~~

~~*(3) any bonds or notes issued which are backed by mortgage loans purchased by the authority under this subsection shall be offered for sale to the retirement plans covered by IC 5-10-1.7, and*~~

~~*(4) qualified members of a retirement plan shall be given preference with respect to the mortgage loans that in the aggregate do not exceed the amount invested by their retirement plan in bonds and notes issued by the authority that are backed by mortgage loans purchased by the authority under this subsection.*~~

~~*(d) As used in this section, "a qualified member of a retirement plan" means an active or retired member:*~~

~~*(1) of a retirement plan covered by IC 5-10-1.7 that has invested in bonds and notes issued by the authority that are backed by mortgage loans purchased by the authority under subsection (c), and*~~

~~*(2) who for a minimum of two (2) years preceding the member's application for a mortgage loan has:*~~

~~*(A) been a full-time state employee, teacher, judge, police officer, or firefighter;*~~

~~*(B) been a full-time employee of a political subdivision participating in the public employees' retirement fund;*~~

~~*(C) been receiving retirement benefits from the retirement plan; or*~~

~~*(D) a combination of employment and receipt of retirement benefits equaling at least two (2) years.*~~

~~*(e)*~~ *(c)* The authority, when directed by the governor, shall administer programs and funds under 42 U.S.C. 1437 et seq.

~~*(f)*~~ *(d)* The authority shall identify, promote, assist, and fund:

(1) home ownership education programs; **and**

(2) mortgage foreclosure counseling and education programs under IC 5-20-6;

conducted throughout Indiana by nonprofit counseling agencies **that the authority has** certified, ~~by the authority~~, **or by any other public, private, or nonprofit entity in partnership with a nonprofit agency that the authority has certified,** using funds appropriated under section 27 of this chapter. The attorney general and the entities listed in IC 4-6-12-4(a)(1) through IC 4-6-12-4(a)(10) shall cooperate with

the authority in implementing this subsection.

~~(g)~~ **(e)** *The authority shall:*

(1) oversee and encourage a regional homeless delivery system that:

(A) considers the need for housing and support services;

(B) implements strategies to respond to gaps in the delivery system; and

(C) ensures individuals and families are matched with optimal housing solutions;

(2) facilitate the dissemination of information to assist individuals and families accessing local resources, programs, and services related to homelessness, housing, and community development; and

(3) each year, estimate and reasonably determine the number of the following:

(A) Individuals in Indiana who are homeless.

(B) Individuals in Indiana who are homeless and less than eighteen (18) years of age.

(C) Individuals in Indiana who are homeless and not residents of Indiana.

SECTION 2. IC 5-20-1-27, AS AMENDED BY P.L.145-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) The home ownership education account within the state general fund is established to support: ~~the~~

(1) home ownership education programs established under section 4(d) of this chapter; **and**

(2) mortgage foreclosure counseling and education programs established under IC 5-20-6-2.

The account is administered by the authority.

(b) The home ownership education account consists of:

(1) **court** fees collected under ~~IC 24-9-9;~~ **IC 33-37-5-30 (before its expiration on January 1, 2013);** and

(2) civil penalties imposed and collected under:

(A) IC 6-1.1-12-43(g)(2)(B); or

(B) IC 27-7-3-15.5(e).

(c) The expenses of administering the home ownership education account shall be paid from money in the account.

(d) The treasurer of state shall invest the money in the home

ownership education account not currently needed to meet the obligations of the account in the same manner as other public money may be invested.

SECTION 3. IC 5-20-6-3, AS ADDED BY P.L.176-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **In addition to using money provided for the program from court fees under IC 33-37-5-30 (before its expiration on January 1, 2013),** the authority may solicit contributions and grants from the private sector, nonprofit entities, and the federal government to assist in carrying out the purposes of this chapter.

SECTION 4. IC 24-5.5-1-1, AS ADDED BY P.L.209-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **Except for IC 24-5.5-3-1,** this article does not apply to the following:

(1) A person organized or chartered under the laws of this state, any other state, or the United States that relate to a bank, a trust company, a savings association, a savings bank, a credit union, or an industrial loan and investment company.

(2) The Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or a Federal Home Loan Bank.

(3) A department or agency of the United States or of Indiana.

(4) A person that is servicing or enforcing a loan that it owns.

(5) A person that is servicing a loan:

(A) for a person described in subdivisions (1) through (4); ~~of this section;~~ or

(B) insured by the Department of Housing and Urban Development or guaranteed by the Veterans Administration.

(6) An attorney licensed to practice law in Indiana who is representing a mortgagor.

SECTION 5. IC 24-5.5-3-1, AS ADDED BY P.L.209-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. In addition to any other notice required by law, a mortgagee, or the mortgagee's assignee, that proceeds under IC 32-30-10 to foreclose a mortgage or deed of trust shall, ~~at the time of~~ **not later than thirty (30) days before** filing the complaint in the action, provide the following written notice, **on a form prescribed by**

the Indiana housing and community development authority under IC 32-30-10.5-8(a), to the mortgagor in a statement printed in at least 14 point boldface type:

"NOTICE REQUIRED BY STATE LAW

Mortgage foreclosure is a complex process. People may approach you about "saving" your home. You should be careful about any such promises. There are government agencies and nonprofit organizations you may contact for helpful information about the foreclosure process. For the name and telephone number of an organization near you, please call the Indiana housing and community development authority.".

Service of the written notice required by this chapter shall be made as provided in the Indiana Rules of Trial Procedure governing service of process upon a person.

SECTION 6. IC 24-5.5-5-7.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 7.2. A foreclosure consultant shall retain all records and documents, including the foreclosure consultant contract, related to services performed on behalf of a homeowner for at least three (3) years after the termination or conclusion of the foreclosure consultant contract entered into by the foreclosure consultant and the homeowner.**

SECTION 7. IC 24-9-1-1, AS AMENDED BY HEA 1176-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. Except for IC 24-9-3-7(c)(3), ~~and~~ IC 24-9-3-7(c)(4), **and IC 24-9-3-7(c)(5),** this article does not apply to:

(1) a loan made or acquired by a person organized or chartered under the laws of this state, any other state, or the United States relating to banks, trust companies, savings associations, savings banks, credit unions, or industrial loan and investment companies; or

(2) a loan:

(A) that can be purchased by the Federal National Mortgage Association, the Federal Home Loan Mortgage Association, or the Federal Home Loan Bank;

(B) to be insured by the United States Department of Housing and Urban Development;

(C) to be guaranteed by the United States Department of Veterans Affairs;

(D) to be made or guaranteed by the United States Department of Agriculture Rural Housing Service;

(E) to be funded by the Indiana housing and community development authority; or

(F) with a principal amount that exceeds the conforming loan size limit for a single family dwelling as established by the Federal National Mortgage Association.

SECTION 8. IC 24-9-3-7, AS AMENDED BY HEA 1176-2009, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) As used in this section, "mortgage transaction" includes the following:

(1) A home loan subject to this article.

(2) A loan described in IC 24-9-1-1 **that is secured by a mortgage or deed of trust on real estate in Indiana on which there is located or will be located a structure or structures:**

(A) designed primarily for occupancy of one (1) to four (4) families; and

(B) that is or will be occupied by a borrower as the borrower's principal dwelling.

(3) A first lien mortgage transaction (as defined in IC 24-4.4-1-301) subject to IC 24-4.4.

(4) A consumer credit sale subject to IC 24-4.5-2 in which a mortgage, deed of trust, or land contract that constitutes a lien is created or retained against land upon which there is a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes.

(5) A consumer credit loan subject to IC 24-4.5-3 in which a mortgage, deed of trust, or land contract that constitutes a lien is created or retained against land upon which there is a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes.

(6) A loan in which a mortgage, deed of trust, or land contract that constitutes a lien is created or retained against land:

(A) that is located in Indiana;

(B) upon which there is a dwelling that is not or will not be used by the borrower primarily for personal, family, or

household purposes; and

(C) that is classified as residential for property tax purposes.

The term includes a loan that is secured by land in Indiana upon which there is a dwelling that is purchased by or through the borrower for investment or other business purposes.

(7) A reverse mortgage transaction that is secured by real estate in Indiana on which there is located a structure that is occupied by a borrower as the borrower's principal dwelling.

(b) As used in this section, "real estate transaction" means the sale or lease of any legal or equitable interest in real estate:

(1) that is located in Indiana;

(2) upon which there is a dwelling; and

(3) that is classified as residential for property tax purposes.

(c) A person may not:

(1) divide a loan transaction into separate parts with the intent of evading a provision of this article;

(2) structure a home loan transaction as an open-end loan with the intent of evading the provisions of this article if the loan would be a high cost home loan if the home loan had been structured as a closed-end loan;

(3) engage in a deceptive act in connection with a mortgage transaction or a real estate transaction;

~~(3)~~ **(4)** engage in, or solicit to engage in, a real estate transaction or a mortgage transaction without a permit or license required by law; or

~~(4)~~ **(5)** with respect to a real estate transaction or a mortgage transaction, represent that:

(A) the transaction has:

(i) certain terms or conditions; or

(ii) the sponsorship or approval of a particular person or entity;

that it does not have and that the person knows or reasonably should know it does not have; or

(B) the real estate or property that is the subject of the transaction has any improvements, appurtenances, uses, characteristics, or associated benefits that it does not have and that the person knows or reasonably should know it does not have.

SECTION 9. IC 24-9-3-8, AS AMENDED BY HEA 1176-2009, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. A person seeking to enforce section 7(c)(3), ~~or~~ 7(c)(4), **or 7(c)(5)** of this chapter may not knowingly or intentionally intimidate, coerce, or harass another person.

SECTION 10. IC 24-9-5-4, AS AMENDED BY P.L.3-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) **This section does not apply to a violation of IC 24-9-3-7(c)(4) or IC 24-9-3-7(c)(5).** A person who violates this article is liable to a person who is a party to the home loan transaction that gave rise to the violation for the following:

(1) Actual damages, including consequential damages. A person is not required to demonstrate reliance in order to receive actual damages.

(2) Statutory damages equal to two (2) times the finance charges agreed to in the home loan agreement.

(3) Costs and reasonable attorney's fees.

(b) A person may be granted injunctive, declaratory, and other equitable relief as the court determines appropriate in an action to enforce compliance with this chapter.

(c) The right of rescission granted under 15 U.S.C. 1601 et seq. for a violation of the federal Truth in Lending Act (15 U.S.C. 1601 et seq.) is available to a person acting only in an individual capacity by way of recoupment as a defense against a party foreclosing on a home loan at any time during the term of the loan. Any recoupment claim asserted under this provision is limited to the amount required to reduce or extinguish the person's liability under the home loan plus amounts required to recover costs, including reasonable attorney's fees. This article shall not be construed to limit the recoupment rights available to a person under any other law.

(d) The remedies provided in this section are cumulative but are not intended to be the exclusive remedies available to a person. Except as provided in subsection (e), a person is not required to exhaust any administrative remedies under this article or under any other applicable law.

(e) Before bringing an action regarding an alleged deceptive act under this chapter, a person must:

(1) notify the homeowner protection unit established by

IC 4-6-12-2 of the alleged violation giving rise to the action; and

(2) allow the homeowner protection unit at least ninety (90) days to institute appropriate administrative and civil action to redress a violation.

(f) An action under this chapter must be brought within five (5) years after the date that the person knew, or by the exercise of reasonable diligence should have known, of the violation of this article.

(g) An award of damages under subsection (a) has priority over a civil penalty imposed under this article.

SECTION 11. IC 24-9-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. A person who knowingly or intentionally violates this article commits:

(1) a Class A misdemeanor; and

(2) **except for a violation of IC 24-9-7-3(c)(4) by a person required to be licensed by the department of financial institutions,** an act that is actionable by the attorney general under IC 24-5-0.5 and is subject to the penalties listed in IC 24-5-0.5.

SECTION 12. IC 24-9-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) **This section does not apply to a violation of IC 24-9-7-3(c)(4) by a person required to be licensed by the department of financial institutions.** The attorney general may bring an action to enjoin a violation of this article. A court in which the action is brought may:

(1) issue an injunction;

(2) order a person to make restitution;

(3) order a person to reimburse the state for reasonable costs of the attorney general's investigation and prosecution of the violation of this article; and

(4) impose a civil penalty of not more than ten thousand dollars ($10,000) per violation.

(b) A person who violates an injunction under this section is subject to a civil penalty of not more than ten thousand dollars ($10,000) per violation.

(c) The court that issues an injunction retains jurisdiction over a proceeding seeking the imposition of a civil penalty under this section.

SECTION 13. IC 25-1-11-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. **(a) Except as**

provided in subsection (b), a practitioner may petition the board to accept the surrender of the practitioner's license instead of having a hearing before the board. The practitioner may not surrender the practitioner's license without the written approval of the board, and the board may impose any conditions appropriate to the surrender or reinstatement of a surrendered license.

(b) The board may not approve the surrender of a practitioner's license under subsection (a) if the office of the attorney general:

(1) has filed an administrative complaint concerning the practitioner's license; and

(2) opposes the surrender of the practitioner's license.

SECTION 14. IC 25-1-11-18, AS AMENDED BY P.L.194-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. A practitioner who has been subjected to disciplinary sanctions may be required by a board to pay the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. These costs are limited to costs for the following:

(1) Court reporters.

(2) Transcripts.

(3) Certification of documents.

(4) Photo duplication.

(5) Witness attendance and mileage fees.

(6) Postage.

(7) Expert witnesses.

(8) Depositions.

(9) Notarizations.

(10) Administrative law judges.

(11) Real estate review appraisals, if applicable.

SECTION 15. IC 25-34.1-6-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.5. (a) A violation of:**

(1) IC 24-5-15; or

(2) IC 24-5.5;

by a person licensed or required to be licensed under this article is a violation of this article.

(b) A person who commits a violation described in subsection (a) commits a Class A infraction and is subject to:

(1) the enforcement procedures described in section 2 of this chapter; and

(2) any sanction that may be imposed by the commission under IC 25-1-11-12 for an act described in IC 25-1-11-11.

SECTION 16. IC 27-7-3-15.5, AS ADDED BY P.L.145-2008, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 15.5. (a) This section applies to a transaction that:

(1) is a single family residential:

(A) first lien purchase money mortgage transaction; or

(B) refinancing transaction; and

(2) is closed after December 31, 2009.

(b) Not later than September 1, 2009, the department shall establish and maintain an electronic system for the collection and storage of the following information concerning any of the following persons that have participated in or assisted with a transaction to which this section applies, or that will participate in or assist with a transaction to which this section applies:

(1) The name and license number (under IC 23-2-5) of each loan brokerage business involved in the transaction.

(2) The name and registration number (under IC 23-2-5) of each originator involved in the transaction.

(3) The name and license number (under IC 25-34.1) of each:

(A) principal broker; and

(B) salesperson or broker-salesperson, if any;

involved in the transaction.

(4) The:

(A) name of; and

(B) code assigned by the National Association of Insurance Commissioners (NAIC) to;

each title insurance underwriter involved in the transaction.

(5) The name and license number (under IC 27-1-15.6) of each title insurance agency and agent involved in the transaction as a closing agent (as defined in IC 6-1.1-12-43(a)(2)).

(6) The name and:

(A) license or certificate number (under IC 25-34.1-3-8) of

each licensed or certified real estate appraiser; or

(B) license number (under IC 25-34.1) of each broker;

who appraises the property that is the subject of the transaction.

(7) The name of the mortgagee and, if the mortgagee is required to be licensed under:

(A) IC 24-4.4; or

(B) IC 24-4.5-3-502;

the license number of the mortgagee.

(8) In the case of a first lien purchase money mortgage transaction, the name of the seller of the property that is the subject of the transaction.

(9) In the case of a first lien purchase money mortgage transaction, the name of the buyer of the property that is the subject of the transaction.

(10) The:

(A) name; and

(B) license number, certificate number, registration number, or other code, as appropriate;

of any other person that participates in or assists with a transaction to which this section applies, as the department may prescribe.

(c) The system established by the department under this section must include a form that:

(1) is uniformly accessible in an electronic format to the closing agent (as defined in IC 6-1.1-12-43(a)(2)) in the transaction; and

(2) allows the closing agent to do the following:

(A) Input information identifying the property that is the subject of the transaction by lot or parcel number, street address, or some other means of identification that the department determines:

(i) is sufficient to identify the property; and

(ii) **is** determinable by the closing agent.

(B) Subject to subsection (d) and to the extent determinable, input the information described in subsection (b) with respect to each person described in subsection (b) that participates in or assists with the transaction.

(C) Respond to the following questions:

(i) "On what date did you receive the closing instructions

from the creditor in the transaction?".

(ii) "On what date did the transaction close?".

(D) Submit the form electronically to a data base maintained by the department.

(d) Not later than the time of the closing, each person described in subsection (b), **other than a person described in subsection (b)(8) or (b)(9),** shall provide to the closing agent in the transaction the person's:

(1) legal name; and

(2) license number, certificate number, registration number, or NAIC code, as appropriate;

to allow the closing agent to comply with subsection (c)(2)(B). A person described in subsection (b)(7) shall provide the information required by this subsection for any person described in subsection (b)(6) that appraises the property that is the subject of the transaction on behalf of the person described in subsection (b)(7). A person described in subsection (b)(3)(B) who is involved in the transaction may provide the information required by this subsection for a person described in subsection (b)(3)(A) that serves as the principal broker for the person described in subsection (b)(3)(B). **In the case of a first lien purchase money mortgage transaction, the closing agent shall determine the information described in subsection (b)(8) and (b)(9) from the HUD-1 settlement statement.**

(e) **Except for a person described in subsection (b)(8) or (b)(9),** a person described in subsection (b) who fails to comply with subsection (d) is subject to a civil penalty of one hundred dollars ($100) for each closing with respect to which the person fails to comply with subsection (d). The penalty:

(1) may be enforced by the state agency that has administrative jurisdiction over the person in the same manner that the agency enforces the payment of fees or other penalties payable to the agency; and

(2) shall be paid into the home ownership education account established by IC 5-20-1-27.

(f) Subject to subsection (g), the department shall make the information stored in the data base described in subsection (c)(2)(D) accessible to:

(1) each entity described in IC 4-6-12-4; and

(2) the homeowner protection unit established under IC 4-6-12-2.

(g) The department, a closing agent who submits a form under subsection (c), each entity described in IC 4-6-12-4, and the homeowner protection unit established under IC 4-6-12-2 shall exercise all necessary caution to avoid disclosure of any information:

(1) concerning a person described in subsection (b), including the person's license, registration, or certificate number; and

(2) contained in the data base described in subsection (c)(2)(D);

except to the extent required or authorized by state or federal law.

(h) The department may adopt rules under IC 4-22-2 to implement this section. Rules adopted by the department under this subsection may establish procedures for the department to:

(1) establish;

(2) collect; and

(3) change as necessary;

an administrative fee to cover the department's expenses in establishing and maintaining the electronic system required by this section.

(i) If the department adopts a rule under IC 4-22-2 to establish an administrative fee to cover the department's expenses in establishing and maintaining the electronic system required by this section, as allowed under subsection (h), the department may:

(1) require the fee to be paid:

(A) to the closing agent responsible for inputting the information and submitting the form described in subsection (c)(2); and

(B) by the borrower in the transaction;

(2) allow the closing agent described in subdivision (1)(A) to retain a part of the fee collected to cover the closing agent's costs in inputting the information and submitting the form described in subsection (c)(2); and

(3) require the closing agent to pay the remainder of the fee collected to the department for deposit in the title insurance enforcement fund established by IC 27-7-3.6-1, for the department's use in establishing and maintaining the electronic system required by this section.

SECTION 17. IC 32-29-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. **(a)** Immediately after a foreclosure sale under this chapter, the sheriff shall:

(1) execute and deliver to the purchaser; **and**

(2) except as provided in subsection (b), record with the recorder of the county in which the premises are located;

a deed of conveyance for the premises, which must be valid to convey all the right, title, and interest held or claimed by all of the parties to the action and all persons claiming under them. The sheriff shall file a return with the clerk of the court.

(b) The sheriff is not required to record the deed of conveyance for the premises under subsection (a)(2) if the mortgage involved in the foreclosure action resulting in the foreclosure sale under this chapter was insured by the United States Department of Housing and Urban Development.

SECTION 18. IC 32-30-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) **Subject to IC 32-30-10.5 with respect to mortgage transactions described in IC 32-30-10.5-5,** if a mortgagor defaults in the performance of any condition contained in a mortgage, the mortgagee or the mortgagee's assigns may proceed in the circuit court of the county where the real estate is located to foreclose the equity of redemption contained in the mortgage.

(b) If the real estate is located in more than one (1) county, the circuit court of any county in which the real estate is located has jurisdiction for an action for the foreclosure of the equity of redemption contained in the mortgage.

SECTION 19. IC 32-30-10-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. A plaintiff may not:

(1) proceed to foreclose the mortgagee's mortgage:

(A) while the plaintiff is prosecuting any other action for the same debt or matter that is secured by the mortgage; ~~or~~

(B) while the plaintiff is seeking to obtain execution of any judgment in any other action; or

(C) until the notice under IC 32-30-10.5-8(a) has been sent, if required, in the case of a mortgage transaction described in IC 32-30-10.5-5; or

(2) prosecute any other action for the same matter while the plaintiff is foreclosing the mortgagee's mortgage or prosecuting a judgment of foreclosure.

SECTION 20. IC 32-30-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2009]:

Chapter 10.5. Foreclosure Prevention Agreements for Residential Mortgages

Sec. 1. (a) The general assembly makes the following findings:

(1) Indiana faces a serious threat to its state economy and to the economies of its political subdivisions because of Indiana's high rate of residential mortgage foreclosures, which constitutes an emergency.

(2) Indiana's high rate of residential mortgage foreclosures has adversely affected property values in Indiana, and may have an even greater adverse effect on property values if the foreclosure rate continues to rise.

(3) It is in the public interest for the state to modify the foreclosure process to encourage mortgage modification alternatives.

(b) The purpose of this chapter is to avoid unnecessary foreclosures of residential properties and thereby provide stability to Indiana's statewide and local economies by:

(1) requiring early contact and communications among creditors, their authorized agents, and debtors in order to engage in negotiations that could avoid foreclosure; and

(2) facilitating the modification of residential mortgages in appropriate circumstances.

Sec. 2. (a) As used in this chapter, "creditor" means a person:

(1) that regularly engages in the extension of mortgages that are subject to a credit service charge or loan finance charge, as applicable, or are payable by written agreement in more than four (4) installments (not including a down payment); and

(2) to which the obligation is initially payable, either on the face of the note or contract, or by agreement if there is not a note or contract.

(b) The term includes a mortgage servicer.

Sec. 3. As used in this chapter, "debtor", with respect to a mortgage, refers to the maker of the note secured by the mortgage.

Sec. 4. As used in this chapter, "foreclosure prevention agreement" means a written agreement that:

(1) is executed by both the creditor and the debtor; and

(2) offers the debtor an individualized plan that may include:

(A) a temporary forbearance with respect to the mortgage;

(B) a reduction of any arrearage owed by the debtor;

(C) a reduction of the interest rate that applies to the mortgage;

(D) a repayment plan;

(E) a deed in lieu of foreclosure;

(F) reinstatement of the mortgage upon the debtor's payment of any arrearage;

(G) a sale of the property; or

(H) any loss mitigation arrangement or debtor relief plan established by federal law, rule, regulation, or guideline.

Sec. 5. As used in this chapter, "mortgage" means a loan in which a first mortgage, or a land contract that constitutes a first lien, is created or retained against land upon which there is a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes.

Sec. 6. As used in this chapter, "mortgage foreclosure counselor" means a foreclosure prevention counselor who is part of, or has been trained or certified by, the Indiana Foreclosure Prevention Network.

Sec. 7. As used in this chapter, "mortgage servicer" means the last person to whom:

(1) a debtor in a mortgage; or

(2) the debtor's successor in interest;

has been instructed to send payments on the mortgage.

Sec. 8. (a) This section applies to a foreclosure action that is filed after June 30, 2009. Except as provided in subsection (e) and section 10(g) of this chapter, not later than thirty (30) days before a creditor files an action for foreclosure, the creditor shall send to the debtor by certified mail a presuit notice on a form prescribed by the Indiana housing and community development authority created by IC 5-20-1-3. In prescribing the form required by this section, the Indiana housing and community development authority shall include in the notice the statement set forth in IC 24-5.5-3-1. In addition, the notice required by this subsection must:

(1) inform the debtor that:

(A) the debtor is in default; and

(B) the debtor is encouraged to obtain assistance from a

mortgage foreclosure counselor; and

(2) provide the contact information for the Indiana Foreclosure Prevention Network.

(b) The notice required by subsection (a) shall be sent to:

(1) the address of the mortgaged property; or

(2) the last known mailing address of the debtor if the creditor's records indicate that the mailing address of the debtor is other than the address of the mortgaged property.

If the creditor provides evidence that the notice required by subsection (a) was sent by certified mail, return receipt requested, and as prescribed by this subsection, it is not necessary that the debtor accept receipt of the notice for an action to proceed as allowed under this chapter.

(c) Except as provided in subsection (e) and section 10(g) of this chapter, if a creditor files an action to foreclose a mortgage, the creditor shall include with the complaint served on the debtor a notice that informs the debtor of the debtor's right to participate in a settlement conference. The notice must be in a form prescribed by the Indiana housing and community development authority created by IC 5-20-1-3. The notice must inform the debtor that the debtor may schedule a settlement conference by notifying the court, not later than thirty (30) days after the notice is served, of the debtor's intent to participate in a settlement conference.

(d) In a foreclosure action filed under IC 32-30-10-3 after June 30, 2009, the creditor shall attach to the complaint filed with the court a copy of the notices sent to the debtor under subsections (a) and (c).

(e) A creditor is not required to send the notices described in this section if:

(1) the loan is secured by a dwelling that is not the debtor's primary residence;

(2) the loan has been the subject of a prior foreclosure prevention agreement under this chapter and the debtor has defaulted with respect to the terms of that foreclosure prevention agreement; or

(3) bankruptcy law prohibits the creditor from participating in a settlement conference under this chapter with respect to the loan.

Sec. 9. (a) Except as provided in subsection (b), after June 30,

2009, a court may not issue a judgment of foreclosure under IC 32-30-10 on a mortgage subject to this chapter unless all of the following apply:

(1) The creditor has given the notice required under section 8(c) of this chapter.

(2) The debtor either:

(A) does not contact the court within the thirty (30) day period described in section 8(c) of this chapter to schedule a settlement conference under section 8(c) of this chapter; or

(B) contacts the court within the thirty (30) day period described in section 8(c) of this chapter to schedule a conference under section 8(c) of this chapter and, upon conclusion of the conference, the parties are unable to reach agreement on the terms of a foreclosure prevention agreement.

(3) At least sixty (60) days have elapsed since the date the notice required by section 8(a) of this chapter was sent, unless the mortgaged property is abandoned.

(b) If the court finds that a settlement conference would be of limited value based on the result of a prior loss mitigation effort between the creditor and the debtor:

(1) a settlement conference is not required under this chapter; and

(2) the conditions set forth in subsection (a) do not apply, and the foreclosure action may proceed as otherwise allowed by law.

Sec. 10. (a) Unless a settlement conference is not required under this chapter, the court shall issue a notice of a settlement conference if the debtor contacts the court to schedule a settlement conference as described in section 8(c) of this chapter. The court's notice of a settlement conference must do the following:

(1) Order the creditor and the debtor to conduct a settlement conference on or before a date and time specified in the notice, which date must not be earlier than twenty-five (25) days after the date of the notice or later than sixty (60) days after the date of the notice, for the purpose of attempting to negotiate a foreclosure prevention agreement.

(2) Encourage the debtor to contact a mortgage foreclosure

counselor before the date of the settlement conference. The notice must provide the contact information for the Indiana Foreclosure Prevention Network.

(3) Require the debtor to bring to the settlement conference the following documents needed to engage in good faith negotiations with the creditor:

(A) Documentation of the debtor's present and projected future income, expenses, assets, and liabilities, including documentation of the debtor's employment history.

(B) Any other documentation or information that the court determines is needed for the debtor to engage in good faith negotiations with the creditor. The court shall identify any documents required under this clause with enough specificity to allow the debtor to obtain the documents before the scheduled settlement conference.

(4) Require the creditor to bring to the settlement conference the following transaction history for the mortgage:

(A) A copy of the original note and mortgage.

(B) A payment record substantiating the default.

(C) An itemization of all amounts claimed by the creditor as being owed on the mortgage.

(D) Any other documentation that the court determines is needed.

(5) Inform the parties that:

(A) each party has the right to be represented by an attorney or assisted by a mortgage foreclosure counselor at the settlement conference; and

(B) an attorney or a mortgage foreclosure counselor may participate in the settlement conference in person or by telephone.

(6) Inform the parties that the settlement conference will be conducted at the county courthouse, or at another place designated by the court, on the date and time specified in the notice under subdivision (1) unless the parties submit to the court a stipulation to:

(A) modify the date, time, and place of the settlement conference; or

(B) hold the settlement conference by telephone at a date and time agreed to by the parties.

If the parties stipulate under clause (B) to conduct the settlement conference by telephone, the parties shall ensure the availability of any technology needed to allow simultaneous participation in the settlement conference by all participants.

(b) An attorney for the creditor shall attend the settlement conference, and an authorized representative of the creditor shall be available by telephone during the settlement conference. In addition, the court may require any person that is a party to the foreclosure action to appear at or participate in a settlement conference held under this section, and, for cause shown, the court may order the creditor and the debtor to reconvene a settlement conference at any time before judgment is entered.

(c) At the court's discretion, a settlement conference may or may not be attended by a judicial officer.

(d) The creditor shall ensure that any person representing the creditor:

(1) at a settlement conference scheduled under subsection (a); or

(2) in any negotiations with the debtor designed to reach agreement on the terms of a foreclosure prevention agreement;

has authority to represent the creditor in negotiating a foreclosure prevention agreement with the debtor.

(e) If, as a result of a settlement conference held under this section, the debtor and the creditor agree to enter into a foreclosure prevention agreement, the agreement shall be reduced to writing and signed by both parties, and each party shall retain a copy of the signed agreement. Not later than seven (7) business days after the signing of the foreclosure prevention agreement, the creditor shall file with the court a copy of the signed agreement. At the election of the creditor, the foreclosure shall be dismissed or stayed for as long as the debtor complies with the terms of the foreclosure prevention agreement.

(f) If, as a result of a settlement conference held under this section, the debtor and the creditor are unable to agree on the terms of a foreclosure prevention agreement:

(1) the creditor shall, not later than seven (7) business days after the conclusion of the settlement conference, file with the

court a notice indicating that the settlement conference held under this section has concluded and a foreclosure prevention agreement was not reached; and

(2) the foreclosure action filed by the creditor may proceed as otherwise allowed by law.

(g) If:

(1) a foreclosure is dismissed by the creditor under subsection (e) after a foreclosure prevention agreement is reached; and

(2) a default in the terms of the foreclosure prevention agreement later occurs;

the creditor or its assigns may bring a foreclosure action under IC 32-30-10-3 without sending the notices described in section 8 of this chapter.

(h) Participation in a settlement conference under this section satisfies any mediation or alternative dispute resolution requirement established by court rule.

Sec. 11. (a) This section applies to a mortgage foreclosure action with respect to which the creditor has filed the complaint in the proceeding before July 1, 2009, and the court having jurisdiction over the proceeding has not rendered a judgment of foreclosure before July 1, 2009.

(b) In a mortgage foreclosure action to which this section applies, the court having jurisdiction of the action shall serve notice of the availability of a settlement conference under section 8(c) of this chapter.

SECTION 21. IC 32-30-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **Except as provided in IC 32-30-10.5 for mortgage transactions described in IC 32-30-10.5-5,** it is not necessary in any action upon a mortgage or lien to give time for:

(1) the payment of money; or

(2) performing any other act.

Final judgment may be given in the first instance.

SECTION 22. IC 33-37-4-4, AS AMENDED BY P.L.174-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred dollars ($100) from a party filing a civil action. This subsection does not apply to the following civil actions:

(1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).

(2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 before its repeal).

(3) Proceedings in juvenile court under IC 31-34 or IC 31-37.

(4) Proceedings in paternity under IC 31-14.

(5) Proceedings in small claims court under IC 33-34.

(6) Proceedings in actions described in section 7 of this chapter.

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A support and maintenance fee (IC 33-37-5-6).

(3) A document storage fee (IC 33-37-5-20).

(4) An automated record keeping fee (IC 33-37-5-21).

(5) A public defense administration fee (IC 33-37-5-21.2).

(6) A judicial insurance adjustment fee (IC 33-37-5-25).

(7) A judicial salaries fee (IC 33-37-5-26).

(8) A court administration fee (IC 33-37-5-27).

(9) A service fee (IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2)).

(10) A garnishee service fee (IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4)).

(11) For a mortgage foreclosure action filed after June 30, 2009, and before January 1, 2013, a mortgage foreclosure counseling and education fee (IC 33-37-5-30 (before its expiration on January 1, 2013)).

SECTION 23. IC 33-37-5-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 30. (a) This section applies to a civil action in which the clerk is required to collect a civil costs fee under IC 33-37-4-4(a). The clerk shall collect a fifty dollar ($50) mortgage foreclosure counseling and education fee from a party filing an action to foreclose a mortgage after June 30, 2009, and before January 1, 2013.**

(b) This section expires January 1, 2013.

SECTION 24. IC 33-37-7-2, AS AMENDED BY P.L.122-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

(4) IC 33-37-4-4(a) (civil costs fees).

(5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance account established by IC 5-2-6-23(h) one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases

in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in the county general fund.

(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.

(i) This subsection does not apply to court administration fees collected in small claims actions filed in a court described in IC 33-34. The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The judicial salaries fees collected under IC 33-37-5-26.

(3) The DNA sample processing fees collected under IC 33-37-5-26.2.

(4) The court administration fees collected under IC 33-37-5-27.

(j) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(k) The proceeds of the service fee collected under IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(l) The proceeds of the garnishee service fee collected under IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the

garnishee service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(m) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the home ownership education account established by IC 5-20-1-27 one hundred percent (100%) of the mortgage foreclosure counseling and education fees collected under IC 33-37-5-30 (before its expiration on January 1, 2013).

SECTION 25. **An emergency is declared for this act.**

P.L.106-2009
[S.530. Approved May 7, 2009.]

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

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

SECTION 1. IC 1-3-2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 2. Indiana-Michigan Boundary Line Commission

Sec. 1. As used in this chapter, "boundary county" refers to any of the following:

(1) Elkhart County.

(2) LaGrange County.

(3) LaPorte County.

(4) St. Joseph County.

(5) Steuben County.

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

Indiana-Michigan boundary line commission established by section 3 of this chapter.

Sec. 3. The Indiana-Michigan boundary line commission is established.

Sec. 4. (a) The commission consists of five (5) members appointed by the governor.

(b) Each commission member must be a surveyor registered under IC 25-21.5.

(c) One (1) member of the commission must be appointed from each of the boundary counties.

(d) The commission's chair must be:

(1) a commission member; and

(2) elected by a majority of the commission members.

Sec. 5. (a) A commission member is not entitled to compensation for service on the commission.

(b) A commission member is entitled to reimbursement for expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 6. The commission shall meet at least four (4) times each year.

Sec. 7. (a) The commission shall administer and oversee a survey and remonumentation of the Indiana-Michigan border.

(b) The survey required by this section shall install relatively permanent monumentation at the mile post positions as established by the original government survey of October 1827. However, the commission may not replace lost mile post positions if the state of Michigan does not participate in the project as authorized by Michigan law.

(c) The commission may procure professional surveying services through the Indiana department of administration. A contract for surveying services must be awarded to a company incorporated in Indiana.

(d) The commission shall review the survey upon completion of each mile post.

(e) Upon completion of the survey, the commission shall submit the survey to the general assembly for ratification.

Sec. 8. This chapter expires July 1, 2015.

P.L.107-2009
[S.554. Approved May 7, 2009.]

AN ACT to amend the Indiana Code concerning Medicaid.

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

SECTION 1. IC 12-15-2-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13.5. (a) A woman:

(1) who is not eligible for Medicaid under any other section of this chapter;

(2) who is less than sixty-five (65) years of age;

(3) who has been:

(A) screened for breast or cervical cancer through the breast and cervical cancer screening program **or by another provider** under the federal Breast and Cervical Cancer Mortality Prevention Act of 1990 (42 U.S.C. 300k); and

(B) determined to need treatment for breast or cervical cancer;

(4) who is not otherwise covered under credible coverage (as defined in 42 U.S.C. 300gg(c)); and

(5) whose family income does not exceed two hundred percent (200%) of the federal income poverty level for the same size family;

is eligible for Medicaid.

(b) Medicaid made available to a woman described in subsection (a) is limited to the duration of treatment required for breast or cervical cancer.

SECTION 2. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "state department" refers to the state department of health established by IC 16-19-1-1.**

(b) The state department shall change the state department's Breast and Cervical Cancer Screening Program plan in a manner that will designate Indiana as an option three state, allowing a woman who is screened by other providers and entities to be

identified by the state department as a part of the state's program, for as long as the state department is a federal Title XV grant recipient.

(c) This SECTION expires December 31, 2012.

SECTION 3. **An emergency is declared for this act.**

P.L.108-2009
[H.1286. Approved May 7, 2009.]

AN ACT to amend the Indiana Code concerning charitable and type II gaming issues.

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

SECTION 1. IC 4-30-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. Holders of lottery tickets are entitled to claim prizes for one hundred eighty (180) days after the drawing or at the end of the lottery game play in which the prize was won. ~~However, with respect to a game in which the player may determine instantly if the player has won or lost, the right to claim prizes exists for sixty (60) days after the end of the lottery game.~~ If a valid claim is not made for a prize within the applicable period, the prize is considered an unclaimed prize for purposes of section 9 of this chapter.

SECTION 2. IC 4-30-11-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) The treasurer of state, the department of state revenue, the department of administration, the Indiana department of transportation, the attorney general, and the courts shall identify to the commission, in the form and format prescribed by the commission and approved by the auditor of state, a person who:

(1) owes an outstanding debt ~~to~~ to a state agency;

(2) owes delinquent state taxes; or

(3) owes child support collected and paid to a recipient through a court.

(b) Before the payment of a prize of more than five hundred ninety-nine dollars ($599) to a claimant identified under subsection (a), the commission shall **deduct the amount of the obligation from the prize money and** transmit the ~~prize money~~ **deducted amount** to the auditor of state. ~~who shall authorize payment of~~ **The commission shall pay** the balance **of the prize money** to the prize winner after deduction of the obligation. If a prize winner owes multiple obligations subject to offset under this section and the prize is insufficient to cover all obligations, the amount of the prize shall be applied as follows:

(1) First, to the child support obligations owed by the prize winner that are collected and paid to a recipient through a court.

(2) Second, to judgments owed by the prize winner.

(3) Third, to tax liens owed by the prize winner.

(4) Fourth, to unsecured debts owed by the prize winner.

Within each of the categories described in subdivisions (1) through (4), the amount and priority of the prize shall be applied in the manner that the auditor of state determines to be appropriate. The commission shall reimburse the auditor of state pursuant to an agreement under IC 4-30-15-5 for the expenses incurred by the auditor of state in carrying out the duties required by this section.

(c) As used in this section, "debt" means an obligation that is ~~evidence~~ **evidenced** by an assessment or lien issued by a state agency, a judgment, or a final order of an administrative agency.

SECTION 3. IC 26-1-9.1-102, AS AMENDED BY P.L.143-2007, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 102. (a) In IC 26-1-9.1:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2) "Account", except as used in "account for", means a right to payment of a monetary obligation, whether or not earned by performance:

~~(i)~~ **(A)** for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of;

~~(ii)~~ **(B)** for services rendered or to be rendered;

~~(iii)~~ **(C)** for a policy of insurance issued or to be issued;

~~(iv)~~ **(D)** for a secondary obligation incurred or to be incurred;

~~(v)~~ **(E)** for energy provided or to be provided;

~~(vi)~~ **(F)** for the use or hire of a vessel under a charter or other contract;

~~(vii)~~ **(G)** arising out of the use of a credit or charge card or information contained on or for use with the card; or

~~(viii)~~ **(H)** as winnings in a lottery or other game of chance operated or sponsored by a state **other than Indiana, a** governmental unit of a state, or **a** person licensed or authorized to operate the game by a state or governmental unit of a state.

The term does not include a right to a payment of a prize awarded by the state lottery commission in the Indiana state lottery established under IC 4-30. The term includes health-care-insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(4) "Accounting", except as used in "accounting for", means a record:

(A) authenticated by a secured party;

(B) indicating the aggregate unpaid secured obligations as of a date not more than thirty-five (35) days earlier or thirty-five (35) days later than the date of the record; and

(C) identifying the components of the obligations in reasonable detail.

(5) "Agricultural lien" means an interest, other than a security interest, in farm products:

(A) that secures payment or performance of an obligation for:

(i) goods or services furnished in connection with a debtor's farming operation; or

(ii) rent on real property leased by a debtor in connection

with the debtor's farming operation;

(B) that is created by statute in favor of a person that:

(i) in the ordinary course of its business furnished goods or services to a debtor in connection with the debtor's farming operation; or

(ii) leased real property to a debtor in connection with the debtor's farming operation; and

(C) whose effectiveness does not depend on the person's possession of the personal property.

(6) "As-extracted collateral" means:

(A) oil, gas, or other minerals that are subject to a security interest that:

(i) is created by a debtor having an interest in the minerals before extraction; and

(ii) attaches to the minerals as extracted; or

(B) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(7) "Authenticate" means:

(A) to sign; or

(B) to execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.

(8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(11) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used

in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this subdivision, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term "chattel paper" does not include: (i) charters or other contracts involving the use or hire of a vessel; or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(12) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

(A) proceeds to which a security interest attaches;

(B) accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

(C) goods that are the subject of a consignment.

(13) "Commercial tort claim" means a claim arising in tort with respect to which:

(A) the claimant is an organization; or

(B) the claimant is an individual and the claim:

(i) arose in the course of the claimant's business or profession; and

(ii) does not include damages arising out of personal injury to or the death of an individual.

(14) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(15) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

(A) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

(B) traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(16) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.

(17) "Commodity intermediary" means a person that:

(A) is registered as a futures commission merchant under federal commodities law; or

(B) in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(18) "Communicate" means:

(A) to send a written or other tangible record;

(B) to transmit a record by any means agreed upon by the persons sending and receiving the record; or

(C) in the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

(19) "Consignee" means a merchant to which goods are delivered in a consignment.

(20) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(A) the merchant:

(i) deals in goods of that kind under a name other than the name of the person making delivery;

(ii) is not an auctioneer; and

(iii) is not generally known by its creditors to be substantially engaged in selling the goods of others;

(B) with respect to each delivery, the aggregate value of the goods is one thousand dollars ($1,000) or more at the time of delivery;

(C) the goods are not consumer goods immediately before delivery; and

(D) the transaction does not create a security interest that secures an obligation.

(21) "Consignor" means a person that delivers goods to a consignee in a consignment.

(22) "Consumer debtor" means a debtor in a consumer

transaction.

(23) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.

(24) "Consumer-goods transaction" means a consumer transaction in which:

(A) an individual incurs an obligation primarily for personal, family, or household purposes; and

(B) a security interest in consumer goods secures the obligation.

(25) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.

(26) "Consumer transaction" means a transaction in which (i) an individual incurs an obligation primarily for personal, family, or household purposes, (ii) a security interest secures the obligation, and (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions.

(27) "Continuation statement" means an amendment of a financing statement that:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(28) "Debtor" means:

(A) a person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(B) a seller of accounts, chattel paper, payment intangibles, or promissory notes; or

(C) a consignee.

(29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(30) "Document" means a document of title or a receipt of the type described in IC 26-1-7-201(b).

(31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(32) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(33) "Equipment" means goods other than inventory, farm products, or consumer goods.

(34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

(A) crops grown, growing, or to be grown, including:

(i) crops produced on trees, vines, and bushes; and

(ii) aquatic goods produced in aquacultural operations;

(B) livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(C) supplies used or produced in a farming operation; or

(D) products of crops or livestock in their unmanufactured states.

(35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(36) "File number" means the number assigned to an initial financing statement pursuant to IC 26-1-9.1-519(a).

(37) "Filing office" means an office designated in IC 26-1-9.1-501 as the place to file a financing statement.

(38) "Filing-office rule" means a rule adopted pursuant to IC 26-1-9.1-526.

(39) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(40) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying IC 26-1-9.1-502(a) and IC 26-1-9.1-502(b). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(41) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real

property law.

(42) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

(43) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(44) "Goods" means all things that are movable when a security interest attaches. The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

(45) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(46) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance that is a right to payment of a monetary obligation for health-care goods or services provided.

(47) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in the ordinary course of business is transferred by delivery with any necessary endorsement or assignment. The term does not include (i) investment property, (ii) letters of credit, or (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(48) "Inventory" means goods, other than farm products, that:

(A) are leased by a person as lessor;

(B) are held by a person for sale or lease or to be furnished under a contract of service;

(C) are furnished by a person under a contract of service; or

(D) consist of raw materials, work in process, or materials used or consumed in a business.

(49) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(50) "Jurisdiction of organization", with respect to a registered organization, means the jurisdiction under whose law the organization is organized.

(51) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(52) "Lien creditor" means:

(A) a creditor that has acquired a lien on the property involved by attachment, levy, or the like;

(B) an assignee for benefit of creditors from the time of assignment;

(C) a trustee in bankruptcy from the date of the filing of the petition; or

(D) a receiver in equity from the time of appointment.

(53) "Manufactured home" means a structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8)

body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this subdivision except the size requirements, and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

(54) "Manufactured-home transaction" means a secured transaction:

(A) that creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

(B) in which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(55) "Mortgage" means a consensual interest in real property, including fixtures, that secures payment or performance of an obligation.

(56) "New debtor" means a person that becomes bound as debtor under IC 26-1-9.1-203(d) by a security agreement previously entered into by another person.

(57) "New value" means (i) money, (ii) money's worth in property, services, or new credit, or (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(58) "Noncash proceeds" means proceeds other than cash proceeds.

(59) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (iii) is

otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(60) "Original debtor", except as used in IC 26-1-9.1-310(c), means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under IC 26-1-9.1-203(d).

(61) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(62) "Person related to", with respect to an individual, means:

(A) the spouse of the individual;

(B) a brother, brother-in-law, sister, or sister-in-law of the individual;

(C) an ancestor or lineal descendant of the individual or the individual's spouse; or

(D) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(63) "Person related to", with respect to an organization, means:

(A) a person directly or indirectly controlling, controlled by, or under common control with the organization;

(B) an officer or director of, or a person performing similar functions with respect to, the organization;

(C) an officer or director of, or a person performing similar functions with respect to, a person described in clause (A);

(D) the spouse of an individual described in clause (A), (B), or (C); or

(E) an individual who is related by blood or marriage to an individual described in clause (A), (B), (C), or (D) and shares the same home with the individual.

(64) "Proceeds", except as used in IC 26-1-9.1-609(b), means the following property:

(A) Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral.

(B) Whatever is collected on, or distributed on account of, collateral.

(C) Rights arising out of collateral.

(D) To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral.

(E) To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(65) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(66) "Proposal" means a record authenticated by a secured party that includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to IC 26-1-9.1-620, IC 26-1-9.1-621, and IC 26-1-9.1-622.

(67) "Public-finance transaction" means a secured transaction in connection with which:

(A) debt securities are issued;

(B) all or a portion of the securities issued have an initial stated maturity of at least twenty (20) years; and

(C) the debtor, obligor, secured party, account debtor, or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(68) "Pursuant to commitment", with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(69) "Record", except as used in "for record", "of record", "record or legal title", and "record owner", means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(70) "Registered organization" means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public

record showing the organization to have been organized.

(71) "Secondary obligor" means an obligor to the extent that:

(A) the obligor's obligation is secondary; or

(B) the obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(72) "Secured party" means:

(A) a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) a person that holds an agricultural lien;

(C) a consignor;

(D) a person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(E) a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) a person that holds a security interest arising under IC 26-1-2-401, IC 26-1-2-505, IC 26-1-2-711(3), IC 26-1-2.1-508(5), IC 26-1-4-210, or IC 26-1-5.1-118.

(73) "Security agreement" means an agreement that creates or provides for a security interest.

(74) "Send", in connection with a record or notification, means:

(A) to deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(B) to cause the record or notification to be received within the time that it would have been received if properly sent under clause (A).

(75) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(76) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(77) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(78) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(79) "Termination statement" means an amendment of a financing statement that:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(80) "Transmitting utility" means a person primarily engaged in the business of:

(A) operating a railroad, subway, street railway, or trolley bus;

(B) transmitting communications electrically, electromagnetically, or by light;

(C) transmitting goods by pipeline or sewer; or

(D) transmitting or producing and transmitting electricity, steam, gas, or water.

(b) "Control" as provided in IC 26-1-7-106 and the following definitions outside IC 26-1-9.1 apply to IC 26-1-9.1:

"Applicant" IC 26-1-5.1-102.

"Beneficiary" IC 26-1-5.1-102.

"Broker" IC 26-1-8.1-102.

"Certificated security" IC 26-1-8.1-102.

"Check" IC 26-1-3.1-104.

"Clearing corporation" IC 26-1-8.1-102.

"Contract for sale" IC 26-1-2-106.

"Customer" IC 26-1-4-104.

"Entitlement holder" IC 26-1-8.1-102.

"Financial asset" IC 26-1-8.1-102.

"Holder in due course" IC 26-1-3.1-302.

"Issuer" (with respect to a letter of credit or letter-of-credit right) IC 26-1-5.1-102.

"Issuer" (with respect to a security) IC 26-1-8.1-201.

"Issuer" (with respect to documents of title) IC 26-1-7-102.

"Lease" IC 26-1-2.1-103.
"Lease agreement" IC 26-1-2.1-103.
"Lease contract" IC 26-1-2.1-103.
"Leasehold interest" IC 26-1-2.1-103.
"Lessee" IC 26-1-2.1-103.
"Lessee in ordinary course of business" IC 26-1-2.1-103.
"Lessor" IC 26-1-2.1-103.
"Lessor's residual interest" IC 26-1-2.1-103.
"Letter of credit" IC 26-1-5.1-102.
"Merchant" IC 26-1-2-104.
"Negotiable instrument" IC 26-1-3.1-104.
"Nominated person" IC 26-1-5.1-102.
"Note" IC 26-1-3.1-104.
"Proceeds of a letter of credit" IC 26-1-5.1-114.
"Prove" IC 26-1-3.1-103.
"Sale" IC 26-1-2-106.
"Securities account" IC 26-1-8.1-501.
"Securities intermediary" IC 26-1-8.1-102.
"Security" IC 26-1-8.1-102.
"Security certificate" IC 26-1-8.1-102.
"Security entitlement" IC 26-1-8.1-102.
"Uncertificated security" IC 26-1-8.1-102.

(c) IC 26-1-1 contains general definitions and principles of construction and interpretation applicable throughout IC 26-1-9.1.

SECTION 4. IC 4-32.2-2-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 7.5. "Bona fide fraternal organization" means a type of bona fide civic organization that:**

(1) is a branch, lodge, or chapter of a national organization; and

(2) exists for the common charitable purposes, brotherhood, and other interests of its members.

SECTION 5. IC 4-32.2-2-23.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 23.5. "Qualified drawing" means a random drawing to award one (1) or more prizes that is conducted in the manner required by IC 4-32.2-5-26.**

SECTION 6. IC 4-32.2-2-24, AS AMENDED BY P.L.227-2007,

SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 24. (a) "Qualified organization" ~~means.~~ **refers to any of the following:**

(1) A bona fide religious, educational, senior citizens, veterans, or civic organization operating in Indiana that:

(A) operates without profit to the organization's members;

(B) is exempt from taxation under Section 501 of the Internal Revenue Code; and

(C) **satisfies at least one (1) of the following requirements:**

(i) The organization has been continuously in existence in Indiana for at least five (5) years. ~~or~~

(ii) The organization is affiliated with a parent organization that has been in existence in Indiana for at least five (5) years.

(iii) The organization has reorganized and is continuing its mission under a new name on file with the Indiana secretary of state and with a new tax identification number after having satisfied the requirements set forth in either item (i) or (ii).

(2) A bona fide political organization operating in Indiana that produces exempt function income (as defined in Section 527 of the Internal Revenue Code). ~~or~~

(3) A state educational institution (as defined in ~~IC 20-12-0.5-1).~~ **IC 21-7-13-32).**

(b) For purposes of IC 4-32.2-4-3, a "qualified organization" includes the following:

(1) A hospital licensed under IC 16-21.

(2) A health facility licensed under IC 16-28.

(3) A psychiatric facility licensed under IC 12-25.

(4) An organization defined in subsection (a).

(c) For purposes of IC 4-32.2-4-10, a "qualified organization" includes a bona fide business organization.

(d) Evidence that an organization satisfies subsection (a)(1)(C)(iii) includes:

(1) evidence of the organization's continued use of a service mark or trademarked logo associated with the organization's former name;

(2) evidence of the continuity of the organization's activities

as shown in the federal income tax returns filed for the organization's five (5) most recent taxable years;

(3) evidence of the continuity of the organization's activities as shown by the five (5) most recent annual external financial reviews of the organization prepared by a certified public accountant; or

(4) any other information considered sufficient by the commission.

SECTION 7. IC 4-32.2-4-7.5, AS ADDED BY P.L.227-2007, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.5. (a) ~~Subject to~~ **This section applies only to a qualified organization described in** subsection (h). The commission may issue an annual charity game night license to a qualified organization if:

(1) the provisions of this section are satisfied; and

(2) the qualified organization:

(A) submits an application; and

(B) pays a fee set by the commission under IC 4-32.2-6.

(b) The commission may hold a public hearing to obtain input on the proposed issuance of an annual charity game night license to an applicant that has never held an annual charity game night license under this article.

(c) The first time that a qualified organization applies for an annual charity game night license, the qualified organization shall publish notice that the application has been filed by publication at least two (2) times, seven (7) days apart, as follows:

(1) In one (1) newspaper in the county where the qualified organization is located.

(2) In one (1) newspaper in the county where the allowable events will be conducted.

(d) The notification required by subsection (c) must contain the following:

(1) The name of the qualified organization and the fact that it has applied for an annual charity game night license.

(2) The location where the charity game night events will be held.

(3) The names of the operator and officers of the qualified organization.

(4) A statement that any person can protest the proposed issuance

of the annual charity game night license.

(5) A statement that the commission shall hold a public hearing if ten (10) written and signed protest letters are received by the commission.

(6) The address of the commission where correspondence concerning the application may be sent.

(e) If the commission receives at least ten (10) protest letters, the commission shall hold a public hearing in accordance with IC 5-14-1.5. The commission shall issue a license or deny the application not later than sixty (60) days after the date of the public hearing.

(f) A license issued under this section:

(1) may authorize the qualified organization to conduct charity game night events on more than one (1) occasion during a period of one (1) year;

(2) must state the locations of the permitted charity game night events;

(3) must state the expiration date of the license; and

(4) may be reissued annually upon the submission of an application for reissuance on the form established by the commission and upon the licensee's payment of a fee set by the commission.

(g) Notwithstanding subsection (f)(4), the commission may hold a public hearing for the reissuance of an annual charity game night license if at least one (1) of the following conditions is met:

(1) An applicant has been cited for a violation of law or a rule of the commission.

(2) The commission receives at least ten (10) protest letters concerning the qualified organization's charity game night operation.

(3) A public hearing is considered necessary by the commission.

(h) ~~Notwithstanding IC 4-32.2-2-24, this section applies only to:~~ **A qualified organization may apply for an annual charity game night license under this section if the qualified organization is:**

(1) a bona fide ~~civic~~ **fraternal** organization; or

(2) a bona fide veterans organization;

that has been continuously in existence in Indiana for ten (10) years. ~~A qualified organization that is not described in this subsection may not apply for an annual charity game night license under this section.~~

(i) A facility or location may not be used for purposes of conducting an annual charity game night event on more than three (3) calendar days per calendar week regardless of the number of qualified organizations conducting an annual charity game night event at the facility or location.

SECTION 8. IC 4-32.2-4-13, AS AMENDED BY P.L.95-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) A bingo license or special bingo license may also authorize a qualified organization to conduct raffle events and door prize drawings and sell pull tabs, punchboards, and tip boards at the bingo event.

(b) A charity game night license may also authorize a qualified organization to:

(1) conduct raffle events and door prize drawings; and

(2) sell pull tabs, punchboards, and tip boards;

at the charity game night.

(c) A raffle license or an annual raffle license may also authorize a qualified organization to conduct door prize drawings and sell pull tabs, punchboards, and tip boards at the raffle event.

(d) A door prize license or an annual door prize license may also authorize a qualified organization to conduct a raffle event and to sell pull tabs, punchboards, and tip boards at the door prize event.

(e) A PPT license may also authorize a qualified organization to conduct ~~at any time~~ on the premises described in section 16.5(b) of this chapter ~~a~~ winner take all ~~drawing in which the qualified organization retains no portion of the amounts wagered. The total amount awarded to a patron who participates in a winner take all drawing may not exceed three hundred dollars ($300).~~ **drawings and other qualified drawings in the manner required by IC 4-32.2-5-26.**

SECTION 9. IC 4-32.2-5-8, AS AMENDED BY P.L.227-2007, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) If ~~facilities are~~ **a facility or location is** leased for an allowable event, the rent may not be based in whole or in part on the revenue generated from the event.

(b) **Subject to the additional restrictions on the use of a facility or location that are set forth in IC 4-32.2-4-7.5(i),** a facility **or location** may not be rented for more than three (3) days during a calendar week for an allowable event.

(c) If personal property is leased for an allowable event, the rent may not be based in whole or in part on the revenue generated from the event.

SECTION 10. IC 4-32.2-5-14, AS AMENDED BY P.L.95-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) **Except as provided by subsection (c),** an operator or a worker may not directly or indirectly participate, other than in a capacity as an operator or a worker, in an allowable event that the operator or worker is conducting.

(b) A patron at a charity game night may deal the cards in a card game if:

(1) the card game in which the patron deals the cards is a game of euchre;

(2) the patron deals the cards in the manner required in the ordinary course of the game of euchre; and

(3) the euchre game is played under the supervision of the qualified organization conducting the charity game night in accordance with rules adopted by the commission under IC 4-32.2-3-3.

A patron who deals the cards in a euchre game conducted under this subsection is not considered a worker or an operator for purposes of this article.

(c) A worker at a festival event may participate as a player in any gaming activity offered at the festival event except as follows:

(1) A worker may not participate in any game during the time in which the worker is conducting or helping to conduct the game.

(2) A worker who conducts or helps to conduct a pull tab, punchboard, or tip board event during a festival event may not participate as a player in a pull tab, punchboard, or tip board event conducted on the same calendar day.

SECTION 11. IC 4-32.2-5-26 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 26. (a) A qualified drawing must be conducted in the manner required by this section.**

(b) A qualified drawing is subject to the following rules and limitations:

(1) The purchase price for a chance to win a prize in a

qualified drawing may not exceed five dollars ($5).

(2) The total value of all prizes that may be won in a particular qualified drawing may not exceed three hundred dollars ($300) for any of the following:

(A) A daily drawing.

(B) A weekly drawing.

(C) A monthly drawing.

(3) A qualified drawing must be conducted in accordance with the following limitations:

(A) Not more than one (1) daily drawing may be conducted each day.

(B) Not more than one (1) weekly drawing may be conducted each week.

(C) Not more than one (1) monthly drawing may be conducted each month.

(D) Weekly drawings must be held on regular seven (7) day intervals posted in the information required by subdivision (11).

(E) Monthly drawings must be held on regular monthly intervals posted in the information required by subdivision (11).

A weekly or monthly drawing may be conducted on the same day that a daily drawing is conducted.

(4) Except as otherwise provided in this section, a patron must be present to claim a prize awarded in a qualified drawing.

(5) A qualified organization may not profit from conducting a qualified drawing.

(6) All amounts wagered on qualified drawings must be returned to a qualified organization's patrons in the form of prizes.

(7) A qualified organization may not conduct a qualified drawing or any other event in which the winner of the prize is determined, in whole or in part, by a sporting event.

(8) If no winning ticket is drawn in a qualified drawing, a qualified organization may:

(A) carry the prize over to a later drawing in accordance with this section; or

(B) continue drawing tickets until a winner is drawn.

(9) If a patron who purchased a winning ticket is not present

to claim a prize at the time of the qualified drawing, a qualified organization shall hold the prize for the winning patron in accordance with the rules of the qualified organization.

(10) In order to comply with subdivision (9), a qualified organization shall obtain the name, address, and telephone number of each patron who purchases a ticket for a qualified drawing.

(11) A qualified organization must conspicuously display the following information concerning each qualified drawing conducted by the qualified organization:

(A) The price of a ticket.

(B) The time of the drawing.

(C) The description and value of the prizes awarded in the drawing.

(D) The manner in which a prize may be claimed.

(E) The rules of the qualified organization concerning the following:

(i) Qualified drawings in which no winning ticket is drawn.

(ii) The period that the qualified organization will hold a prize for a winning patron who was not present to claim the prize at the time of the qualified drawing.

(12) Notwithstanding any other provision of this chapter, a qualified organization must continue drawing tickets in a monthly drawing until the qualified organization draws a ticket purchased by a patron who is present to claim the prize.

(c) When the winning patron is not present at the time of the qualified drawing to claim a prize, the qualified organization shall award the prize in the following manner:

(1) The qualified organization shall immediately notify the winning patron by telephone that the patron's name was drawn in a qualified drawing and that the patron has the time permitted by the rules of the qualified organization, which must be at least seventy-two (72) hours, to claim the prize.

(2) The winning patron must appear at the premises of the qualified organization within the time permitted by the rules of the qualified organization to claim the prize in person.

(3) The qualified organization shall verify the identity of the

winning patron and award the prize.

(d) This subsection applies when the rules of a qualified organization require the qualified organization to carry over a prize when no winning ticket is drawn and when a winning patron fails to claim a prize in the manner required by subsection (c). The qualified organization shall carry the prize over to a later qualified drawing as follows:

(1) An unclaimed prize from a daily drawing must be carried over to the next daily drawing.

(2) Subject to the prize limits set forth in subsection (b)(2), a qualified organization may carry over a prize under subdivision (1) not more than fourteen (14) times. On the fourteenth calendar day to which a prize has been carried over, the qualified organization must continue drawing tickets until the qualified organization draws a ticket purchased by a patron who is present to claim the prize.

(3) An unclaimed prize from a weekly drawing must be carried over to the next weekly drawing.

(4) Subject to the prize limits set forth in subsection (b)(2), a qualified organization may carry over a prize under subdivision (3) not more than one (1) time. On the day that the qualified organization conducts a weekly drawing for the carried over prize, the qualified organization must continue drawing tickets until the qualified organization draws a ticket purchased by a patron who is present to claim the prize.

(e) The following apply to a qualified organization that carries over a prize under subsection (d):

(1) A qualified organization may conduct the daily drawing regularly scheduled for a calendar day occurring during the time that the qualified organization holds a prize for a winning patron who was not present at the time of a qualified drawing.

(2) If an unclaimed prize from a daily drawing is carried over to a particular date, the qualified organization may not conduct the regular daily drawing that would otherwise be permitted under this section on that date.

(3) If an unclaimed prize from a weekly drawing is carried over to a particular date, the qualified organization may not conduct the regular weekly drawing that would otherwise be

permitted under this section on that date.

(4) Subject to the prize limits set forth in subsection (b)(2), a qualified organization may accept additional entries to a drawing for a carried over prize.

SECTION 12. IC 4-32.2-6-0.5, AS ADDED BY P.L.95-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 0.5. As used in this chapter, "gross revenue" does not include any amount wagered on ~~a~~ winner take all **and other qualified** ~~drawing~~ **drawings** conducted by a qualified organization under ~~IC 4-32.2-4-13(c).~~ **IC 4-32.2-5-26.**

SECTION 13. IC 4-32.2-9-9, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. **(a)** Information obtained by the commission during the course of an investigation conducted under this chapter is confidential.

(b) A driver's license number or other identifying information of an operator or worker that is submitted to the commission on an application for a license under this article is confidential.

SECTION 14. IC 4-36-2-9, AS ADDED BY P.L.95-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. "Gross receipts" means the total amount of money exchanged for the purchase of ~~raffle tickets,~~ pull tabs, punchboards, and tip boards by type II gaming patrons. The term does not include any amount wagered on ~~a~~ winner take all **and other qualified** ~~drawing~~ **drawings** conducted by a retailer under ~~IC 4-36-5-1(b)(2).~~ **IC 4-36-5-1(c).**

SECTION 15. IC 4-36-2-15.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 15.5. "Qualified drawing" means a random drawing to award one (1) or more prizes that is conducted in the manner required by IC 4-36-5-1(c).**

SECTION 16. IC 4-36-4-5, AS ADDED BY P.L.95-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The commission shall charge the following fees for the issuance of a person's initial annual endorsement or license under this chapter:

(1) Two hundred fifty dollars ($250) for a retailer's endorsement to conduct a type II gambling operation in the retailer's tavern.

(2) One thousand dollars ($1,000) for a distributor's license.

(3) One thousand five hundred dollars ($1,500) for a manufacturer's license.

(b) The commission shall charge the following fees for the renewal of a person's annual endorsement or license under this chapter:

(1) The ~~amount determined under section 6 of this chapter~~ **following amounts** for a retailer's endorsement:

(A) One hundred dollars ($100) in the case of a retailer that had adjusted gross revenues of less than twenty-five thousand dollars ($25,000) in the previous year.

(B) Two hundred fifty dollars ($250) in the case of a retailer that had adjusted gross revenues of at least twenty-five thousand dollars ($25,000) but less than fifty thousand dollars ($50,000) in the previous year.

(C) Five hundred dollars ($500) in the case of a retailer that had adjusted gross revenues of at least fifty thousand dollars ($50,000) but less than one hundred thousand dollars ($100,000) in the previous year.

(D) One thousand dollars ($1,000) in the case of a retailer that had adjusted gross revenues of at least one hundred thousand dollars ($100,000) in the previous year.

(2) One thousand dollars ($1,000) for a distributor's license.

(3) One thousand five hundred dollars ($1,500) for a manufacturer's license.

(c) A retailer shall report the amount of the retailer's adjusted gross receipts on the form required to renew the retailer's endorsement. The renewal fee required under subsection (b)(1) must be submitted with the renewal form.

~~(c)~~ **(d)** The commission shall deposit all fees collected under this chapter into the enforcement and administration fund established under IC 7.1-4-10.

SECTION 17. IC 4-36-4-6, AS ADDED BY P.L.95-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) For the purposes of ~~subsection (c),~~ **section 5(b)(1) of this chapter,** a retailer's adjusted gross revenue is an amount equal to the difference between:

(1) the retailer's total gross revenue from the retailer's type II gambling operations in the preceding year; minus

(2) the sum of any amounts deducted under subsection (b) in the preceding year.

(b) To determine the amount of a retailer's adjusted gross revenue from the retailer's type II gambling operations in the preceding year under subsection (a), the retailer shall subtract the following from the retailer's gross receipts:

(1) An amount equal to the total value of the prizes awarded **in type II gambling games** in the preceding year.

(2) The sum of the purchase prices paid for type II gambling games dispensed in the retailer's type II gambling operation in the preceding year.

(3) An amount equal to the amount of license fees paid by the retailer in the preceding year.

~~(c) The license fee that is charged to a retailer that renews the endorsement must be based on the adjusted gross revenue from the retailer's type II gambling operations in the preceding year, according to the following schedule:~~

~~Class~~	~~Adjusted Gross Revenues~~		~~Fee~~
	~~At Least~~	~~But Less Than~~	
~~A~~	~~$ 0~~	~~$ 15,000~~	~~$ 50~~
~~B~~	~~$ 15,000~~	~~$ 25,000~~	~~$ 100~~
~~C~~	~~$ 25,000~~	~~$ 50,000~~	~~$ 300~~
~~D~~	~~$ 50,000~~	~~$ 75,000~~	~~$ 400~~
~~E~~	~~$ 75,000~~	~~$ 100,000~~	~~$ 700~~
~~F~~	~~$ 100,000~~	~~$ 150,000~~	~~$ 1,000~~
~~G~~	~~$ 150,000~~	~~$ 200,000~~	~~$ 1,500~~
~~H~~	~~$ 200,000~~	~~$ 250,000~~	~~$ 1,800~~
~~I~~	~~$ 250,000~~	~~$ 300,000~~	~~$ 2,500~~
~~J~~	~~$ 300,000~~	~~$ 400,000~~	~~$ 3,250~~
~~K~~	~~$ 400,000~~	~~$ 500,000~~	~~$ 5,000~~
~~L~~	~~$ 500,000~~	~~$ 750,000~~	~~$ 6,750~~
~~M~~	~~$ 750,000~~	~~$ 1,000,000~~	~~$ 9,000~~
~~N~~	~~$ 1,000,000~~	~~$ 1,250,000~~	~~$ 11,000~~
~~O~~	~~$ 1,250,000~~	~~$ 1,500,000~~	~~$ 13,000~~
~~P~~	~~$ 1,500,000~~	~~$ 1,750,000~~	~~$ 15,000~~
~~Q~~	~~$ 1,750,000~~	~~$ 2,000,000~~	~~$ 17,000~~
~~R~~	~~$ 2,000,000~~	~~$ 2,250,000~~	~~$ 19,000~~
~~S~~	~~$ 2,250,000~~	~~$ 2,500,000~~	~~$ 21,000~~

~~T~~	~~$ 2,500,000~~	~~$ 3,000,000~~	~~$ 24,000~~
~~U~~	~~$ 3,000,000~~		~~$ 26,000~~

SECTION 18. IC 4-36-5-1, AS ADDED BY P.L.95-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A retailer may offer the sale of type II gambling games in accordance with this article.

~~(b) A retailer's endorsement also authorizes a retailer to conduct the following gambling games on the premises of the retailer's tavern:~~

~~(1) Raffles in which the retailer retains the proceeds of the raffle drawing.~~

~~(2) Winner take all drawings in which the retailer retains no portion of the amounts wagered.~~

~~(c) The total amount awarded to:~~

~~(1) patrons who participate in a raffle permitted under subsection (b)(1); or~~

~~(2) a patron who participates in a winner take all drawing permitted under subsection (b)(2);~~

~~may not exceed three hundred dollars ($300).~~

(b) A retailer's endorsement also authorizes a retailer to conduct qualified drawings on the premises of the retailer's tavern. A qualified drawing must be conducted in the manner required by this section.

(c) A qualified drawing is subject to the following rules and limitations:

(1) The purchase price for a chance to win a prize in a qualified drawing may not exceed five dollars ($5).

(2) The total value of all prizes that may be won in a particular qualified drawing may not exceed three hundred dollars ($300) for any of the following:

(A) A daily drawing.

(B) A weekly drawing.

(C) A monthly drawing.

(3) A qualified drawing must be conducted in accordance with the following limitations:

(A) Not more than one (1) daily drawing may be conducted each day.

(B) Not more than one (1) weekly drawing may be conducted each week.

(C) Not more than one (1) monthly drawing may be conducted each month.

(D) Weekly drawings must be held on regular seven (7) day intervals posted in the information required by subdivision (11).

(E) Monthly drawings must be held on regular monthly intervals posted in the information required by subdivision (11).

A weekly or monthly drawing may be conducted on the same day that a daily drawing is conducted.

(4) Except as otherwise provided in this section, a patron must be present to claim a prize awarded in a qualified drawing.

(5) A retailer may not profit from conducting a qualified drawing.

(6) All amounts wagered on qualified drawings must be returned to a retailer's patrons in the form of prizes.

(7) A retailer may not conduct a qualified drawing or any other event in which the winner of the prize is determined, in whole or in part, by a sporting event.

(8) If no winning ticket is drawn in a qualified drawing, a retailer may:

(A) carry the prize over to a later drawing in accordance with this section; or

(B) continue drawing tickets until a winner is drawn.

(9) If a patron who purchased a winning ticket is not present to claim a prize at the time of the qualified drawing, a retailer shall hold the prize for the winning patron in accordance with the rules of the retailer.

(10) In order to comply with subdivision (9), a retailer shall obtain the name, address, and telephone number of each patron who purchases a ticket for a qualified drawing.

(11) A retailer must conspicuously display the following information concerning each qualified drawing conducted by the retailer:

(A) The price of a ticket.

(B) The time of the drawing.

(C) The description and value of the prizes awarded in the drawing.

(D) The manner in which a prize may be claimed.

(E) The rules of the retailer concerning the following:

(i) Qualified drawings in which no winning ticket is drawn.

(ii) The period that the retailer will hold a prize for a winning patron who was not present to claim the prize at the time of the qualified drawing.

(12) Notwithstanding any other provision of this chapter, a retailer must continue drawing tickets in a monthly drawing until the retailer draws a ticket purchased by a patron who is present to claim the prize.

(d) When the winning patron is not present at the time of the qualified drawing to claim a prize, the retailer shall award the prize in the following manner:

(1) The retailer shall immediately notify the winning patron by telephone that the patron's name was drawn in a qualified drawing and that the patron has the time permitted by the rules of the retailer, which must be at least seventy-two (72) hours, to claim the prize.

(2) The winning patron must appear at the retailer's premises within the time permitted by the rules of the retailer to claim the prize in person.

(3) The retailer shall verify the identity of the winning patron and award the prize.

(e) This subsection applies when the rules of a retailer require the retailer to carry over a prize when no winning ticket is drawn and when a winning patron fails to claim a prize in the manner required by subsection (d). The retailer shall carry the prize over to a later qualified drawing as follows:

(1) An unclaimed prize from a daily drawing must be carried over to the next daily drawing.

(2) Subject to the prize limits set forth in subsection (c)(2), a retailer may carry over a prize under subdivision (1) not more than fourteen (14) times. On the fourteenth calendar day to which a prize has been carried over, the retailer must continue drawing tickets until the retailer draws a ticket purchased by a patron who is present to claim the prize.

(3) An unclaimed prize from a weekly drawing must be carried over to the next weekly drawing.

(4) Subject to the prize limits set forth in subsection (c)(2), a

retailer may carry over a prize under subdivision (3) not more than one (1) time. On the day that the retailer conducts a weekly drawing for the carried over prize, the retailer must continue drawing tickets until the retailer draws a ticket purchased by a patron who is present to claim the prize.

(f) The following apply to a retailer that carries over a prize under subsection (e):

(1) A retailer may conduct the daily drawing regularly scheduled for a calendar day occurring during the time that the retailer holds a prize for a winning patron who was not present at the time of a qualified drawing.

(2) If an unclaimed prize from a daily drawing is carried over to a particular date, the retailer may not conduct the regular daily drawing that would otherwise be permitted under this section on that date.

(3) If an unclaimed prize from a weekly drawing is carried over to a particular date, the retailer may not conduct the regular weekly drawing that would otherwise be permitted under this section on that date.

(4) Subject to the prize limits set forth in subsection (c)(2), a retailer may accept additional entries to a drawing for a carried over prize.

SECTION 19. IC 4-36-5-2, AS ADDED BY P.L.95-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A type II gambling game may be sold under this article only on the premises of the retailer's tavern.

(b) Type II gambling games, raffles, and winner take all drawings **conducted under section 1(c) of this chapter** may not be offered in any part of the retailer's licensed premises in which a minor may be present under IC 7.1-5-7-11(a)(16).

SECTION 20. IC 4-36-5-6, AS ADDED BY P.L.95-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Except as provided in subsection (b), a type II gambling game must pay out at least seventy-five percent (75%) and not more than one hundred percent (100%) of the amount wagered.

(b) This subsection applies only to a type II gambling game ticket that is sold for less than one dollar ($1). A type II gambling game subject to this subsection must comply with the following minimum

payout percentages:

Purchase Price	Minimum Payout Percentage
$0.10	60%
$0.25	65%
Three (3) tickets for one dollar ($1)	65%
$0.50	70%

(c) A type II gambling game's ~~pay out~~ **payout** percentage must be stated on the ticket or on the accompanying flare.

SECTION 21. IC 4-36-7-4, AS ADDED BY P.L.95-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The state police department shall, at the request of the commission, provide the following:

(1) Assistance in obtaining criminal history information relevant to investigations required for honest, secure, **and** exemplary operations under this article.

(2) Any other assistance requested by the executive director and agreed to by the superintendent of the state police department.

(b) Any other state agency, including the Indiana gaming commission and the Indiana professional licensing agency, shall upon request provide the commission with information relevant to an investigation conducted under this article.

SECTION 22. IC 4-36-9-1, AS ADDED BY P.L.95-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a)** An excise tax is imposed on the distribution of type II gambling games in the amount of ten percent (10%) of the price paid by the retailer that purchases the type II gambling games.

(b) The excise tax imposed by this section does not apply to the distribution of tickets used in qualified drawings.

SECTION 23. IC 35-45-5-12, AS ADDED BY P.L.95-2008, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. This chapter does not apply to the following gambling games licensed or authorized under IC 4-36:

(1) Raffles ~~(2)~~ **and** winner take all drawings **conducted under IC 4-36-5-1.**

~~(3)~~ **(2)** Type II gambling games.

SECTION 24. **An emergency is declared for this act.**

P.L.109-2009
[H.1382. Approved May 7, 2009.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 5-10-8-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 15. (a) As used in this section, "care method" means the use of a particular drug or device in a particular manner.**

(b) As used in this section, "clinical trial" means a Phase I, II, III, or IV research study:

(1) that is conducted:

(A) using a particular care method to prevent, diagnose, or treat a cancer for which:

(i) there is no clearly superior, noninvestigational alternative care method; and

(ii) available clinical or preclinical data provides a reasonable basis from which to believe that the care method used in the research study is at least as effective as any noninvestigational alternative care method;

(B) in a facility where personnel providing the care method to be followed in the research study have:

(i) received training in providing the care method;

(ii) expertise in providing the type of care required for the research study; and

(iii) experience providing the type of care required for the research study to a sufficient volume of patients to maintain expertise; and

(C) to scientifically determine the best care method to prevent, diagnose, or treat the cancer; and

(2) that is approved or funded by one (1) of the following:

(A) A National Institutes of Health institute.

(B) A cooperative group of research facilities that has an established peer review program that is approved by a National Institutes of Health institute or center.

(C) The federal Food and Drug Administration.

(D) The United States Department of Veterans Affairs.

(E) The United States Department of Defense.

(F) The institutional review board of an institution located in Indiana that has a multiple project assurance contract approved by the National Institutes of Health Office for Protection from Research Risks as provided in 45 CFR 46.103.

(G) A research entity that meets eligibility criteria for a support grant from a National Institutes of Health center.

(c) As used in this section, "covered individual" means an individual entitled to coverage under a state employee plan.

(d) As used in this section, "nonparticipating provider" means a health care provider that has not entered into a contract with a state employee plan to serve as a participating provider.

(e) As used in this section, "participating provider" means a health care provider that has entered into a contract with a state employee plan to provide health care services to covered individuals with an expectation of directly or indirectly receiving payment from the state employee plan.

(f) As used in this section, "routine care cost" means the cost of medically necessary services related to the care method that is under evaluation in a clinical trial. The term does not include the following:

(1) The health care service, item, or investigational drug that is the subject of the clinical trial.

(2) Any treatment modality that is not part of the usual and customary standard of care required to administer or support the health care service, item, or investigational drug that is the subject of the clinical trial.

(3) Any health care service, item, or drug provided solely to satisfy data collection and analysis needs that are not used in the direct clinical management of the patient.

(4) An investigational drug or device that has not been approved for market by the federal Food and Drug Administration.

(5) Transportation, lodging, food, or other expenses for the patient or a family member or companion of the patient that are associated with travel to or from a facility where a clinical trial is conducted.

(6) A service, item, or drug that is provided by a clinical trial sponsor free of charge for any new patient.

(7) A service, item, or drug that is eligible for reimbursement from a source other than a covered individual's state employee plan, including the sponsor of the clinical trial.

(g) As used in this section, "state employee plan" means one (1) of the following:

(1) A self-insurance program established under section 7(b) of this chapter to provide group health coverage.

(2) A contract with a prepaid health care delivery plan that is entered into or renewed under section 7(c) of this chapter.

(h) A state employee plan must provide coverage for routine care costs that are incurred in the course of a clinical trial if the state employee plan would provide coverage for the same routine care costs not incurred in a clinical trial.

(i) The coverage that must be provided under this section is subject to the terms, conditions, restrictions, exclusions, and limitations that apply generally under the state employee plan, including terms, conditions, restrictions, exclusions, or limitations that apply to health care services rendered by participating providers and nonparticipating providers.

(j) This section does not do any of the following:

(1) Require a state employee plan to provide coverage for clinical trial services rendered by a participating provider.

(2) Prohibit a state employee plan from providing coverage for clinical trial services rendered by a participating provider.

(3) Require reimbursement under a state employee plan for services that are rendered in a clinical trial by a nonparticipating provider at the same rate of reimbursement that would apply to the same services rendered by a participating provider.

(k) This section does not create a cause of action against a person for any harm to a covered individual resulting from a clinical trial.

SECTION 2. IC 12-15-5-9.2 IS ADDED TO THE INDIANA CODE

AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 9.2. (a) As used in this section, "care method" means the use of a particular drug or device in a particular manner.**

(b) As used in this section, "clinical trial" means a Phase I, II, III, or IV research study:

(1) that is conducted:

(A) using a particular care method to prevent, diagnose, or treat a cancer for which:

(i) there is no clearly superior, noninvestigational alternative care method; and

(ii) available clinical or preclinical data provides a reasonable basis from which to believe that the care method used in the research study is at least as effective as any noninvestigational alternative care method;

(B) in a facility where personnel providing the care method to be followed in the research study have:

(i) received training in providing the care method;

(ii) expertise in providing the type of care required for the research study; and

(iii) experience providing the type of care required for the research study to a sufficient volume of patients to maintain expertise; and

(C) to scientifically determine the best care method to prevent, diagnose, or treat the cancer; and

(2) that is approved or funded by one (1) of the following:

(A) A National Institutes of Health institute.

(B) A cooperative group of research facilities that has an established peer review program that is approved by a National Institutes of Health institute or center.

(C) The federal Food and Drug Administration.

(D) The United States Department of Veterans Affairs.

(E) The United States Department of Defense.

(F) The institutional review board of an institution located in Indiana that has a multiple project assurance contract approved by the National Institutes of Health Office for Protection from Research Risks as provided in 45 CFR 46.103.

(G) A research entity that meets eligibility criteria for a support grant from a National Institutes of Health center.

(c) As used in this section, "routine care cost" means the cost of medically necessary services related to the care method that is under evaluation in a clinical trial. The term does not include the following:

(1) The drug or device that is under evaluation in a clinical trial.

(2) Items or services that are:

(A) provided solely for data collection and analysis and not in the direct clinical management of an individual enrolled in a clinical trial;

(B) customarily provided at no cost by a research sponsor to an individual enrolled in a clinical trial; or

(C) provided solely to determine eligibility of an individual for participation in a clinical trial.

(d) The Medicaid program must provide coverage for routine care costs that are incurred in the course of a clinical trial if the Medicaid program would provide coverage for the same routine care costs not incurred in a clinical trial.

(e) The coverage that must be provided under this section is subject to the terms, conditions, restrictions, exclusions, and limitations that apply generally under the Medicaid program, including terms, conditions, restrictions, exclusions, or limitations that apply to health care services rendered by participating providers and nonparticipating providers.

(f) This section does not do any of the following:

(1) Require the Medicaid program to provide coverage for clinical trial services rendered by a participating provider.

(2) Prohibit the Medicaid program from providing coverage for clinical trial services rendered by a participating provider.

(3) Require reimbursement for services that are rendered in a clinical trial by a nonparticipating provider at the same rate of reimbursement that would apply to the same services rendered by a participating provider.

SECTION 3. IC 27-8-25 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 25. Coverage for Care Related to Clinical Trials

Sec. 1. As used in this chapter, "care method" means the use of a particular drug or device in a particular manner.

Sec. 2. As used in this chapter, "clinical trial" means a Phase I, II, III, or IV research study:

(1) that is conducted:

(A) using a particular care method to prevent, diagnose, or treat a cancer for which:

(i) there is no clearly superior, noninvestigational alternative care method; and

(ii) available clinical or preclinical data provides a reasonable basis from which to believe that the care method used in the research study is at least as effective as any noninvestigational alternative care method;

(B) in a facility where personnel providing the care method to be followed in the research study have:

(i) received training in providing the care method;

(ii) expertise in providing the type of care required for the research study; and

(iii) experience providing the type of care required for the research study to a sufficient volume of patients to maintain expertise; and

(C) to scientifically determine the best care method to prevent, diagnose, or treat the cancer; and

(2) that is approved or funded by one (1) of the following:

(A) A National Institutes of Health institute.

(B) A cooperative group of research facilities that has an established peer review program that is approved by a National Institutes of Health institute or center.

(C) The federal Food and Drug Administration.

(D) The United States Department of Veterans Affairs.

(E) The United States Department of Defense.

(F) The institutional review board of an institution located in Indiana that has a multiple project assurance contract approved by the National Institutes of Health Office for Protection from Research Risks as provided in 45 CFR 46.103.

(G) A research entity that meets eligibility criteria for a support grant from a National Institutes of Health center.

Sec. 3. As used in this chapter, "contracted provider" means a health care provider that has entered into an agreement under IC 27-8-11-3 with an insurer that issues a policy of accident and

sickness insurance.

Sec. 4. As used in this chapter, "covered individual" means an individual entitled to coverage under a policy of accident and sickness insurance.

Sec. 5. As used in this chapter, "noncontracted provider" means a health care provider that has not entered into an agreement to serve as a contracted provider.

Sec. 6. As used in this chapter, "policy of accident and sickness insurance" has the meaning set forth in IC 27-8-5-1.

Sec. 7. As used in this chapter, "routine care cost" means the cost of medically necessary services related to the care method that is under evaluation in a clinical trial. The term does not include the following:

(1) The health care service, item, or investigational drug that is the subject of the clinical trial.

(2) Any treatment modality that is not part of the usual and customary standard of care required to administer or support the health care service, item, or investigational drug that is the subject of the clinical trial.

(3) Any health care service, item, or drug provided solely to satisfy data collection and analysis needs that are not used in the direct clinical management of the patient.

(4) An investigational drug or device that has not been approved for market by the federal Food and Drug Administration.

(5) Transportation, lodging, food, or other expenses for the patient or a family member or companion of the patient that are associated with travel to or from a facility where a clinical trial is conducted.

(6) A service, item, or drug that is provided by a clinical trial sponsor free of charge for any new patient.

(7) A service, item, or drug that is eligible for reimbursement from a source other than a covered individual's policy of accident and sickness insurance, including the sponsor of the clinical trial.

Sec. 8. (a) A policy of accident and sickness insurance must provide coverage for routine care costs that are incurred in the course of a clinical trial if the policy of accident and sickness insurance would provide coverage for the same routine care costs

not incurred in a clinical trial.

(b) The coverage that must be provided under this section is subject to the terms, conditions, restrictions, exclusions, and limitations that apply generally under the policy of accident and sickness insurance, including terms, conditions, restrictions, exclusions, or limitations that apply to health care services rendered by contracted providers and noncontracted providers.

(c) This section does not do any of the following:

(1) Require an insurer that issues a policy of accident and sickness insurance to provide coverage for clinical trial services rendered by a contracted provider.

(2) Prohibit an insurer that issues a policy of accident and sickness insurance from providing coverage for clinical trial services rendered by a contracted provider.

(3) Require reimbursement under a policy of accident and sickness insurance for services that are rendered in a clinical trial by a noncontracted provider at the same rate of reimbursement that would apply to the same services rendered by a contracted provider.

Sec. 9. This chapter does not create a cause of action against a person for any harm to a covered individual resulting from a clinical trial.

SECTION 4. IC 27-13-7-20.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 20.2. (a) As used in this section, "care method" means the use of a particular drug or device in a particular manner.**

(b) As used in this section, "clinical trial" means a Phase I, II, III, or IV research study:

(1) that is conducted:

(A) using a particular care method to prevent, diagnose, or treat a cancer for which:

(i) there is no clearly superior, noninvestigational alternative care method; and

(ii) available clinical or preclinical data provides a reasonable basis from which to believe that the care method used in the research study is at least as effective as any noninvestigational alternative care method;

(B) in a facility where personnel providing the care method

to be followed in the research study have:

(i) received training in providing the care method;

(ii) expertise in providing the type of care required for the research study; and

(iii) experience providing the type of care required for the research study to a sufficient volume of patients to maintain expertise; and

(C) to scientifically determine the best care method to prevent, diagnose, or treat the cancer; and

(2) that is approved or funded by one (1) of the following:

(A) A National Institutes of Health institute.

(B) A cooperative group of research facilities that has an established peer review program that is approved by a National Institutes of Health institute or center.

(C) The federal Food and Drug Administration.

(D) The United States Department of Veterans Affairs.

(E) The United States Department of Defense.

(F) The institutional review board of an institution located in Indiana that has a multiple project assurance contract approved by the National Institutes of Health Office for Protection from Research Risks as provided in 45 CFR 46.103.

(G) A research entity that meets eligibility criteria for a support grant from a National Institutes of Health center.

(c) As used in this section, "nonparticipating provider" means a health care provider that has not entered into an agreement described in IC 27-13-1-24.

(d) As used in this section, "routine care cost" means the cost of medically necessary services related to the care method that is under evaluation in a clinical trial. The term does not include the following:

(1) The health care service, item, or investigational drug that is the subject of the clinical trial.

(2) Any treatment modality that is not part of the usual and customary standard of care required to administer or support the health care service, item, or investigational drug that is the subject of the clinical trial.

(3) Any health care service, item, or drug provided solely to satisfy data collection and analysis needs that are not used in

the direct clinical management of the patient.

(4) An investigational drug or device that has not been approved for market by the federal Food and Drug Administration.

(5) Transportation, lodging, food, or other expenses for the patient or a family member or companion of the patient that are associated with travel to or from a facility where a clinical trial is conducted.

(6) A service, item, or drug that is provided by a clinical trial sponsor free of charge for any new patient.

(7) A service, item, or drug that is eligible for reimbursement from a source other than an enrollee's individual contract or group contract, including the sponsor of the clinical trial.

(e) An individual contract or a group contract must provide coverage for routine care costs that are incurred in the course of a clinical trial if the individual contract or group contract would provide coverage for the same routine care costs not incurred in a clinical trial.

(f) The coverage that must be provided under this section is subject to the terms, conditions, restrictions, exclusions, and limitations that apply generally under the individual contract or group contract, including terms, conditions, restrictions, exclusions, or limitations that apply to health care services rendered by participating providers and nonparticipating providers.

(g) This section does not do any of the following:

(1) Require a health maintenance organization to provide coverage for clinical trial services rendered by a participating provider.

(2) Prohibit a health maintenance organization from providing coverage for clinical trial services rendered by a participating provider.

(3) Require reimbursement under an individual contract or a group contract for services that are rendered in a clinical trial by a nonparticipating provider at the same rate of reimbursement that would apply to the same services rendered by a participating provider.

(h) This section does not create a cause of action against a person for any harm to an enrollee resulting from a clinical trial.

SECTION 5. [EFFECTIVE JULY 1, 2009] **(a) IC 5-10-8-15, as added by this act, applies to a state employee health plan that is established, entered into, issued, delivered, amended, or renewed after June 30, 2009.**

(b) IC 12-15-5-9.2, as added by this act, applies to a Medicaid risk based managed care contract that is entered into, delivered, amended, or renewed after June 30, 2009.

(c) IC 27-8-25, as added by this act, applies to a policy of accident and sickness insurance that is issued, delivered, amended, or renewed after June 30, 2009.

(d) IC 27-13-7-20.2, as added by this act, applies to an individual contract or a group contract that is entered into, delivered, amended, or renewed after June 30, 2009.

(e) This SECTION expires July 1, 2014.

P.L.110-2009
[H.1428. Approved May 7, 2009.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 5-2-1-6, AS AMENDED BY P.L.52-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. The board and advisory council shall meet at least four (4) times in each year and shall hold special meetings when called by the chairperson. The presence of ~~eleven (11)~~ **nine (9)** members of the board constitutes a quorum for doing business. At least ~~eleven (11)~~ **nine (9)** affirmative votes are required for the passage of any matter put to a vote of the board. Advisory council members are entitled to participate in the business and deliberation of the board, but only board members are entitled to vote. The board shall establish its own procedure and requirements with respect to place and conduct of

its meetings.

SECTION 2. IC 10-14-3-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 28. (a) The general assembly may appropriate the sums necessary to administer this chapter.

(b) The emergency management contingency fund is established. The fund consists of money appropriated by the general assembly. Money in the fund must be held in reserve and allocated for emergency management purposes **as follows:**

(1) For an allocation of not more than one hundred thousand dollars ($100,000), upon the approval of the director and the budget director.

(2) For an allocation of more than one hundred thousand dollars ($100,000), upon ~~(1)~~ **the** recommendation of the director and ~~(2)~~ **the** approval of the governor. ~~and the budget committee.~~

(c) For an allocation described in subsection (b)(2), the agency shall submit a written report to the following individuals identifying the use of the funds not more than thirty (30) days after the allocation is approved:

(1) Each member of the budget committee.

(2) The speaker of the house of representatives.

(3) The president pro tempore of the senate.

(4) The chairperson of the house committee on ways and means.

(5) The ranking minority member of the house committee on ways and means.

(6) The chairperson of the senate committee on appropriations.

(7) The ranking minority member of the senate committee on appropriations.

SECTION 3. IC 10-14-4-6, AS AMENDED BY P.L.57-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. Subject to the restrictions under this chapter, the agency may use money in the fund to provide financial assistance as follows:

(1) To an eligible entity that:

(A) is not an individual;

(B) contains territory for which a disaster emergency has been

declared by the governor;

(C) has suffered damage to the entity's public facilities because of the disaster for which the disaster emergency was declared;

(D) has applied to the department for financial assistance in the form of a grant; and

(E) complies with all other requirements established by the agency.

(2) To an eligible entity:

(A) who is an individual;

(B) whose primary residence is located in territory for which:

~~(i) the governor declares a disaster emergency; or~~

~~(ii)~~ **(i)** the United States Small Business Administration declares a disaster; **and**

(ii) there has been no disaster declaration issued by the President of the United States;

(C) who has suffered damage to the entity's primary residence or individual property because of a disaster described in clause (B); and

(D) who complies with all other requirements established by the agency.

SECTION 4. IC 10-15-2-2, AS AMENDED BY P.L.22-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The foundation consists of nine (9) voting members and four (4) nonvoting advisory members.

(b) The voting members shall be appointed by the governor. Each Indiana congressional district must be represented by at least one (1) member who is a resident of that congressional district. Not more than five (5) of the members appointed under this subsection may represent the same political party.

(c) The four (4) nonvoting advisory members are as follows:

(1) Two (2) members, one (1) from each political party, appointed by the president pro tempore of the senate with advice from the minority leader of the senate.

(2) Two (2) members, one (1) from each political party, appointed by the speaker of the house of representatives with advice from the minority leader of the house of representatives.

(d) In the absence of a member, the member's vote may be cast by another member if the member casting the vote has a written proxy in

proper form as required by the foundation.

(e) A voting member may appoint a designee of the same political party as the voting member to act on the voting member's behalf under this chapter. The designee must reside in the same congressional district as the voting member. An appointment under this section must:

(1) be for one (1) specified meeting;

(2) be made in writing or electronic mail submitted to the foundation at least two (2) calendar days before the meeting that the designee attends on behalf of the member; and

(3) be maintained in the permanent records of the foundation.

SECTION 5. IC 10-15-2-3, AS AMENDED BY P.L.22-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A quorum consists of five (5) of the voting members of the foundation.

(b) The affirmative vote of at least five (5) voting members of the foundation **or the members' designees** is necessary for the foundation to take action.

SECTION 6. IC 11-10-4-3, AS AMENDED BY P.L.99-2007, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A committed offender may be involuntarily transferred to the division of mental health and addiction or to a mental health facility only if:

(1) the offender has been examined by a psychiatrist employed or retained by the department and the psychiatrist reports to the department in writing that, in the psychiatrist's opinion, the offender has a mental illness and is in need of care and treatment by the division of mental health and addiction or in a mental health facility;

(2) the director of mental health approves of the transfer if the offender is to be transferred to the division of mental health and addiction; and

(3) the department affords the offender a hearing to determine the need for the transfer, which hearing must comply with the following minimum standards:

(A) The offender shall be given at least ten (10) days advance written and verbal notice of the date, time, and place of the hearing and the reason for the contemplated transfer. This

notice must advise the offender of the rights enumerated in clauses (C) and (D). Notice must also be given to one (1) of the following:

(i) The offender's spouse.

(ii) The offender's parent.

(iii) The offender's attorney.

(iv) The offender's guardian.

(v) The offender's custodian.

(vi) The offender's relative.

(B) A copy of the psychiatrist's report must be given to the offender not later than at the time notice of the hearing is given.

(C) The offender is entitled to appear in person, speak in the offender's own behalf, call witnesses, present documentary evidence, and confront and cross-examine witnesses.

(D) The offender is entitled to be represented by counsel or other representative.

(E) The offender must be given a written statement of the findings of fact, the evidence relied upon, and the reasons for the action taken.

(F) A finding that the offender is in need of mental health care and treatment in the division of mental health and addiction or a mental health facility must be based upon clear and convincing evidence.

(b) If the official in charge of the facility or program to which the offender is assigned determines that emergency care and treatment in the division of mental health and addiction or a mental health facility is necessary to control a mentally ill offender who is either gravely disabled or dangerous, that offender may be involuntarily transferred, subject to the approval of the director of the division of mental health and addiction, before holding the hearing described in subsection (a)(3). However, this subsection does not deprive the offender of the offender's right to a hearing.

(c) The official in charge of the division of mental health and addiction or facility to which an offender is transferred under this section must give the offender a semiannual written report, based on a psychiatrist's examination, concerning the offender's mental condition and the need for continued care and treatment in the division of mental

health and addiction or facility. If the report states that the offender is still in need of care and treatment in the division of mental health and addiction or a mental health facility, the division of mental health and addiction or facility shall, upon request of the offender or a representative in the offender's behalf, conduct a hearing to review the need for that continued care and treatment. The hearing must comply with the minimum standards established by subsection (a)(3). The division of mental health and addiction or facility to which the offender is transferred under this section may conduct a hearing under this subsection upon its initiative.

(d) If the division of mental health and addiction or facility to which an offender is transferred under this section determines that the offender no longer needs care and treatment in the division of mental health and addiction or facility, the division of mental health and addiction or facility shall return the offender to the custody of the department of correction, and the department of correction shall reassign the offender to another facility or program.

(e) After an offender has been involuntarily transferred to and accepted by the division of mental health and addiction, the department shall transmit any information required by the division of state court administration for transmission to the NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.

SECTION 7. IC 12-26-6-8, AS AMENDED BY P.L.141-2006, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) If, upon the completion of the hearing and consideration of the record, the court finds that the individual is mentally ill and either dangerous or gravely disabled, the court may order the individual to:

(1) be committed to an appropriate facility; or

(2) enter an outpatient treatment program under IC 12-26-14 for a period of not more than ninety (90) days.

(b) The court's order must require that the superintendent of the facility or the attending physician file a treatment plan with the court within fifteen (15) days of the individual's admission to the facility under a commitment order.

(c) If the commitment ordered under subsection (a) is to a state institution administered by the division of mental health and addiction, the record of commitment proceedings must include a report from a

community mental health center stating both of the following:

(1) That the community mental health center has evaluated the individual.

(2) That commitment to a state institution administered by the division of mental health and addiction under this chapter is appropriate.

(d) The physician who makes the statement required by section 2(c) of this chapter may be affiliated with the community mental health center that submits to the court the report required by subsection (c).

(e) If the commitment is of an adult to a research bed at Larue D. Carter Memorial Hospital as set forth in IC 12-21-2-3, the report from a community mental health center is not required.

(f) If a commitment ordered under subsection (a) is to a state institution administered by the division of disability and rehabilitative services, the record of commitment proceedings must include a report from a service coordinator employed by the division of disability and rehabilitative services stating that, based on a diagnostic assessment of the individual, commitment to a state institution administered by the division of disability and rehabilitative services under this chapter is appropriate.

(g) If the court makes a finding under subsection (a) (including a finding in reference to a child under IC 31-37-18-3), the court shall transmit any information required by the division of state court administration to the division of state court administration for transmission to the NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.

SECTION 8. IC 12-26-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) If at the completion of the hearing and the consideration of the record an individual is found to be mentally ill and either dangerous or gravely disabled, the court may enter either of the following orders:

(1) For the individual's custody, care, or treatment, or continued custody, care, or treatment in an appropriate facility.

(2) For the individual to enter an outpatient therapy program under IC 12-26-14.

(b) An order entered under subsection (a) continues until any of the following occurs:

(1) The individual has been:

(A) discharged from the facility; or

(B) released from the therapy program.

(2) The court enters an order:

(A) terminating the commitment; or

(B) releasing the individual from the therapy program.

(c) If the court makes a finding under subsection (a), the court shall transmit any information required by the division of state court administration to the division of state court administration for transmission to the NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.

SECTION 9. IC 22-14-3-2, AS AMENDED BY P.L.57-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The division shall issue an amusement and entertainment permit to an applicant who qualifies under section 3 of this chapter.

(b) A permit issued under section 3 of this chapter expires ~~as follows: (1) For a permit issued to a school under section 1(c) of this chapter,~~ one (1) year after the date of issuance. ~~(2) For a permit other than a permit described in subdivision (1), December 31 in the year the permit is issued.~~ The permit applies only to the place, maximum occupancy, and use specified in the permit.

SECTION 10. IC 33-23-1-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 9.5. "NICS" has the meaning set forth in IC 35-47-2.5-2.5.**

SECTION 11. IC 33-23-15 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 15. NICS Appeals

Sec. 1. This chapter applies to the following:

(1) A person civilly committed under IC 12-26-6-8.

(2) A person found to be mentally ill and either dangerous or gravely disabled under IC 12-26-7-5.

(3) A person found guilty but mentally ill under IC 35-36-2-5.

(4) A person found not responsible by reason of insanity under IC 35-36-2-4.

(5) A person found incompetent to stand trial under IC 35-36-3-1.

(6) A confined offender who is determined to be mentally ill and has been involuntarily transferred to and accepted by the division of mental health and addiction under IC 11-10-4-3.

Sec. 2. (a) If a person described in section 1 of this chapter:

(1) has been released from commitment; or

(2) successfully completes a treatment or rehabilitation program;

the person may petition the court (if the adjudication leading to the person's commitment, rehabilitation, or treatment program was from a court) or the department of correction (if the determination leading to the person's rehabilitation or treatment program was from a psychiatrist employed by or retained by the department of correction) to determine whether the person is prohibited from possessing a handgun because the person is not a proper person under IC 35-47-1-7(5) or IC 35-47-1-7(6).

(b) In determining whether the person is prohibited from possessing a handgun because the person is not a proper person under IC 35-47-1-7(5) or IC 35-47-1-7(6), the court or department of correction shall consider the following evidence:

(1) The facts and circumstances leading to the person being included in the category of persons to whom this chapter applies.

(2) The person's mental health and criminal history records.

(3) Evidence concerning the person's reputation, including the testimony of character witnesses.

(4) A recent mental health evaluation by a psychiatrist or psychologist licensed to practice in Indiana.

(c) If the court or the department of correction, after considering the evidence described in subsection (b), finds by clear and convincing evidence that:

(1) the person is not a danger to the person or to others;

(2) the person is not likely to act in a manner dangerous to public safety; and

(3) the requested relief would not be contrary to public interest;

the court or department of correction shall transmit its findings to the department of state court administration, and any other information required by the division of state court administration, for transmission to the NICS in accordance with IC 33-24-6-3.

(d) A determination under this section may be appealed only in accordance with section 3 of this chapter.

Sec. 3. (a) A person who receives an adverse decision under section 2 of this chapter may seek review the decision by filing, not later than thirty (30) days after receiving the adverse decision, an action for review:

(1) in the court of conviction, if the adverse decision was made by the department of correction; or

(2) in a circuit or superior court in a county adjacent to the county in which the court rendered the adverse decision, if the adverse decision was made by a court.

(b) The court hearing an action for review filed under this section shall conduct the review hearing de novo. The hearing shall be conducted in accordance with section 2 of this chapter.

(c) The determination of a court under this section is a final appealable order.

SECTION 12. IC 33-24-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The division of state court administration shall do the following:

(1) Examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices related to and serving the courts and make recommendations for necessary improvement.

(2) Collect and compile statistical data and other information on the judicial work of the courts in Indiana. All justices of the supreme court, judges of the court of appeals, judges of all trial courts, and any city or town courts, whether having general or special jurisdiction, court clerks, court reporters, and other officers and employees of the courts shall, upon notice by the executive director and in compliance with procedures prescribed by the executive director, furnish the executive director the information as is requested concerning the nature and volume of judicial business. The information must include the following:

(A) The volume, condition, and type of business conducted by the courts.

(B) The methods of procedure in the courts.

(C) The work accomplished by the courts.

(D) The receipt and expenditure of public money by and for

the operation of the courts.

(E) The methods of disposition or termination of cases.

(3) Prepare and publish reports, not less than one (1) or more than two (2) times per year, on the nature and volume of judicial work performed by the courts as determined by the information required in subdivision (2).

(4) Serve the judicial nominating commission and the judicial qualifications commission in the performance by the commissions of their statutory and constitutional functions.

(5) Administer the civil legal aid fund as required by IC 33-24-12.

(6) Administer the judicial technology and automation project fund established by section 12 of this chapter.

(7) Establish and administer an electronic system for receiving information that relates to certain individuals who may be prohibited from possessing a firearm and transmitting this information to the Federal Bureau of Investigation for inclusion in the NICS.

(b) All forms to be used in gathering data must be approved by the supreme court and shall be distributed to all judges and clerks before the start of each period for which reports are required.

(c) The division may adopt rules to implement this section.

SECTION 13. IC 35-36-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Whenever a defendant is found not responsible by reason of insanity at the time of the crime, the prosecuting attorney shall file a written petition with the court under IC 12-26-6-2(a)(3) or under IC 12-26-7. If a petition is filed under IC 12-26-6-2(a)(3), the court shall hold a commitment hearing under IC 12-26-6. If a petition is filed under IC 12-26-7, the court shall hold a commitment hearing under IC 12-26-7.

(b) The hearing shall be conducted at the earliest opportunity after the finding of not responsible by reason of insanity at the time of the crime, and the defendant shall be detained in custody until the completion of the hearing. The court may take judicial notice of evidence introduced during the trial of the defendant and may call the physicians appointed by the court to testify concerning whether the defendant is currently mentally ill and dangerous or currently mentally ill and gravely disabled, as those terms are defined by IC 12-7-2-96 and IC 12-7-2-130(1). The court may subpoena any other persons with

knowledge concerning the issues presented at the hearing.

(c) The defendant has all the rights provided by the provisions of IC 12-26 under which the petition against the defendant was filed. The prosecuting attorney may cross-examine the witnesses and present relevant evidence concerning the issues presented at the hearing.

(d) If a court orders an individual to be committed under IC 12-26-6 or IC 12-26-7 following a verdict of not responsible by reason of insanity at the time of the crime, the superintendent of the facility to which the individual is committed and the attending physician are subject to the requirements of IC 12-26-15-1.

(e) If a defendant is found not responsible by reason of insanity, the court shall transmit any information required by the division of state court administration to the division of state court administration for transmission to the NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.

SECTION 14. IC 35-36-2-5, AS AMENDED BY P.L.99-2007, SECTION 200, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Except as provided by subsection (e), whenever a defendant is found guilty but mentally ill at the time of the crime or enters a plea to that effect that is accepted by the court, the court shall sentence the defendant in the same manner as a defendant found guilty of the offense.

(b) Before sentencing the defendant under subsection (a), the court shall require the defendant to be evaluated by a physician licensed under IC 25-22.5 who practices psychiatric medicine, a licensed psychologist, or a community mental health center (as defined in IC 12-7-2-38). However, the court may waive this requirement if the defendant was evaluated by a physician licensed under IC 25-22.5 who practices psychiatric medicine, a licensed psychologist, or a community mental health center and the evaluation is contained in the record of the defendant's trial or plea agreement hearing.

(c) If a defendant who is found guilty but mentally ill at the time of the crime is committed to the department of correction, the defendant shall be further evaluated and then treated in such a manner as is psychiatrically indicated for the defendant's mental illness. Treatment may be provided by:

(1) the department of correction; or

(2) the division of mental health and addiction after transfer under

IC 11-10-4.

(d) If a defendant who is found guilty but mentally ill at the time of the crime is placed on probation, the court may, in accordance with IC 35-38-2-2.3, require that the defendant undergo treatment.

(e) As used in this subsection, "individual with mental retardation" has the meaning set forth in IC 35-36-9-2. If a court determines under IC 35-36-9 that a defendant who is charged with a murder for which the state seeks a death sentence is an individual with mental retardation, the court shall sentence the defendant under IC 35-50-2-3(a).

(f) If a defendant is found guilty but mentally ill, the court shall transmit any information required by the division of state court administration to the division of state court administration for transmission to the NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.

SECTION 15. IC 35-36-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) If at any time before the final submission of any criminal case to the court or the jury trying the case, the court has reasonable grounds for believing that the defendant lacks the ability to understand the proceedings and assist in the preparation of a defense, the court shall immediately fix a time for a hearing to determine whether the defendant has that ability. The court shall appoint two (2) or three (3) competent, disinterested:

(1) psychiatrists; or

(2) psychologists endorsed by the Indiana state board of examiners in psychology as health service providers in psychology.

At least one (1) of the individuals appointed under this subsection must be a psychiatrist. However, none may be an employee or a contractor of a state institution (as defined in IC 12-7-2-184). The individuals who are appointed shall examine the defendant and testify at the hearing as to whether the defendant can understand the proceedings and assist in the preparation of the defendant's defense.

(b) At the hearing, other evidence relevant to whether the defendant has the ability to understand the proceedings and assist in the preparation of the defendant's defense may be introduced. If the court finds that the defendant has the ability to understand the proceedings and assist in the preparation of the defendant's defense, the trial shall

proceed. If the court finds that the defendant lacks this ability, it shall delay or continue the trial and order the defendant committed to the division of mental health and addiction. The division of mental health and addiction shall provide competency restoration services or enter into a contract for the provision of competency restoration services by a third party in the:

(1) location where the defendant currently resides; or

(2) least restrictive setting appropriate to the needs of the defendant and the safety of the defendant and others.

However, if the defendant is serving an unrelated executed sentence in the department of correction at the time the defendant is committed to the division of mental health and addiction under this section, the division of mental health and addiction shall provide competency restoration services or enter into a contract for the provision of competency restoration services by a third party at a department of correction facility agreed upon by the division of mental health and addiction or the third party contractor and the department of correction.

(c) If the court makes a finding under subsection (b), the court shall transmit any information required by the division of state court administration to the division of state court administration for transmission to the NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.

SECTION 16. IC 35-44-2-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5. (a) A person who knowingly or intentionally manufactures and sells or manufactures and offers for sale:**

(1) an official badge or a replica of an official badge that is currently used by a law enforcement agency or fire department of the state or of a political subdivision of the state; or

(2) a document that purports to be an official employment identification that is used by a law enforcement agency or fire department of the state or of a political subdivision of the state;

without the written permission of the chief executive officer of the law enforcement agency commits unlawful manufacture or sale of a police or fire insignia, a Class A misdemeanor.

(b) However, the offense described in subsection (a) is:

(1) a Class D felony if the person commits the offense with the knowledge or intent that the badge or employment identification will be used to further the commission of an offense under IC 35-44-2-3; and

(2) a Class B felony if the person commits the offense with the knowledge or intent that the badge or employment identification will be used to further the commission of an offense under IC 35-47-12.

(c) It is a defense to a prosecution under subsection (a)(1) if the area of the badge or replica that is manufactured and sold or manufactured and offered for sale as measured by multiplying the greatest length of the badge by the greatest width of the badge is:

(1) less than fifty percent (50%); or

(2) more than one hundred fifty percent (150%);

of the area of an official badge that is used by a law enforcement agency or fire department of the state or a political subdivision of the state as measured by multiplying the greatest length of the official badge by the greatest width of the official badge.

SECTION 17. IC 36-8-10.5-7, AS AMENDED BY P.L.148-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 7. (a) The education board shall adopt rules under IC 4-22-2 establishing minimum basic training requirements for full-time firefighters and volunteer firefighters, subject to subsection (b) **and section 7.5 of this chapter.** The requirements must include training in the following areas:

(1) Orientation.

(2) Personal safety.

(3) Forcible entry.

(4) Ventilation.

(5) Apparatus.

(6) Ladders.

(7) Self-contained breathing apparatus.

(8) Hose loads.

(9) Streams.

(10) Basic recognition of special hazards.

(b) A person who fulfills the certification requirements for:

(1) Firefighter I, as described in 655 IAC 1-2.1-4; or

(2) Firefighter II, as described in 655 IAC 1-2.1-5;

is considered to comply with the requirements established under subsection (a).

(c) In addition to the requirements of subsections (a) and (d), the minimum basic training requirements for full-time firefighters and volunteer firefighters must include successful completion of a basic or inservice course of education and training on sudden infant death syndrome that is certified by the emergency medical services commission (created under IC 16-31-2-1) in conjunction with the state health commissioner.

(d) In addition to the requirements of subsections (a) and (c), the minimum basic training requirements for full-time and volunteer firefighters must include successful completion of an instruction course on vehicle emergency response driving safety. The education board shall adopt rules under IC 4-22-2 to operate this course.

SECTION 18. IC 36-8-10.5-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: **Sec. 7.5. (a) Except as provided in subsection (b), an individual whose employment by a fire department as a full-time firefighter begins after December 31, 2009, must complete the training for Firefighter I (as described in 655 IAC 1-2.1-4) and Firefighter II (as described in 655 IAC 1-2.1-5) during the firefighter's first year of employment. The fire department that employs a firefighter shall report to the education board when the firefighter has completed the training requirements established by this subsection.**

(b) The education board may grant a firefighter any number of extensions of six (6) months to complete the training required under subsection (a). An extension must be requested by the fire department that employs the firefighter. An extension may be requested for any reason, including the following:

(1) The firefighter has been attending training in accordance with section 8 of this chapter in any of the following:

(A) Hazardous materials.

(B) Paramedic training.

(C) Emergency medical technician training.

(D) Technical training.

(2) The firefighter was unable to complete the training due to economic reasons.

(c) The education board shall determine whether a firefighter receives an extension under this section.

SECTION 19. [EFFECTIVE JULY 1, 2009] **IC 35-44-2-5, as added by this act, applies only to offenses committed after June 30, 2009.**

SECTION 20. [EFFECTIVE UPON PASSAGE] **(a) The department of homeland security may adopt emergency rules to implement IC 10-14-4-6, as amended by this act, in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1.**

(b) An emergency rule adopted under this SECTION expires on the earlier of:

(1) the date the department of homeland security adopts permanent rules under IC 4-22-2 to replace the emergency rules; or

(2) July 1, 2011.

(c) This SECTION expires July 1, 2011.

SECTION 21. [EFFECTIVE JULY 1, 2009] **(a) IC 22-14-3-2, as amended by this act, applies to amusement and entertainment permits issued after June 30, 2009.**

(b) This subsection applies to an unexpired amusement and entertainment permit issued before July 1, 2009. Notwithstanding IC 22-14-3-2, as amended by this act, an amusement and entertainment permit expires one (1) year after the date of issuance.

(c) This SECTION expires December 31, 2010.

SECTION 22. **An emergency is declared by this act.**

P.L.111-2009
[H.1468. Approved May 7, 2009.]

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

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

SECTION 1. IC 4-6-3-2, AS AMENDED BY P.L.222-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The attorney general shall have charge of and direct the prosecution of all civil actions that are brought in the name of the state of Indiana or any state agency.

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

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

(d) This section does not affect the authority of the inspector general to prosecute a civil action under IC 4-2-7-6 for the recovery of funds misappropriated, diverted, missing, or unlawfully gained.

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

SECTION 2. IC 11-13-3-4, AS AMENDED BY P.L.46-2008, SECTION 1, AND AS AMENDED BY P.L.119-2008, SECTION 10, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole, the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

(1) retained by the parolee;

(2) forwarded to any person charged with the parolee's supervision; and

(3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

(1) consider:

(A) the residence of the parolee prior to the parolee's incarceration; and

(B) the parolee's place of employment; and

(2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

(1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and

(2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex offender (as defined in IC 11-8-8-4.5) to:

(A) participate in a treatment program for sex offenders

approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5) to register with a local law enforcement authority under IC 11-8-8;

(B) prohibit a parolee who is a sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the sex offender obtains written approval from the parole board;

(C) prohibit a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense unless the sex offender obtains a waiver under IC 35-38-2-2.5; ~~*and*~~

(D) prohibit a parolee who is a sex offender from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age;

(E) require a parolee who is a sex offender to consent:

(i) to the search of the sex offender's personal computer at any time; and

(ii) to the installation on the sex offender's personal computer or device with Internet capability, at the sex offender's expense, of one (1) or more hardware or software systems to monitor Internet usage; and

(F) prohibit the sex offender from:

(i) accessing or using certain web sites, chat rooms, or instant messaging programs frequented by children; and

(ii) deleting, erasing, or tampering with information on the sex offender's personal computer with intent to conceal an activity prohibited by item (i).

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) or a sex offender who is an offender against children

under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

(i) As a condition of parole, the parole board may require a parolee to participate in a reentry court program.

(j) As a condition of parole, the parole board:

(1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and

(2) may require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5);

to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

(k) As a condition of parole, the parole board may prohibit, in accordance with IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

(l) As a condition of parole, the parole board may prohibit a parolee convicted of an offense under IC 35-46-3 from owning, harboring, or training an animal, and, if the parole board prohibits a parolee convicted of an offense under IC 35-46-3 from having direct or indirect contact with an individual, the parole board may also prohibit the parolee from having direct or indirect contact with any animal belonging to the individual.

~~(l)~~ **(m)** *A parolee may be responsible for the reasonable expenses, as determined by the department, of the parolee's participation in a treatment or other program required as a condition of parole under this section. However, a person's parole may not be revoked solely on the basis of the person's inability to pay for a program required as a condition of parole under this section.*

SECTION 3. IC 15-17-3-13, AS ADDED BY P.L.2-2008,

SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. In addition to the powers and duties given the board in this article and by law, the board has the powers and duties reasonable and necessary to do the following:

(1) Provide for the quarantine of animals and objects to prevent, control, and eradicate diseases and pests of animals.

(2) Develop, adopt, and implement programs and procedures for establishing and maintaining accredited, certified, validated, or designated disease or pest free or disease or pest monitored animals, herds, flocks, or areas, including the following:

(A) The establishment and maintenance of herds that are monitored for disease or pest syndromes.

(B) The establishment and maintenance of certified or validated brucellosis free herds, animals, and areas.

(C) The establishment and maintenance of accredited tuberculosis free herds, animals, and areas.

(3) Develop, adopt, and implement programs and plans for the prevention, detection, control, and eradication of diseases and pests of animals.

(4) Control or prohibit, by permit or other means, the movement and transportation into, out of, or within Indiana of animals and objects in order to prevent, detect, control, or eradicate diseases and pests of animals. When implementing controls or prohibitions the board may consider whether animals or objects are diseased, suspected to be diseased, or under quarantine, or whether the animals or objects originated from a country, a state, an area, or a premises that is known or suspected to harbor animals or objects infected with or exposed to a disease or pest of animals.

(5) Control or prohibit the public and private sale of animals and objects in order to prevent the spread of disease and pests of animals.

(6) Control the use, sanitation, and disinfection of:

(A) public stockyards; and

(B) vehicles used to transport animals and objects into and within Indiana;

to accomplish the objectives of this article.

(7) Control the use, sanitation, and disinfection of premises, facilities, and equipment to accomplish the objectives of this

article.
(8) Control the movement of animals and objects to, from, and within premises where diseases or pests of animals may exist.
(9) Control the movement and disposal of carcasses of animals and objects.
(10) Control the manufacture, sale, storage, distribution, handling, and use of serums, vaccines, and other biologics and veterinary drugs, except those drugs for human consumption regulated under IC 16-42-19, to be used for the prevention, detection, control, and eradication of disease and pests of animals.
(11) Control and prescribe the means, methods, and procedures for the vaccination or other treatment of animals and objects and the conduct of tests for diseases and pests of animals.
(12) Develop, adopt, and implement plans and programs for the identification of animals, objects, premises, and means of conveyances. Plans and programs may include identification:
(A) of animals or objects that have been condemned under this article; and
(B) related to classification as to disease, testing, vaccination, or treatment status.
(13) Establish the terms and method of appraisal or other determination of value of animals and objects condemned under this article, the payment of any indemnities that may be provided for the animals and objects, and the regulation of the sale or other disposition of the animals or objects.
(14) Control the sale of baby chicks.
(15) Cooperate and enter into agreements with the appropriate departments and agencies of this state, any other state, or the federal government to prevent, detect, control, and eradicate diseases and pests of animals.
(16) Control or prohibit the movement and transportation into, out of, or within Indiana of wild animals, including birds, that might carry or disseminate diseases or pests of animals.
(17) Provide for condemning or abating conditions that cause, aggravate, spread, or harbor diseases or pests of animals.
(18) Establish and designate, in addition to the animal disease diagnostic laboratory under IC 21-46-3-1, other laboratories necessary to make tests of any nature for diseases and pests of

animals.

(19) Investigate, develop, and implement the best methods for the prevention, detection, control, suppression, or eradication of diseases and pests of animals.

(20) Investigate, gather, and compile information concerning the organization, business conduct, practices, and management of any registrant, licensee, permittee, applicant for a license, or applicant for a permit.

(21) Investigate allegations of unregistered, unlicensed, and unpermitted activities.

(22) Institute legal action in the name of the state of Indiana necessary to enforce:

(A) the board's orders and rules; and

(B) this article.

(23) Control the collection, transportation, and cooking of garbage to be fed to swine or other animals and all matters of sanitation relating to the collection, transportation, and cooking of garbage affecting the health of swine or other animals and affecting public health and comfort.

(24) Adopt an appropriate seal.

(25) Issue orders as an aid to enforcement of the powers granted by this article, IC 15-18-1, and IC 15-19-6.

(26) Control disposal plants and byproducts collection services and all matters connected to disposal plants and byproducts collection services.

(27) Abate biological or chemical substances that:

(A) remain in or on any animal before or at the time of slaughter as a result of treatment or exposure; and

(B) are found by the board to be or have the potential of being injurious to the health of animals or humans.

(28) Regulate the production, manufacture, processing, and distribution of products derived from animals to control health hazards that may threaten:

(A) animal health;

(B) the public health and welfare of the citizens of Indiana; and

(C) the trade in animals and animal products in and from Indiana.

(29) Cooperate and coordinate with local, state, and federal emergency management agencies to plan and implement disaster emergency plans and programs as the plans and programs relate to animals in Indiana.

(30) Assist law enforcement agencies investigating allegations of cruelty and neglect of animals.

(31) Assist organizations that represent livestock producers with issues and programs related to the care of livestock.

(32) Establish a registry of commercial dog brokers and commercial dog breeders in Indiana.

SECTION 4. IC 15-21 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]:

ARTICLE 21. COMMERCIAL DOG BREEDER REGULATION

Chapter 1. Application and Definitions

Sec. 1. (a) This article does not apply to:

(1) an animal shelter;

(2) a humane society;

(3) an animal rescue operation;

(4) a hobby breeder;

(5) a person who breeds at least seventy-five (75%) of the person's dogs as sport dogs for hunting purposes; or

(6) a person who breeds at least seventy-five (75%) of the person's dogs as service dogs or as dogs for use by the police or the armed forces.

(b) As used in this section, "animal rescue operation" means a person or organization:

(1) that accepts within one (1) year:

(A) more than twelve (12) dogs; or

(B) more than nine (9) dogs and more than three (3) unweaned litters of puppies;

that are available for adoption for human companionship as pets or as companion animals in permanent adoptive homes and that are maintained in a private residential dwelling; or

(2) that uses a system of private residential dwellings as foster homes for the dogs.

The term does not include a person or organization that breeds

dogs.

(c) As used in this section, "hobby breeder" means a person who maintains fewer than twenty (20) unaltered female dogs that are at least twelve (12) months of age.

Sec. 2. The definitions in sections 3 through 7 of this chapter apply throughout this article.

Sec. 3. "Board" refers to the Indiana state board of animal health established by IC 15-17-3-1.

Sec. 4. "Commercial dog breeder" means a person who maintains more than twenty (20) unaltered female dogs that are at least twelve (12) months of age.

Sec. 5. "Commercial dog broker" means a person:

(1) who is a Class "B" licensee under 9 CFR 1.1; and

(2) who sells at least five hundred (500) dogs in a calendar year.

Sec. 6. "Person" means an individual, corporation, limited liability company, partnership, or other business entity.

Sec. 7. "Veterinarian" means an individual licensed as a veterinarian under IC 25-38.1.

Chapter 2. Commercial Dog Broker and Commercial Dog Breeder Registration

Sec. 1. A person may not operate:

(1) a commercial dog breeder operation; or

(2) as a commercial dog broker;

without being registered with the board in accordance with this chapter.

Sec. 2. A person who:

(1) is registered as a commercial dog breeder; and

(2) operates a commercial dog breeder operation;

shall indicate that the person is registered as a commercial dog breeder in a place clearly visible to the public.

Sec. 3. (a) A commercial dog breeder who knowingly or intentionally fails to register with the board as a commercial dog breeder commits a Class A misdemeanor.

(b) A commercial dog broker who knowingly or intentionally fails to register with the board as a commercial dog broker commits a Class A misdemeanor.

(c) A commercial dog breeder or a commercial dog broker who fails to register with the board is liable to the state for two (2) times

the amount of registration fees that the commercial dog breeder or commercial dog broker failed to pay. The attorney general may bring an action to collect unpaid commercial dog breeder or commercial dog broker registration fees. Funds collected under this subsection shall be deposited in the commercial dog breeder and broker fund established by IC 15-21-3-3.

Chapter 3. Registration Requirements

Sec. 1. (a) A commercial dog breeder shall register annually with the board.

(b) The board shall provide for notice of the upcoming expiration of registration to each registrant at least thirty (30) days before the expiration of the one (1) year period.

(c) The fee to register or renew a registration as a commercial dog breeder is:

(1) seventy-five dollars ($75) if the person has not more than fifty (50) unaltered female dogs at least twelve (12) months of age;

(2) two hundred dollars ($200) if the person has more than fifty (50) but not more than one hundred (100) unaltered female dogs at least twelve (12) months of age;

(3) three hundred dollars ($300) if the person has more than one hundred (100) but not more than one hundred fifty (150) unaltered female dogs at least twelve (12) months of age;

(4) four hundred dollars ($400) if the person has more than one hundred fifty (150) but not more than two hundred fifty (250) unaltered female dogs at least twelve (12) months of age; and

(5) five hundred dollars ($500) if the person has more than two hundred fifty (250) unaltered female dogs at least twelve (12) months of age.

The fee shall be deposited in the commercial dog breeder and broker fund established by section 3 of this chapter.

(d) A person who registers or renews a registration as a commercial dog breeder must include the following:

(1) The name and address of the person's commercial dog breeding operation.

(2) The name and address of the registrant.

(3) A statement that the person's commercial dog breeding operation complies with the requirements of IC 15-21-4.

(4) Any other information related to taxation that is required by the board.

(e) A person who knowingly or intentionally makes a material misstatement in a commercial dog breeder registration statement commits false registration as a commercial dog breeder, a Class A misdemeanor.

Sec. 2. (a) A commercial dog broker shall register annually with the board.

(b) The board shall provide for notice of the upcoming expiration of registration to each registrant at least thirty (30) days before the expiration of the one (1) year period.

(c) The fee to register or renew a registration as a commercial dog broker is one thousand dollars ($1,000). The fee shall be deposited in the commercial dog breeder and broker fund established by section 3 of this chapter.

(d) A person who registers or renews a registration as a commercial dog broker must include the following:

(1) The name and address of the person acting as a commercial dog broker.

(2) The name and location of the person's commercial dog broker business.

(3) Any other information related to taxation that is required by the board.

(e) A person who knowingly or intentionally makes a material misstatement in a commercial dog broker registration statement commits false registration as a commercial dog broker, a Class A misdemeanor.

Sec. 3. (a) The commercial dog breeder and broker fund is established for the purpose of funding:

(1) the inspection of commercial dog breeding operations by the board; and

(2) the enforcement by the board of laws concerning commercial dog breeders and commercial dog brokers.

The fund shall be administered by the board.

(b) The fund consists of commercial dog breeder and commercial dog broker fees.

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

(d) The treasurer of state shall invest the money in the fund not

currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

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

(f) Money in the fund is continually appropriated to carry out the purposes of the fund.

(g) The board may adopt rules under IC 4-22-2 to implement this chapter.

Chapter 4. Duties of Commercial Dog Breeders

Sec. 1. (a) A commercial dog breeder shall comply with the standards of care set forth in 9 CFR 3.1 through 9 CFR 3.12.

(b) A commercial dog breeder:

(1) may not house a dog in a cage containing a wire floor unless the cage contains an accommodation that allows the dog to be off the wire floor;

(2) who houses a dog in a wire cage shall house the dog in a cage that is large enough to allow for reasonable movement by the dog; and

(3) shall, subject to subsection (c), provide every dog with a reasonable opportunity for exercise outside of a cage at least one (1) time per day.

(c) A commercial dog breeder who permits a dog access to a run at least one (1) time per day has satisfied the exercise requirement described in subsection (b)(3). However, a commercial dog breeder is not required to provide a dog with the opportunity for exercise if exercise would endanger the dog's life or health.

Chapter 5. Records

Sec. 1. A commercial dog breeder shall provide a consumer with a copy of a dog's vaccination, medication, and treatment records at the time the consumer purchases, exchanges, or adopts the dog.

Sec. 2. A commercial dog breeder shall maintain its records for at least five (5) years.

Chapter 6. Units

Sec. 1. (a) As used in this section, "unit" has the meaning set forth in IC 36-1-2-23.

(b) After December 31, 2009, a unit may not adopt an ordinance concerning regulation of commercial dog breeders that imposes more stringent or detailed requirements than the requirements

under this article. A unit may enforce an ordinance concerning regulation of commercial dog breeders that imposes more stringent or detailed requirements than the requirements under this article if the ordinance was adopted before January 1, 2010.

Chapter 7. Enforcement

Sec. 1. (a) The board may enforce this article when the board determines that sufficient funds have been deposited in the commercial dog breeder and broker fund to permit enforcement.

(b) In enforcing this article, the board may:

(1) seek injunctive relief;

(2) issue an order of compliance notifying the commercial dog breeder or commercial dog broker of a violation and requiring corrective action by a certain date; and

(3) impose a civil penalty of not more than:

(A) five hundred dollars ($500) for a knowing violation;

(B) one thousand dollars ($1,000) for an intentional violation; and

(C) five thousand dollars ($5,000) for knowingly or intentionally violating an injunction.

(c) The board may seek an injunction to prohibit a commercial dog breeder from registering with the board for not more than three (3) years.

(d) Subsection (a) does not prohibit the board from assisting a law enforcement agency in a criminal investigation.

SECTION 5. IC 25-38.1-4-8.5, AS ADDED BY P.L.58-2008, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.5. A veterinarian or registered veterinary technician who reports in good faith and in the normal course of business a suspected incident of animal cruelty under ~~IC 35-46-3-12~~ **IC 35-46-3** to a law enforcement officer is immune from liability in any civil or criminal action brought for reporting the incident.

SECTION 6. IC 31-9-2-29.5, AS AMENDED BY P.L.171-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 29.5. "Crime involving domestic or family violence" means a crime that occurs when a family or household member commits, attempts to commit, or conspires to commit any of the following against another family or household member:

(1) A homicide offense under IC 35-42-1.

(2) A battery offense under IC 35-42-2.
(3) Kidnapping or confinement under IC 35-42-3.
(4) A sex offense under IC 35-42-4.
(5) Robbery under IC 35-42-5.
(6) Arson or mischief under IC 35-43-1.
(7) Burglary or trespass under IC 35-43-2.
(8) Disorderly conduct under IC 35-45-1.
(9) Intimidation or harassment under IC 35-45-2.
(10) Voyeurism under IC 35-45-4.
(11) Stalking under IC 35-45-10.
(12) An offense against the family under IC 35-46-1-2 through IC 35-46-1-8, IC 35-46-1-12, or IC 35-46-1-15.1.
(13) Human and sexual trafficking crimes under IC 35-42-3.5.
(14) A crime involving animal cruelty and a family or household member under ~~IC 35-46-3-12(b)(3)~~ **IC 35-46-3-12(b)(2)** or IC 35-46-3-12.5.

SECTION 7. IC 35-33-8-3.2, AS AMENDED BY P.L.104-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety:

(1) Require the defendant to:
(A) execute a bail bond with sufficient solvent sureties;
(B) deposit cash or securities in an amount equal to the bail;
(C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail;
(D) post a real estate bond; or
(E) perform any combination of the requirements described in clauses (A) through (D).

If the court requires the defendant to deposit cash or cash and another form of security as bail, the court may require the defendant and each person who makes the deposit on behalf of the defendant to execute an agreement that allows the court to retain all or a part of the cash to pay publicly paid costs of

representation and fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted. The defendant must also pay the fee required by subsection (d).

(2) Require the defendant to execute:

(A) a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail; and

(B) an agreement that allows the court to retain all or a part of the cash or securities to pay fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted.

A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars ($50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision fines, costs, fees, and restitution as ordered by the court, publicly paid costs of representation that shall be disposed of in accordance with subsection (b), and the fee required by subsection (d). In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution. The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) Require the defendant to refrain from any direct or indirect contact with an individual **and, if the defendant has been charged with an offense under IC 35-46-3, any animal belonging to the individual,** including if the defendant has not been released from lawful detention.

(5) Place the defendant under the reasonable supervision of a probation officer, pretrial services agency, or other appropriate public official. If the court places the defendant under the

supervision of a probation officer or pretrial services agency, the court shall determine whether the defendant must pay the pretrial services fee under section 3.3 of this chapter.

(6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Require a defendant charged with an offense under IC 35-46-3 to refrain from owning, harboring, or training an animal.

~~(8)~~ **(9)** Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community.

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed or the defendant is acquitted or convicted of the charges.

(d) Except as provided in subsection (e), the clerk of the court shall:

(1) collect a fee of five dollars ($5) from each bond or deposit required under subsection (a)(1); and

(2) retain a fee of five dollars ($5) from each deposit under subsection (a)(2).

The clerk of the court shall semiannually remit the fees collected under

this subsection to the board of trustees of the public employees' retirement fund for deposit in the special death benefit fund. The fee required by subdivision (2) is in addition to the administrative fee retained under subsection (a)(2).

(e) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day and remit monthly the five dollar ($5) special death benefit fee to the county auditor.

(f) When a court imposes a condition of bail described in subsection (a)(4):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 8. IC 35-38-2-2.3, AS AMENDED BY P.L.3-2008, SECTION 249, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.3. (a) As a condition of probation, the court may require a person to do a combination of the following:

(1) Work faithfully at suitable employment or faithfully pursue a course of study or career and technical education that will equip the person for suitable employment.

(2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(3) Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.

(4) Support the person's dependents and meet other family responsibilities.

(5) Make restitution or reparation to the victim of the crime for damage or injury that was sustained by the victim. When restitution or reparation is a condition of probation, the court shall fix the amount, which may not exceed an amount the person can or will be able to pay, and shall fix the manner of performance.

(6) Execute a repayment agreement with the appropriate governmental entity to repay the full amount of public relief or assistance wrongfully received, and make repayments according to a repayment schedule set out in the agreement.

(7) Pay a fine authorized by IC 35-50.

(8) Refrain from possessing a firearm or other deadly weapon unless granted written permission by the court or the person's probation officer.
(9) Report to a probation officer at reasonable times as directed by the court or the probation officer.
(10) Permit the person's probation officer to visit the person at reasonable times at the person's home or elsewhere.
(11) Remain within the jurisdiction of the court, unless granted permission to leave by the court or by the person's probation officer.
(12) Answer all reasonable inquiries by the court or the person's probation officer and promptly notify the court or probation officer of any change in address or employment.
(13) Perform uncompensated work that benefits the community.
(14) Satisfy other conditions reasonably related to the person's rehabilitation.
(15) Undergo home detention under IC 35-38-2.5.
(16) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:

(A) the person had been convicted of an offense relating to a criminal sexual act and the offense created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV); or

(B) the person had been convicted of an offense relating to a controlled substance and the offense involved:

(i) the delivery by any person to another person; or

(ii) the use by any person on another person;

of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact.

(17) Refrain from any direct or indirect contact with an individual **and, if convicted of an offense under IC 35-46-3, any animal belonging to the individual.**
(18) Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs incurred because of the taking, detention, or return of a missing child (as

defined in IC 10-13-5-4).

(19) Periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is responsible for any charges resulting from a test and shall have the results of any test under this subdivision reported to the person's probation officer by the laboratory.

(20) If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments under the plan to the authority that operates the penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:

(A) may not exceed an amount the person can or will be able to pay;

(B) does not harm the person's ability to reasonably be self supporting or to reasonably support any dependent of the person; and

(C) takes into consideration and gives priority to any other restitution, reparation, repayment, or fine the person is required to pay under this section.

(21) Refrain from owning, harboring, or training an animal.

(22) Participate in a reentry court program.

(b) When a person is placed on probation, the person shall be given a written statement specifying:

(1) the conditions of probation; and

(2) that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.

(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal

facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one (1) year. A person does not earn credit time while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:

(1) the term of imprisonment;

(2) the days or parts of days during which a person is to be confined; and

(3) the conditions.

(e) Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.

(f) When a court imposes a condition of probation described in subsection (a)(17):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

(g) As a condition of probation, a court shall require a person:

(1) convicted of an offense described in IC 10-13-6-10;

(2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and

(3) whose sentence does not involve a commitment to the department of correction;

to provide a DNA sample as a condition of probation.

SECTION 9. IC 35-41-1-6.5, AS AMENDED BY P.L.171-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.5. "Crime involving domestic or family violence" means a crime that occurs when a family or household member commits, attempts to commit, or conspires to commit any of the following against another family or household member:

(1) A homicide offense under IC 35-42-1.

(2) A battery offense under IC 35-42-2.

(3) Kidnapping or confinement under IC 35-42-3.

(4) Human and sexual trafficking crimes under IC 35-42-3.5.

(5) A sex offense under IC 35-42-4.

(6) Robbery under IC 35-42-5.

(7) Arson or mischief under IC 35-43-1.

(8) Burglary or trespass under IC 35-43-2.

(9) Disorderly conduct under IC 35-45-1.

(10) Intimidation or harassment under IC 35-45-2.

(11) Voyeurism under IC 35-45-4.

(12) Stalking under IC 35-45-10.

(13) An offense against family under IC 35-46-1-2 through IC 35-46-1-8, IC 35-46-1-12, or IC 35-46-1-15.1.

(14) A crime involving animal cruelty and a family or household member under ~~IC 35-46-3-12(b)(3)~~ **IC 35-46-3-12(b)(2)** or IC 35-46-3-12.5.

SECTION 10. IC 35-46-3-0.5, AS ADDED BY P.L.171-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 0.5. The following definitions apply throughout this chapter:

(1) "Abandon" means to desert an animal or to leave the animal permanently in a place without making provision for adequate long term care of the animal. The term does not include leaving an animal in a place that is temporarily vacated for the protection of human life during a disaster.

(2) "Beat" means to unnecessarily or cruelly strike an animal, or to throw the animal against an object causing the animal to suffer severe pain or injury. The term does not include reasonable training or disciplinary techniques.

(3) "Mutilate" means to wound, injure, maim, or disfigure an animal by irreparably damaging the animal's body parts or to render any part of the animal's body useless. The term includes bodily injury involving:

(A) serious permanent disfigurement;

(B) serious temporary disfigurement;

(C) permanent or protracted loss or impairment of the function of a bodily part or organ; or

(D) a fracture.

(4) "Neglect" means: ~~to:~~

(A) ~~endanger~~ **endangering** an animal's health by failing to provide **or arrange to provide** the animal with food or drink, if the animal is dependent upon the person for the provision of

food or drink; ~~or~~

(B) ~~restrain~~ **restraining** an animal for more than a brief period **in a manner that endangers the animal's life or health** by the use of a rope, chain, or tether that:

(i) is less than three (3) times the length of the animal;

(ii) is too heavy to permit the animal to move freely; or

(iii) causes the animal to choke;

(C) restraining an animal in a manner that seriously endangers the animal's life or health;

(D) failing to:

(i) provide reasonable care for; or

(ii) seek veterinary care for;

an injury or illness to a dog or cat that seriously endangers the life or health of the dog or cat; or

(E) leaving a dog or cat outside and exposed to:

(i) excessive heat without providing the animal with a means of shade from the heat; or

(ii) excessive cold if the animal is not provided with straw or another means of protection from the cold;

regardless of whether the animal is restrained or kept in a kennel.

(5) "Torture" means:

(A) to inflict extreme physical pain or injury on an animal with the ~~sole~~ intent of increasing or prolonging the animal's pain; or

(B) to administer poison to a ~~cat or dog,~~ **domestic animal (as defined in section 12(d) of this chapter)** or expose a ~~cat or dog~~ **domestic animal** to a poisonous substance with the intent that the ~~cat or dog~~ **domestic animal** ingest the substance and suffer harm, pain, or physical injury.

SECTION 11. IC 35-46-3-5, AS AMENDED BY P.L.2-2008, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Except as provided in subsections (b) through (c), this chapter does not apply to the following:

(1) Fishing, hunting, trapping, or other conduct authorized under IC 14-22.

(2) Conduct authorized under IC 15-20-2.

(3) Veterinary practices authorized by standards adopted under IC 25-38.1-2-14.

(4) Conduct authorized by a local ordinance.

(5) Acceptable farm management practices.

(6) Conduct authorized by ~~IC 15-17-5,~~ **IC 15-17,** and rules adopted under ~~IC 15-17-5~~ **IC 15-17** for state or federally inspected livestock slaughtering facilities **and state or federal animal disease control programs.**

(7) A research facility registered with the United States Department of Agriculture under the federal Animal Welfare Act (7 U.S.C. 2131 et seq.).

(8) Destruction of a vertebrate defined as a pest under IC 15-16-5-24.

(9) Destruction of or injury to a fish.

(10) Destruction of a vertebrate animal that is:

(A) endangering, harassing, or threatening livestock or a domestic animal; or

(B) destroying or damaging a person's property.

(11) Destruction of an animal by an animal control program, including an animal control facility, an animal shelter, or a humane society.

(12) Destruction of an injured or ill animal by an individual to prevent the animal from prolonged suffering.

(13) Conduct not resulting in serious injury or illness to the animal that is incidental to exhibiting an animal for show, competition, or display, or that is incidental to transporting the animal for show, competition, or display.

(14) Parking an animal.

(15) Humane destruction of an animal that the person owns.

(b) Section 1 of this chapter applies to conduct described in subsection (a).

(c) Destruction of an animal by electrocution is authorized under this section only if it is conducted by a person who is engaged in an acceptable farm management practice, by a research facility registered with the United States Department of Agriculture under the Animal Welfare Act, or for the animal disease diagnostic laboratory established under IC 21-46-3-1, a research facility licensed by the United States Department of Agriculture, a college, or a university.

SECTION 12. IC 35-46-3-7, AS AMENDED BY P.L.171-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]: Sec. 7. (a) A person who: ~~owns~~

(1) has a vertebrate animal **in the person's custody;** and

(2) ~~who~~ recklessly, knowingly, or intentionally abandons or neglects the animal;

commits cruelty to an animal, a ~~Class B misdemeanor.~~ **Class A misdemeanor. However, except for a conviction under section 1 of this chapter, the offense is a Class D felony if the person has a prior unrelated conviction under this chapter.**

(b) It is a defense to a prosecution **for abandoning a vertebrate animal** under this section that the ~~owner~~ **person who had the animal in the person's custody** reasonably believed that the vertebrate animal was capable of surviving on its own.

(c) For purposes of this section, an animal that is feral is not in a person's custody.

SECTION 13. IC 35-46-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. A person who knowingly or intentionally attends a fighting contest involving animals commits cruelty to an animal, a Class A misdemeanor. **However, except for a conviction under section 1 of this chapter, the offense is a Class D felony if the person has a prior unrelated conviction under this chapter.**

SECTION 14. IC 35-46-3-12, AS AMENDED BY P.L.171-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) This section does not apply to a person who euthanizes an injured, a sick, a homeless, or an unwanted domestic animal if:

(1) the person is employed by a humane society, an animal control agency, or a governmental entity operating an animal shelter or other animal impounding facility; and

(2) the person euthanizes the domestic animal in accordance with guidelines adopted by the humane society, animal control agency, or governmental entity operating the animal shelter or other animal impounding facility.

(b) A person who knowingly or intentionally beats a vertebrate animal commits cruelty to an animal, a Class A misdemeanor. However, the offense is a Class D felony if:

(1) the person has a previous, unrelated conviction under this section; **or**

~~(2) the person knowingly or intentionally tortures or mutilates a vertebrate animal; or~~

~~(3)~~ **(2)** the person committed the offense with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member.

(c) A person who knowingly or intentionally tortures or mutilates a vertebrate animal commits torturing or mutilating a vertebrate animal, a Class D felony.

(d) As used in this subsection, "domestic animal" means an animal that is not wild. The term is limited to:

(1) cattle, calves, horses, mules, swine, sheep, goats, dogs, cats, poultry, ostriches, rhea, and emus; and

(2) an animal of the bovine, equine, ovine, caprine, porcine, canine, feline, camelid, cervidae, or bison species.

A person who knowingly or intentionally kills a domestic animal without the consent of the owner of the domestic animal commits killing a domestic animal, a Class D felony.

~~(c)~~ **(e)** It is a defense to a prosecution under this section that the accused person:

(1) reasonably believes the conduct was necessary to:

(A) prevent injury to the accused person or another person;

(B) protect the property of the accused person from destruction or substantial damage; or

(C) prevent a seriously injured vertebrate animal from prolonged suffering; or

(2) engaged in a reasonable and recognized act of training, handling, or disciplining the vertebrate animal.

~~(d)~~ **(f)** When a court imposes a sentence or enters a dispositional decree under this section, ~~concerning a person described in subdivision (1),~~ the court:

(1) shall consider requiring:

(A) a person convicted of an offense under this section; or

(B) a child adjudicated a delinquent child for committing an act that would be a crime under this section if committed by an adult;

to receive psychological, behavioral, or other counseling as a part of the sentence or dispositional decree; and

(2) may order an individual described in subdivision (1) to receive

psychological, behavioral, or other counseling as a part of the sentence or dispositional decree.

SECTION 15. [EFFECTIVE JULY 1, 2009] **IC 15-21-2-3, IC 15-21-3-1, and IC 15-21-3-2, all as added by this act, and IC 35-46-3-0.5, IC 35-46-3-7, IC 35-46-3-10, and IC 35-46-3-12, all as amended by this act, apply only to crimes committed after June 30, 2009.**

P.L.112-2009
[H.1494. Approved May 7, 2009.]

AN ACT to amend the Indiana Code concerning courts and court officers.

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

SECTION 1. IC 33-39-6-2, AS AMENDED BY P.L.127-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A prosecuting attorney may appoint one (1) chief deputy prosecuting attorney. The maximum annual salary paid by the state of a chief deputy prosecuting attorney appointed under this subsection is as follows:

(1) If the prosecuting attorney is a full-time prosecuting attorney appointing a full-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a full-time prosecuting attorney.

(2) If the prosecuting attorney is a full-time prosecuting attorney appointing a part-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a part-time prosecuting attorney serving the judicial district served by the chief deputy prosecuting attorney.

(3) If the prosecuting attorney is a part-time prosecuting attorney appointing a full-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a full-time prosecuting attorney.

(4) If the prosecuting attorney is a part-time prosecuting attorney appointing a part-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a part-time prosecuting attorney.

~~(5) The state may not pay any amount of the annual salary of a chief deputy prosecuting attorney appointed under this section by the prosecuting attorney of the ninety-first judicial circuit.~~

(b) The prosecuting attorney in a county in which is located at least one (1) institution operated by the department of correction that houses at least one thousand five hundred (1,500) offenders may appoint two (2) additional deputy prosecuting attorneys. In a county having two (2) institutions, each of which houses at least one thousand five hundred (1,500) offenders, the prosecuting attorney may appoint a third deputy prosecuting attorney.

(c) The prosecuting attorney in a county in which is located an institution operated by the department of correction that houses at least one hundred (100) but less than one thousand five hundred (1,500) adult offenders may appoint one (1) additional deputy prosecuting attorney.

(d) The prosecuting attorney in a county in which is located a state institution (as defined in IC 12-7-2-184) that has a daily population of at least three hundred fifty (350) patients may appoint one (1) additional deputy prosecuting attorney.

(e) The annual salary of a deputy prosecuting attorney appointed under subsections (b) through (d) may not be less than seventy-five percent (75%) of the annual salary of the appointing prosecuting attorney, as determined under section 5 of this chapter as though the prosecuting attorney had not elected full-time status.

(f) The salaries provided in this section shall be paid by the state once every two (2) weeks from the state general fund. There is appropriated annually out of the general fund of the state sufficient funds to pay any amount necessary. However, the salaries fixed in this

chapter are determined to be maximum salaries to be paid by the state. This chapter does not limit the power of counties comprising the respective judicial circuits to pay additional salaries upon proper action by the appropriate county officials.

(g) The various county councils shall appropriate annually for other deputy prosecuting attorneys, investigators, clerical assistance, witness fees, out-of-state travel, postage, telephone tolls and telegraph, repairs to equipment, office supplies, other operating expenses, and equipment an amount necessary for the proper discharge of the duties imposed by law upon the office of the prosecuting attorney of each judicial circuit.

P.L.113-2009
[H.1498. Approved May 7, 2009.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 5-10.2-3-7.5, AS AMENDED BY P.L.99-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: Sec. 7.5. (a) **This subsection applies to members who die after March 31, 1990, and before January 1, 2007.** A surviving dependent or surviving spouse of a member who dies in service is entitled to a survivor benefit if:

~~(1) the member dies after March 31, 1990,~~

~~(2)~~ **(1)** the member has:

(A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;

(B) at least fifteen (15) years of creditable service, if the member died in service in any other position covered by the retirement fund; or

(C) at least ten (10) years but not more than fourteen (14) years of creditable service if the member:

(i) was at least sixty-five (65) years of age; and

(ii) died in service in a position covered by the teachers' retirement fund; and

~~(3)~~ **(2)** the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection ~~(b)~~ **(c)** or ~~(c).~~ **(d).**

(b) This subsection applies to members who die after December 31, 2006. A surviving dependent or surviving spouse of a member who dies is entitled to a survivor benefit if:

(1) the member has:

(A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;

(B) at least ten (10) years but not more than fourteen (14) years of creditable service if the member was at least sixty-five (65) years of age and died in service in a position covered by the fund (other than a position described in clause (A)); or

(C) at least fifteen (15) years of creditable service, if the member died in service in a position covered by the fund (other than a position described in clause (A)); and

(2) the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection (c) or (d).

~~(b)~~ **(c)** If a member described in subsection (a) **or (b)** dies with a surviving spouse who was married to the member for at least two (2) years, the surviving spouse is entitled to a survivor benefit equal to the monthly benefit that would have been payable to the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty (50) years of age; or

(2) the actual date of death;

whichever is later. However, benefits payable under this subsection are subject to subsections ~~(c)~~ **(f)** and ~~(g).~~ **(h).**

~~(c)~~ **(d)** If a member described in subsection (a) **or (b)** dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the

member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty (50) years of age; or

(2) the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly benefit to be paid to each dependent. Monthly benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent has a permanent and total disability (using disability guidelines established by the Social Security Administration) at the date the dependent reaches eighteen (18) years of age, the monthly benefit is payable until the date the dependent no longer has a disability (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this subsection are subject to subsections ~~(e)~~ **(f)** and ~~(g).~~ **(h).**

~~(d)~~ **(e)** Except as provided in subsections ~~(e)~~ **(f)** and ~~(h),~~ **(i),** the surviving spouse or surviving dependent of a member who is entitled to a survivor benefit under subsection ~~(b)~~ **(c)** or ~~(c)~~ **(d)** or section 7.6 of this chapter may elect to receive a lump sum payment of the total amount credited to the member in the member's annuity savings account or an amount equal to the member's federal income tax basis in the member's annuity savings account as of December 31, 1986. A surviving spouse or surviving dependent who makes such an election is not entitled to an annuity as part of the survivor benefit under subsection ~~(b)~~ **(c)** or ~~(c)~~ **(d)** or section 7.6 of this chapter to the extent of the lump sum payment.

~~(e)~~ **(f)** If a member described in subsection (a) **or (b)** or section 7.6(a) of this chapter is survived by a designated beneficiary who is not a surviving spouse or surviving dependent entitled to a survivor benefit under subsection ~~(b)~~ **(c)** or ~~(c)~~ **(d)** or section 7.6 of this chapter, the following provisions apply:

(1) If the member is survived by one (1) designated beneficiary, the designated beneficiary is entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, the amount credited to the member's annuity savings

account, less any disability benefits paid to the member.

(2) If the member is survived by two (2) or more designated beneficiaries, the designated beneficiaries are entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, equal shares of the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(3) If the member is also survived by a spouse or dependent who is entitled to a survivor benefit under subsection ~~(b)~~ **(c)** or ~~(c)~~ **(d)** or section 7.6 of this chapter, the surviving spouse or dependent is not entitled to an annuity or a lump sum payment as part of the survivor benefit, unless the surviving spouse or dependent is also a designated beneficiary.

~~(f)~~ **(g)** If a member dies:

(1) without a surviving spouse or surviving dependent who qualifies for survivor benefits under subsection ~~(b)~~ **(c)** or ~~(c)~~ **(d)** or section 7.6 of this chapter; and

(2) without a surviving designated beneficiary who is entitled to receive the member's annuity savings account under subsection ~~(c);~~ **(f);**

the amount credited to the member's annuity savings account, less any disability benefits paid to the member, shall be paid to the member's estate.

~~(g)~~ **(h)** Survivor benefits payable under this section or section 7.6 of this chapter shall be reduced by any disability benefits paid to the member.

~~(h)~~ **(i)** Additional annuity contributions, if any, shall not be included in determining survivor benefits under subsection ~~(b)~~ **(c)** or ~~(c)~~ **(d)** or section 7.6 of this chapter, but are payable in a lump sum payment to:

(1) the member's surviving designated beneficiary; or

(2) the member's estate, if there is no surviving designated beneficiary.

~~(i)~~ **(j)** Survivor benefits provided under this section or section 7.6 of this chapter are subject to IC 5-10.2-2-1.5.

~~(j)~~ **(k)** A benefit specified in this section shall be forfeited and credited to the member's retirement fund if no person entitled to the benefit claims it within three (3) years after the member's death. However, the board may honor a claim that is made more than three (3)

years after the member's death if the board finds, in the board's discretion, that:

(1) the delay in making the claim was reasonable or other extenuating circumstances justify the award of the benefit to the claimant; and

(2) paying the claim would not cause a violation of the applicable Internal Revenue Service rules.

SECTION 2. IC 5-10.2-3-7.6, AS AMENDED BY P.L.99-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: Sec. 7.6. (a) This section applies to the surviving spouse and the surviving dependent of a member who:

(1) dies after June 30, 1996;

(2) has at least thirty (30) years of creditable service; and

(3) dies in service in a position covered by the fund.

(b) If a member described in subsection (a) dies with a surviving spouse who was married to the member for at least two (2) years, the board may determine that the surviving spouse is entitled to a survivor benefit equal to the monthly benefit that would have been payable to the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty-five (55) years of age; or

(2) the actual date of death;

whichever is later. However, benefits payable under this section are subject to ~~IC 5-10.2-3-7.5(c) and IC 5-10.2-3-7.5(g).~~ **section 7.5(f) and 7.5(h) of this chapter.**

(c) If a member described in subsection (a) dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the board may determine that the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty-five (55) years of age; or

(2) the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall

be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly benefit to be paid to each dependent. Monthly benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent has a permanent and total disability (using disability guidelines established by the Social Security Administration) on the date the dependent becomes eighteen (18) years of age, the monthly benefit is payable until the date the dependent no longer has a disability (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this section are subject to ~~IC 5-10.2-3-7.5(c) and IC 5-10.2-3-7.5(g).~~ **section 7.5(f) and 7.5(h) of this chapter.**

SECTION 3. [EFFECTIVE JULY 1, 2009] **(a) As used in this SECTION, "fund" refers to the Indiana state teachers' retirement fund established by IC 5-10.4-2-1.**

(b) Not later than October 1, 2009, the fund shall pay the amount determined under subsection (c) to a member of the fund (or to a survivor or beneficiary of a member) who retired or was disabled before January 1, 2009, and who is entitled to receive a monthly benefit on July 1, 2009. The amount is not an increase in the pension portion of the monthly benefit.

(c) The amount paid under this SECTION to a member of the fund (or to a survivor or beneficiary of a member) who meets the requirements of subsection (b) is determined as follows:

If a Member's Creditable Service Is:	**The Amount Is:**
At least 5 years, but less than 10 years (only in the case of a member receiving disability retirement benefits)	**$150**
At least 10 years, but less than 20 years	**$275**
At least 20 years, but less than 30 years	**$375**
At least 30 years	**$450**

(d) The creditable service used to determine the amount paid to a member (or a survivor or beneficiary of a member) under this SECTION is the creditable service that was used to compute the member's retirement benefit under IC 5-10.2-4-4 except that partial years of creditable service may not be used to determine the amount paid under this SECTION.

(e) This SECTION expires January 1, 2010.

SECTION 4. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 5-10.2 apply to this SECTION.**

(b) The fund must make a reasonable effort to:

(1) identify a surviving spouse or surviving dependent of a member who:

(A) died after December 31, 2006;

(B) had at least ten (10) years of creditable service; and

(C) was not eligible for a survivor benefit under IC 5-10.2-3-7.5, before its amendment by this act, but is eligible for a survivor benefit under IC 5-10.2-3-7.5, after its amendment by this act; and

(2) notify an individual described in subdivision (1) of changes made by this act.

The fund is considered to have made a reasonable effort to notify a surviving spouse or surviving dependent of changes made by this act if the fund mails notification of changes made by this act to the member's last known address.

(c) Notwithstanding IC 5-10.2-3-7.5(k), as amended by this act, a surviving spouse or a surviving dependent who qualifies for a survivor benefit under IC 5-10.2-3-7.5(c) or IC 5-10.2-3-7.5(d), both as amended by this act, for a member described in subsection (b), who died after December 31, 2006, may claim the survivor benefit on or before the later of the following:

(1) June 30, 2009.

(2) The date the survivor benefit is forfeited to the member's retirement fund under IC 5-10.2-3-7.5(k), as amended by this act.

(d) This SECTION expires January 1, 2010.

SECTION 5. **An emergency is declared for this act.**

P.L.114-2009
[H.1536. Approved May 7, 2009.]

AN ACT to amend the Indiana Code concerning Medicaid.

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

SECTION 1. IC 12-15-1-20.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: **Sec. 20.4. (a) If a Medicaid recipient is:**

(1) less than eighteen (18) years of age;

(2) adjudicated to be a delinquent child and placed in:

(A) a community based correctional facility for children;

(B) a juvenile detention facility; or

(C) a secure facility, not including a facility licensed as a child caring institution under IC 31-27; and

(3) ineligible to participate in the Medicaid program during the placement described in subdivision (2) because of federal Medicaid law;

the division of family resources, upon notice that a child has been adjudicated to be a delinquent child and placed in a facility described in subsection (a)(2), shall suspend the child's participation in the Medicaid program for up to six (6) months before terminating the child's eligibility.

(b) If the division of family resources receives:

(1) a dispositional decree under IC 31-37-19-28; or

(2) a modified disposition order under IC 31-37-22-9;

and the department of correction gives the division at least forty (40) days notice that a child will be released from a facility described in subsection (a)(2)(C), the division of family resources shall take action necessary to ensure that a child described in subsection (a) is eligible to participate in the Medicaid program upon the child's release, if the child is eligible to participate.

SECTION 2. IC 31-37-17-1, AS AMENDED BY P.L.146-2008, SECTION 637, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Upon finding that a child is a delinquent child, the juvenile court shall order a probation officer to prepare a predispositional report that contains:

(1) a statement of the needs of the child for care, treatment, rehabilitation, or placement;

(2) a recommendation for the care, treatment, rehabilitation, or placement of the child;

(3) if the recommendation includes:

(A) an out-of-home placement other than a secure detention facility; or

(B) services payable by the department under IC 31-40-1-2;

information that the department requires to determine whether the child is eligible for assistance under Title IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.); ~~and~~

(4) a statement of the department's concurrence with or its alternative proposal to the probation officer's predispositional report, as provided in section 1.4 of this chapter; **and**

(5) a statement of whether the child receives Medicaid.

(b) Any of the following may prepare an alternative report for consideration by the court:

(1) The child.

(2) The child's:

(A) parent;

(B) guardian;

(C) guardian ad litem;

(D) court appointed special advocate; or

(E) custodian.

SECTION 3. IC 31-37-19-28 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 28. (a) This section applies if a predispositional report indicates that a child receives Medicaid and a court places the child in:**

(1) a juvenile detention facility; or

(2) a secure facility, not including a facility licensed as a child caring institution under IC 31-27.

(b) The court shall immediately provide a copy of the

dispositional decree to the division of family resources.

SECTION 4. IC 31-37-22-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 9. If:**

(1) a juvenile court modifies its disposition order under this chapter;

(2) the child named in the order received Medicaid before disposition as indicated by the predispositional report; and

(3) the juvenile court previously placed or intends to place the child in:

(A) a juvenile detention facility; or

(B) a secure facility, not including a facility licensed as a child caring institution under IC 31-27;

the court shall immediately provide a copy of the modified dispositional decree to the division of family resources.

SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.**

(b) The office shall apply to the United States Department of Health and Human Services to amend the state Medicaid plan if the office determines the amendment is necessary to carry out IC 12-15-1-20.4, as added by this act.

(c) The office may not implement a state plan amendment under this SECTION until the office files an affidavit with the governor attesting that the plan amendment filed under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the plan amendment is approved.

(d) If the office receives a plan amendment under this SECTION from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (c), the office shall implement the plan amendment not more than sixty (60) days after the governor receives the affidavit.

(e) This SECTION expires December 31, 2013.

SECTION 6. **An emergency is declared for this act.**

P.L.115-2009
[H.1546. Approved May 7, 2009.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 5-10.2-3-6.5, AS ADDED BY P.L.115-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.5. (a) This section applies:

(1) after December 31, 2008, to a member of the public employees' retirement fund; **and**

(2) after June 30, 2009, to a member of the Indiana state teachers' retirement fund.

(b) A member who meets all of the following requirements may elect to withdraw the entire amount in the member's annuity savings account before the member is eligible to do so at retirement under IC 5-10.2-4-2:

(1) The member has attained vested status in the fund.

(2) The member terminates employment **with the applicable fund after the date specified in subsection (a).**

(3) The member has not performed any service in a position covered by the fund for at least ninety (90) days after the date the member terminates employment.

(c) A member who elects to withdraw the entire amount in the member's annuity savings account under subsection (b) shall provide notice of the election on a form provided by the board.

(d) The election to withdraw the entire amount in the member's annuity savings account is irrevocable.

(e) The board shall pay the amount in the member's annuity savings account as a lump sum.

(f) Except as provided in subsection (g), a member who makes a withdrawal under this section is entitled to receive, when the member becomes eligible to receive a retirement benefit under IC 5-10.2-4, a

retirement benefit equal to the pension provided by employer contributions computed under IC 5-10.2-4.

(g) A member who:

(1) transfers creditable service earned under the fund to another governmental retirement plan under section 1(i) of this chapter; and

(2) withdraws the member's annuity savings account under this section to purchase the service;

may not use the transferred service in the computation of a retirement benefit payable under subsection (f).

SECTION 2. IC 5-10.2-3-7.5, AS AMENDED BY P.L.99-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.5. (a) A surviving dependent or surviving spouse of a member who dies in service is entitled to a survivor benefit if:

(1) the member dies after March 31, 1990;

(2) the member has:

(A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;

(B) at least fifteen (15) years of creditable service, if the member died in service in any other position covered by the retirement fund; or

(C) at least ten (10) years but not more than fourteen (14) years of creditable service if the member:

(i) was at least sixty-five (65) years of age; and

(ii) died in service in a position covered by the teachers' retirement fund; and

(3) the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection (b) or (c).

(b) If a member described in subsection (a) dies with a surviving spouse who was married to the member for at least two (2) years, the surviving spouse is entitled to a survivor benefit equal to the monthly **pension** benefit that would have been payable to the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty (50) years of age; or

(2) the actual date of death;

whichever is later. However, benefits payable under this subsection are

subject to subsections (e) and (g).

(c) If a member described in subsection (a) dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly **pension** benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty (50) years of age; or

(2) the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly **pension** benefit to be paid to each dependent. Monthly **pension** benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent has a permanent and total disability (using disability guidelines established by the Social Security Administration) at the date the dependent reaches eighteen (18) years of age, the monthly **pension** benefit is payable until the date the dependent no longer has a disability (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this subsection are subject to subsections (e) and (g).

(d) **This subsection applies if a member did not designate a beneficiary or the designated beneficiary does not survive the member.** Except as provided in subsections (e) and (h), the surviving spouse or surviving dependent of a member who is entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter may elect to receive a lump sum payment of the total amount credited to the member in the member's annuity savings account or an amount equal to the member's federal income tax basis in the member's annuity savings account as of December 31, 1986. A surviving spouse or surviving dependent who makes such an election is not entitled to an annuity as part of the survivor benefit under subsection (b) or (c) or section 7.6 of this chapter to the extent of the lump sum payment.

(e) If a member ~~described in subsection (a) or section 7.6(a) of this~~

~~chapter~~ is survived by a designated beneficiary, ~~who is not a surviving spouse or surviving dependent entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter,~~ the following provisions apply:

(1) If the member is survived by one (1) designated beneficiary, the designated beneficiary is entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(2) If the member is survived by two (2) or more designated beneficiaries, the designated beneficiaries are entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, equal shares of the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(3) If the member is also survived by a spouse or dependent who is entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter, the surviving spouse or dependent is not entitled to an annuity or a lump sum payment as part of the survivor benefit, unless the surviving spouse or dependent is also a designated beneficiary.

(f) If a member dies:

(1) without a surviving spouse or surviving dependent who qualifies for survivor benefits under subsection (b) or (c) or section 7.6 of this chapter; and

(2) without a surviving designated beneficiary who is entitled to receive the member's annuity savings account under subsection (e);

the amount credited to the member's annuity savings account, less any disability benefits paid to the member, shall be paid to the member's estate.

(g) Survivor benefits payable under this section or section 7.6 of this chapter shall be reduced by any disability benefits paid to the member.

(h) Additional annuity contributions, if any, shall not be included in determining survivor benefits under subsection (b) or (c) or section 7.6 of this chapter, but are payable in a lump sum payment to:

(1) the member's surviving designated beneficiary; or

(2) the member's estate, if there is no surviving designated

beneficiary.

(i) Survivor benefits provided under this section or section 7.6 of this chapter are subject to IC 5-10.2-2-1.5.

(j) A benefit specified in this section shall be forfeited and credited to the member's retirement fund if no person entitled to the benefit claims it within three (3) years after the member's death. However, the board may honor a claim that is made more than three (3) years after the member's death if the board finds, in the board's discretion, that:

(1) the delay in making the claim was reasonable or other extenuating circumstances justify the award of the benefit to the claimant; and

(2) paying the claim would not cause a violation of the applicable Internal Revenue Service rules.

SECTION 3. IC 5-10.2-4-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.2. ~~The public employees' retirement~~ **(a) Each** fund shall adopt a policy that

~~(1) promotes~~ **requires** direct deposit **or another method approved by the board** as the preferred way for members and beneficiaries to receive monthly benefits. ~~and~~

~~(2) strongly encourages members and beneficiaries who apply for benefits to receive their monthly benefits by direct deposit.~~

(b) A member or beneficiary who does not wish to have payments to the person deposited by direct deposit or another method approved by the board under subsection (a) may request the board or a designee of the board to grant a waiver of the requirement of direct deposit or another method approved by the board. The member or beneficiary must:

(1) state the reason to the board for requesting the waiver; and

(2) sign a waiver form.

(c) The board or a designee of the board shall grant the member's or beneficiary's request for a waiver, approval of which shall not be unreasonably denied, if any of the following apply:

(1) The member or beneficiary currently does not have a savings or checking account.

(2) The member or beneficiary is unable to establish a savings or checking account within the geographic area of the home of the member or beneficiary without payment of a service

fee. In support of this reason, the member or beneficiary must submit a written statement of the inability to establish the account without the payment of a fee with the waiver request.

(3) The home of the member or beneficiary is too remote to have access to a financial institution where direct deposit or another method approved by the board may be made.

(4) The financial institution of the member or beneficiary is unable to:

(A) accept direct deposit or another method approved by the board; or

(B) process electronic withdrawal.

The member or beneficiary must submit with the waiver a written statement from the financial institution of the member or beneficiary that the financial institution is unable to accept direct deposit or another method approved by the board or process electronic withdrawal.

(5) The board determines that the facts of the particular case warrant a waiver of the requirement of direct deposit or another method approved by the board.

(d) The policy of the board must provide that a member or beneficiary who is in pay status as of July 1, 2009, and is receiving monthly benefits in a manner other than direct deposit or another method approved by the board shall not have the monthly benefits stopped for receiving monthly benefits in a manner other than direct deposit or another method approved by the board.

SECTION 4. IC 5-10.2-4-1.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.4. (a) This section applies to a member or a beneficiary of the ~~public employees' retirement~~ fund who receives a monthly benefit by direct deposit.

(b) The fund shall furnish to the member or beneficiary:

(1) before each change in the amount of the member's or beneficiary's benefit; or

(2) once every twelve (12) months, if the member's or beneficiary's benefit amount does not change;

a written notice showing the member's or beneficiary's benefit amount, including any cost of living increase or other adjustment to the benefit amount, and a summary of the member's or beneficiary's benefit payment history since the member's or beneficiary's last written notice.

SECTION 5. IC 5-10.2-4-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) A fund may calculate and pay an estimated retirement benefit of the pension portion to a member if:

(1) the member has applied for a retirement benefit and has chosen a retirement date on which the retirement benefit is to begin;

(2) the member's membership records are incomplete or have not been certified; and

(3) the member's membership records that have been submitted to the fund establish that the member is entitled to a retirement benefit.

(b) ~~A~~ **After June 30, 2009, if a** fund ~~may calculate~~ **calculates and pays** an estimated benefit under this section, ~~based on~~ **the estimated benefit must be at least** eighty-five percent (85%) of the pension portion of the benefit determined under the fund's records on service and compensation information.

(c) If an estimated benefit is paid to a member under this section, the fund shall, after all membership records have been submitted to the fund and certified, determine the actual retirement benefit to which the member is entitled. After determining the actual retirement benefit to which the member is entitled, the fund shall temporarily adjust the actual retirement benefit that is paid to the member to reconcile any underpayment or overpayment of benefits to the member that resulted from the payment of estimated benefits. The fund may make the temporary adjustment to the member's actual retirement benefit over a reasonable time, as determined by the board.

SECTION 6. IC 5-10.2-4-2, AS AMENDED BY P.L.115-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 2. (a) Unless a member elects otherwise under this section or has elected to withdraw the member's annuity savings account under IC 5-10.2-3-6.5, the retirement benefit for each member consists of the sum of a pension provided by employer contributions plus an annuity provided by the amount credited to the member in the annuity savings account. If a member has elected to withdraw the member's annuity savings account under IC 5-10.2-3-6.5, the member's retirement benefit is equal to the pension provided by employer contributions, unless the member has transferred the

creditable service earned under the public employees' retirement fund to another governmental retirement plan under IC 5-10.2-3-1(i). **Regardless of a member's election under this section, contributions totaling not more than one thousand dollars ($1,000) that are posted to a member's annuity savings account after the final date on which the member's retirement benefit is processed may be distributed to the member as a lump sum payment.**

(b) If a member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5, a member may choose at retirement or upon a disability retirement to receive a distribution of:

(1) the entire amount credited to the member in the annuity savings account; or

(2) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (1), the member is not entitled to an annuity as part of the retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2).

(c) Instead of choosing to receive the benefits described in subsection (a) or (b), if a member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5, a member may choose upon retirement or upon disability retirement to begin receiving a pension provided by employer contributions and to defer receiving in any form the member's annuity savings account. If a member chooses this option, the member:

(1) is not entitled to an annuity as part of the member's retirement or disability benefit, and the member's annuity savings account will continue to be invested according to the member's direction under IC 5-10.2-2-3; and

(2) may later choose, as of the first day of a month, or an alternate date established by the rules of each board, to receive a distribution of:

(A) the entire amount credited to the member in the annuity savings account; or

(B) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (2)(A), the member is not entitled to an annuity as part of the member's retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2)(B), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2)(B). If the member does not choose to receive a distribution under this subsection, the member is entitled to an annuity purchasable by the entire amount in the member's annuity savings account, and the form of the annuity shall be as described in subsection (d) unless the member elects an option described in section 7(b)(1), 7(b)(2), or 7(b)(4) of this chapter. The amount to be paid under this section shall be determined in the manner described in IC 5-10.2-2-3. ~~except that it shall be determined as of the last day of the quarter preceding the member's actual distribution or annuitization date~~. However, each board may by rule provide for an alternate valuation date.

(d) Retirement benefits must be distributed in a manner that complies with Section 401(a)(9) of the Internal Revenue Code, as specified in IC 5-10.2-2-1.5.

SECTION 7. IC 5-10.2-4-7, AS AMENDED BY P.L.115-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Benefits provided under this section are subject to IC 5-10.2-2-1.5.

(b) A member who retires is entitled to receive monthly retirement benefits, which are guaranteed for five (5) years or until the member's death, whichever is later. A member may select in writing any of the following nonconflicting options for the payment of the member's retirement benefits instead of the five (5) year guaranteed retirement benefit payments. The amount of the optional payments shall be determined under rules of the board and shall be the actuarial equivalent of the benefit payable under sections 4, 5, and 6 of this chapter. A member who has elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5 may not select the cash refund annuity option.

(1) Joint and Survivor Option.

(A) The member receives a decreased retirement benefit during the member's lifetime, and there is a benefit payable after the member's death to a designated beneficiary during the lifetime of the beneficiary, which benefit equals, at the option of the member, either the full decreased retirement benefit or two-thirds (2/3) or one-half (1/2) of that benefit.

(B) If the member dies before retirement, the designated beneficiary may receive only the amount credited to the member in the annuity savings account unless the designated beneficiary is entitled to survivor benefits under IC 5-10.2-3.

(C) If the designated beneficiary dies before the member retires, the selection is automatically canceled and the member may make a new beneficiary election and may elect a different form of benefit under this subsection.

(2) Benefit with No Guarantee. The member receives an increased lifetime retirement benefit without the five (5) year guarantee specified in this subsection.

(3) Integration with Social Security. If the member retires before the age of eligibility for Social Security benefits, in order to provide a level benefit during the member's retirement the member receives an increased retirement benefit until the age of Social Security eligibility and decreased retirement benefits after that age.

(4) Cash Refund Annuity. The member receives a lifetime annuity purchasable by the amount credited to the member in the annuity savings account, and the member's designated beneficiary receives a refund payment equal to:

(A) the total amount used in computing the annuity at the retirement date; minus

(B) the total annuity payments paid and due to the member before the member's death.

(c) This subsection does not apply to a member of the Indiana state teachers' retirement fund after June 30, 2007, or to a member of the public employees' retirement fund after June 30, 2008. If:

(1) the designated beneficiary dies while the member is receiving benefits; or

(2) the member is receiving benefits, the member marries, either for the first time or following the death of the member's spouse,

after the member's first benefit payment is made, and the member's designated beneficiary is not the member's current spouse or the member has not designated a beneficiary;

the member may elect to change the member's designated beneficiary or form of benefit under subsection (b) and to receive an actuarially adjusted and recalculated benefit for the remainder of the member's life or for the remainder of the member's life and the life of the newly designated beneficiary. The member may not elect to change to a five (5) year guaranteed form of benefit. If the member's new election is the joint and survivor option, the member shall indicate whether the designated beneficiary's benefit shall equal, at the option of the member, either the member's full recalculated retirement benefit or two-thirds (2/3) or one-half (1/2) of this benefit. The cost of recalculating the benefit shall be borne by the member and shall be included in the actuarial adjustment.

(d) Except as provided in subsection (c) or section 7.2 of this chapter, a member who files for regular or disability retirement may not change:

(1) the member's retirement option under subsection (b);

(2) the selection of a lump sum payment under section 2 of this chapter; or

(3) the beneficiary designated on the member's application for benefits if the member selects the joint and survivor option under subsection (b)(1);

after the first day of the month in which benefit payments are scheduled to begin. For purposes of this subsection, it is immaterial whether a benefit check has been sent, received, or negotiated.

(e) A member may direct that the member's retirement benefits be paid to a revocable trust that permits the member unrestricted access to the amounts held in the revocable trust. The member's direction is not an assignment or transfer of benefits under IC 5-10.3-8-10 or IC 5-10.4-5-14.

(f) Each board may adopt a policy to permit annual payment of a member's retirement benefit whenever the amount of the monthly retirement benefit to be paid to the member is not more than five dollars ($5).

SECTION 8. IC 5-10.2-4-8, AS AMENDED BY P.L.130-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]: Sec. 8. (a) **Subject to subsection (f),** if a member who is receiving retirement benefits becomes reemployed in a position covered by this article more than thirty (30) days after the member's retirement, the member's retirement benefit payments continue. Except for a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state teachers' retirement fund, the member shall begin making contributions as required in IC 5-10.2-3-2, and the member's employer shall make contributions throughout the member's period of reemployment.

(b) If a member who is receiving retirement benefits is reemployed in a position covered by this article not more than thirty (30) days after the member's retirement, the member's retirement benefits shall stop, the member shall begin making contributions as required by IC 5-10.2-3-2, and employer contributions shall be made throughout the period of reemployment.

(c) This subsection does not apply to a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state teachers' retirement fund. If a retired member is reemployed in a position covered by this article, section 10 of this chapter applies to the member upon the member's retirement from reemployment.

(d) **Subject to subsection (f),** the following apply to a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state teachers' retirement fund:

(1) The member's retirement benefit payments continue during the member's period of reemployment without regard to the amount of the member's earnings from the covered position.

(2) The member may not make contributions under IC 5-10.2-3-2 or IC 5-10.4-4-11 during the member's period of reemployment.

(3) The member's employer may not make contributions under IC 5-10.2-2-11 or IC 5-10.4-4-11 for or on behalf of the member during the member's period of reemployment.

(4) The member does not earn creditable service under IC 5-10.2-3-1 for the member's period of reemployment.

(5) The member is not entitled to an additional benefit under sections 9 and 10 of this chapter for the member's period of

reemployment.

(e) The thirty (30) day period provided for in this section may be implemented unless the board of trustees of the fund receives a determination from the Internal Revenue Service prohibiting the implementation.

(f) After July 31, 2009, if, on or before the date the member files an application for retirement benefits under this article, a member has a formal or informal agreement with an employer covered by this article to become reemployed in a position covered by this article after the member's retirement, regardless of the time frame between the member's retirement and the member's reemployment, the member's application for retirement benefits is void, and the following apply to the member's continued employment:

(1) If a member has received a retirement benefit:

(A) the member's retirement benefit shall stop; and

(B) the member shall repay the amount of the retirement benefit received.

(2) The member shall make contributions as required by IC 5-10.2-3-2 throughout the period of the member's continued employment.

(3) Employer contributions shall be made throughout the period of the member's continued employment.

(4) The member shall earn creditable service under IC 5-10.2-3-1 for the member's continued employment.

(5) When the period of the member's continued employment terminates, the member may again file an application for retirement benefits under this chapter.

SECTION 9. IC 5-10.3-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The director is the executive officer in charge of the administration of the fund's detailed affairs.

(b) The director shall:

(1) maintain a record of the board's proceedings;

(2) be responsible for the safekeeping of the books and records of the funds administered by the board;

~~(1)~~ **(3)** receipt for payments made to the ~~fund~~ **funds administered by the board** and deposit ~~them~~ **these payments** with the ~~treasurer~~

~~of state or a~~ custodian for the fund's account;

~~(2)~~ **(4)** sign vouchers for the payment of money from the ~~fund~~ **funds administered by the board** as authorized by the board;

~~(3) perform other duties assigned by the board; and~~

~~(4)~~ **(5)** execute a corporate surety bond in an amount specified by the board, the premium on the bond to be paid by the board; **and**

(6) perform other duties assigned by the board.

SECTION 10. IC 5-10.3-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Securities shall be held for the fund by banks or trust companies under a custodial agreement. Income, interest, proceeds of sale, materials, redemptions, and all other receipts from securities and other investments which the board retains for the cash working balance shall be deposited ~~with the treasurer of state.~~ **as authorized by the board.**

(b) The board may contract with investment counsel, trust companies, or banks to assist the board in its investment program.

SECTION 11. IC 5-10.3-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. ~~Collection of Payments.~~ **(a)** If the employer or political subdivision fails to make payments required by this chapter, the amount payable may be:

(1) withheld by the auditor of state from moneys payable to the employer or subdivision and transferred to the fund; or

(2) recovered in a suit in the circuit or superior court of the county in which the political subdivision is located. ~~which~~ **The** suit shall be an action by the state on the relation of the board, prosecuted by the attorney general.

(b) If:

(1) service credit is verified for a member who has filed an application for retirement benefits; and

(2) the member's employer at the time the service credit was earned has not made contributions for or on behalf of the member for the service credit;

liability for the unfunded service credit shall be charged against the employer's account and collected by the fund as provided in subsection (a). Processing of a member's application for retirement benefits may not be delayed by an employer's failure to make contributions for the service credit earned by the member while the member was employed by the employer.

(c) If the employer or political subdivision fails to file the reports or records required by this chapter or by IC 5-10.3-7-12.5, the auditor of state shall:

(1) withhold the penalty described in IC 5-10.3-7-12.5 from money payable to the employer or the political subdivision; and ~~shall~~

(2) transfer the penalty to the fund.

SECTION 12. IC 5-10.3-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. ~~Payment of the Retirement Benefit.~~ **Except as provided under IC 5-10.2-4-7(f),** the retirement benefit is payable in equal monthly installments. The benefit may not be increased, decreased, revoked or repealed except for error or by action of the general assembly.

SECTION 13. IC 5-10.4-3-9, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The board is responsible for the fund's property. The board may take and hold any property given outright or on condition to the fund and shall perform the conditions accepted. Unless restricted by a condition, the board may transfer the property when necessary for the fund's benefit.

(b) The board shall receipt:

(1) property belonging to or coming into the fund and shall judiciously invest the property; and

(2) money coming into the fund and, except as specified in sections 13 and 14 of this chapter, shall deposit the money ~~with the state treasurer in the manner required of other state funds by IC 5-13.~~ **as authorized by the board.**

~~(c) The board shall make quarterly reports to the auditor of state as required by law for the transference of the fund to the auditor of state's books.~~

~~(d)~~ **(c)** The board shall direct the fund's disbursements on itemized vouchers ~~to the auditor of state~~ approved by the president of the board and the director or, in the absence or incapacity of both officers, by another trustee directed by order of the board. ~~The auditor of state then shall issue a warrant on the treasurer of state.~~

SECTION 14. IC 5-10.4-3-14, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. All income and other receipts from securities

may be:

(1) collected by the custodian bank or safekeeping bank approved for that purpose by the board and deposited in the custodial account or a checking account of the board;

(2) reinvested from the custodial account or checking account when the board determines that the receipts may be safely invested; or

(3) withdrawn by the board for the immediate needs of the fund from the checking account or custodial account. ~~and then deposited with the treasurer of state, as required for other money coming into the fund.~~

SECTION 15. IC 5-10.4-4-8, AS AMENDED BY P.L.201-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) This subsection applies to a member who retires before July 1, 1980. A member who had completed four (4) years of approved college teacher education before voluntary or involuntary induction into the military services is entitled to credit for that service as if the member had begun teaching before the induction. A member who serves in military service is considered a teacher and is entitled to the benefits of the fund if before or during the leave of absence the member pays into the fund the member's contributions. Time served by a member in military service for the duration of the hostilities or for the length of active service in the hostilities and the necessary demobilization time after the hostilities is not subject to the one-seventh rule set forth in section 7 of this chapter.

(b) This subsection applies to a member who retires after June 30, 1980. A member who completed four (4) years of approved college teacher education before voluntary or involuntary induction into military service is entitled to credit for the member's active military service as if the member had begun teaching before the induction. A member who serves in military service is considered a teacher and is entitled to the benefits of the fund if the following conditions are met:

(1) The member has an honorable discharge.

(2) Except as provided in subsection ~~(c),~~ **(g),** the member returns to active teaching service not later than twenty-four (24) months after the completion of active military service.

(3) The member has at least ten (10) years of in-state service credit.

The time served by a member in military service for the duration of the hostilities or for the length of active service in the hostilities and the necessary demobilization time after the hostilities is not subject to the one-seventh rule set forth in section 7 of this chapter. However, not more than six (6) years of military service credit may be granted under this subsection.

(c) This subsection applies to a member who retires after May 1, 1989. A member who had begun but had not completed four (4) years of approved college teacher education before voluntary or involuntary induction into the military services is entitled to service credit in an amount equal to the duration of the member's active military service if the following conditions are met:

(1) The member has an honorable discharge.

(2) Except as provided in subsection ~~(e),~~ **(g),** the member returns to a four (4) year approved college teacher training program not later than twenty-four (24) months after the completion of active military service and subsequently completes that program.

(3) The member has at least ten (10) years of in-state service credit.

The time served by a member in active military service for the length of active service in the hostilities and the necessary demobilization is not subject to the one-seventh rule set forth in section 7 of this chapter. However, not more than six (6) years of military service credit may be granted under this subsection.

(d) This subsection applies to a member who retires after May 1, 1991, and who is employed at a state educational institution. A member who had begun but had not completed baccalaureate or post-baccalaureate education before voluntary or involuntary induction into military service is entitled to the member's active military service credit for the member's active military service in an amount equal to the duration of the member's military service if the following conditions are met:

(1) The member received an honorable discharge.

(2) Except as provided in subsection ~~(e),~~ **(g),** the member returns to baccalaureate or post-baccalaureate education not later than twenty-four (24) months after completion of active military service and subsequently completes that education.

(3) The member has at least ten (10) years of in-state service

credit.

The time served by a member in active military service for the length of active service in the hostilities and the necessary demobilization is not subject to the one-seventh rule set forth in section 7 of this chapter. However, not more than six (6) years of military service credit may be granted under this subsection.

(e) For purposes of this section, a member returns to active teaching service on the earlier of:

(1) the date on which the member signs a teacher's contract; or

(2) the date on which the member is first employed in a position covered by this article.

(f) For purposes of this section, a member returns to:

(1) a teacher training program; or

(2) baccalaureate or post-baccalaureate education;

on the date the member registers for or enrolls in classes that the member attends.

~~(e)~~ **(g)** The board shall extend the twenty-four (24) month deadline contained in subsection (b)(2), (c)(2), or (d)(2) if the board determines that an illness, an injury, or a disability related to the member's military service prevented the member from returning to active teaching service or to a teacher education program not later than twenty-four (24) months after the member's discharge from military service. However, the board may not extend the deadline beyond forty-eight (48) months after the member's discharge.

~~(f)~~ **(h)** If a member retires and the board subsequently determines that the member is entitled to additional service credit due to the extension of a deadline under subsection ~~(c),~~ **(g),** the board shall recompute the member's benefit. However, the additional service credit may be used only in the computation of benefits to be paid after the date of the board's determination, and the member is not entitled to a recomputation of benefits received before the date of the board's determination.

~~(g)~~ **(i)** Notwithstanding any provision of this section, a member is entitled to military service credit and benefits in the amount and to the extent required by the federal Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.), including all later amendments.

~~(h)~~ **(j)** Subject to this section, an active member may purchase not more than two (2) years of service credit for the member's service on active duty in the armed services if the member meets the following conditions:

(1) The member has at least one (1) year of credited service in the fund.

(2) The member serves on active duty in the armed services of the United States for at least six (6) months.

(3) The member receives an honorable discharge from the armed services.

(4) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of:

(i) the member's salary at the time the member actually makes a contribution for the service credit;

(ii) a rate, determined by the actuary of the fund, that is based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased; and

(iii) the number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

However, a member is entitled to purchase service credit under this subsection only to the extent that service credit is not granted for that time under another provision of this section. At least ten (10) years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section. A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance or receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

~~(i)~~ **(k)** The following apply to the purchase of service credit under subsection ~~(h).~~ **(j):**

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

~~(j)~~ **(l)** This subsection applies to a member who retires after June 30, 2006. A member may not receive credit under this section for service for which the member receives service credit under the terms of a military or another governmental retirement plan.

SECTION 16. IC 5-10.4-4-10, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. **(a)** The director shall obtain a designation of beneficiary as soon as possible from each member.

(b) Notwithstanding a contrary collateral agreement, court order, process, attachment, or levy, the right to receive a death benefit under IC 5-10.2 or this article vests with the designated beneficiary on file with the fund at the time of the member's death. The fund shall distribute the death benefit to the designated beneficiary or the designated beneficiary's estate in accordance with IC 5-10.2 and this article.

SECTION 17. IC 5-10.4-5-9, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The fund shall make a member's first pension benefit payment not more than ninety (90) days after the date the member completes and files an application for retirement benefits.

(b) After the first pension benefit payment **and except as provided under IC 5-10.2-4-7(f),** a person entitled to benefits shall receive a retirement benefit payment by the tenth day of each month.

SECTION 18. IC 5-10.4-5-13, AS AMENDED BY P.L.76-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]: Sec. 13. ~~(a)~~ IC 5-10.2-4-8 ~~IC 5-10.2-4-9, and IC 5-10.2-4-10 apply~~ **applies** to the reemployment of a retired member.

~~(b) This subsection does not apply to a member who is reemployed more than thirty (30) days after the member's retirement in a position covered by the fund. For a retired member who withdraws from retirement status, resumes teaching, and again retires, the board shall pay the member, after the member's second or subsequent retirement, a monthly retirement benefit at least equal to the highest amount the retired member has received as a retirement benefit.~~

SECTION 19. IC 5-10.4-6-2, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) After July 9, 1949, a member receiving a retirement benefit under Acts 1915, c.182, or any statute amendatory of or supplemental to it enacted before January 1, 1949, is eligible, subject to Acts 1949, c.130, s.2(j), to receive a retirement benefit approximately equal to the state's proportionate share of a retirement benefit provided by Acts 1949, c.130 for up to thirty (30) years of service. These members shall make written application for these benefits to the board at any time. Applications must be based on the service record established in the office of the fund on April 1, 1949. **Except as provided under IC 5-10.2-4-7(f),** this retirement benefit must begin on the tenth of the month following acknowledgment of the application.

(b) The board shall establish, with the advice of the fund's actuary, a simplified table for computing the increases under this section for the years of service. The board may provide by resolution for participation by the members receiving benefits under this section in the additional annuity fund.

(c) Within a reasonable time, the board shall issue to each member of the fund a service certificate that includes the following:

(1) The member's name.

(2) The member's last known address.

(3) The member's account number.

(4) The law under which the member is participating in the fund.

(5) The contribution due from the member.

(6) A certification of the total years of creditable service that the member has as of a date fixed by the board.

(d) The service certificate described in subsection (c) is final and

conclusive regarding service in the fund. However, a member may, not later than one (1) year from the issuance or notification of the certificate, request that the board modify the member's service certificate.

SECTION 20. IC 5-10.4-7-10, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. **(a) Except as provided in subsection (b),** the board shall maintain separate **reserve** accounts within the 1996 account for each school corporation.

(b) If the board sets a group employer rate under IC 5-10.2-2-11(b), the board shall maintain separate reserve accounts within the 1996 account for each employer group.

(c) Credits and charges to these accounts must be made as prescribed in IC 5-10.2-2.

SECTION 21. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 5-10.3-4-1; IC 5-10.3-4-2; IC 5-10.3-9-5.

SECTION 22. [EFFECTIVE JULY 1, 2009] **(a) As used in this SECTION, "fund" refers to the public employees' retirement fund established by IC 5-10.3-2-1.**

(b) Not later than October 1, 2009, the fund shall pay the amount determined under subsection (c) to a member of the fund (or to a survivor or beneficiary of a member) who retired or was disabled before January 1, 2009, and who is entitled to receive a monthly benefit on July 1, 2009. The amount is not an increase in the pension portion of the monthly benefit.

(c) The amount paid under this SECTION to a member of the fund (or to a survivor or beneficiary of a member) who meets the requirements of subsection (b) is determined as follows:

If a Member's Creditable Service Is:	The Amount Is:
At least 5 years, but less than 10 years (only in the case of a member receiving disability retirement benefits)	$150
At least 10 years, but less than 20 years	$275
At least 20 years, but less than 30 years	$375
At least 30 years	$450

(d) The creditable service used to determine the amount paid to a member (or to a survivor or beneficiary of the member) under

this SECTION is the creditable service that was used to compute the member's retirement benefit under IC 5-10.2-4-4 except that partial years of creditable service may not be used to determine the amount paid under this SECTION.

(e) This SECTION expires January 1, 2010.

P.L.116-2009
[H.1578. Approved May 7, 2009.]

AN ACT to amend the Indiana Code concerning courts and court officers.

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

SECTION 1. IC 5-2-9-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.2. As used in this chapter, "IDACS coordinator" means an individual who holds an administrative position within a law enforcement agency that has operational Indiana data and communication system (IDACS) terminals and who is appointed by the director of the law enforcement agency.**

SECTION 2. IC 5-2-9-1.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.4. As used in this chapter, "registry" means the Indiana protective order registry established under section 5.5 of this chapter.**

SECTION 3. IC 5-2-9-1.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.7. As used in this chapter, "protected person" means a person or an employer (as defined in IC 34-26-6-4) protected under a protective order, ~~a no contact order, or a workplace violence restraining order.~~ **as defined in section 2.1 of this chapter.**

SECTION 4. IC 5-2-9-2.1, AS AMENDED BY P.L.52-2007,

SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.1. (a) As used in this chapter, "protective order" means:

(1) a protective order issued under IC 34-26-5 (or, if the order involved a family or household member, IC 34-26-2-12(1)(A), IC 34-26-2-12(1)(B), IC 34-26-2-12(1)(C), IC 34-4-5.1-5(a)(1)(A), IC 34-4-5.1-5(a)(1)(B), or IC 34-4-5.1-5(a)(1)(C) before their repeal);

(2) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency protective order issued under IC 34-26-2-6(1), IC 34-26-2-6(2), or IC 34-26-2-6(3) or IC 34-4-5.1-2.3(a)(1)(A), IC 34-4-5.1-2.3(a)(1)(B), or IC 34-4-5.1-2.3(a)(1)(C) before their repeal);

(3) a protective order issued under IC 31-15-4-1 (or IC 31-1-11.5-7(b)(2), IC 31-1-11.5-7(b)(3), IC 31-16-4-2(a)(2), or IC 31-16-4-2(a)(3) before their repeal);

(4) a dispositional decree containing a no contact order issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-19-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order containing a no contact order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal);

(5) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion;

(6) a no contact order issued as a condition of probation;

(7) a protective order issued under IC 31-15-5-1 (or IC 31-1-11.5-8.2 or IC 31-16-5 before their repeal);

(8) a protective order issued under IC 31-14-16-1 in a paternity action;

(9) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;

(10) a workplace violence restraining order issued under IC 34-26-6; ~~or~~

(11) a child protective order issued under IC 31-34-2.3; **or**

(12) a foreign protective order registered under IC 34-26-5-17.

(b) Whenever a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ is issued by an Indiana court, the Indiana court must caption the order in a manner that indicates the type of order issued and the section of the Indiana Code that authorizes the protective order. ~~no contact order, or workplace violence restraining order.~~ The Indiana court shall also place on the order the court's hours of operation and telephone number with area code.

SECTION 5. IC 5-2-9-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5.5. (a) The Indiana protective order registry is established.**

(b) The registry is an Internet based, electronic depository for protective orders. Copies of all protective orders shall be retained in the registry.

(c) The registry must contain confidential information about protected persons.

(d) The division of state court administration shall create, manage, and maintain the registry.

(e) A protective order retained under section 5 of this chapter may be entered in the registry.

SECTION 6. IC 5-2-9-6, AS AMENDED BY P.L.52-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The clerk of a court that issues a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ shall:

(1) provide a copy of the order to the ~~following:~~ **petitioner; and**

~~(1) Each party.~~

~~(2) A law enforcement agency of the municipality in which the protected person resides. If a person and an employer are:~~

~~(A) both protected by an order under this section; and~~

~~(B) domiciled in different municipalities;~~

~~the clerk shall send a copy of the order to the law enforcement agency of the municipality in which the person resides and the employer is located.~~

~~(3) If the protected person, including an employer, is not domiciled in a municipality, the sheriff of the county in which the protected person resides.~~

(2) provide a copy of the order and service of process to the respondent or defendant in accordance with the rules of trial procedure.

(b) The clerk of a court that issues a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ or the clerk of a court in which a petition is filed shall

~~(1)~~ maintain a confidential file to secure any confidential information about a protected person designated on a uniform statewide form prescribed by the division of state court administration.

~~(2) provide a copy of the confidential form that accompanies the protective order no contact order, workplace violence restraining order, or child protective order to the following:~~

~~(A) The sheriff of the county in which the protective order no contact order, workplace violence restraining order, or child protective order was issued.~~

~~(B) The law enforcement agency of the municipality, if any, in which the protected person, including an employer, is domiciled.~~

~~(C) Any other sheriff or law enforcement agency designated in the protective order no contact order, workplace violence restraining order, or child protective order that has jurisdiction over the area in which a protected person, including an employer, may be located or protected; and~~

~~(3) after receiving the return of service information, transmit all return of service information to each sheriff and law enforcement agency required under subdivision (2).~~

(c) ~~A sheriff or law enforcement agency that receives~~ **This subsection applies to** a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ **that a sheriff or law enforcement agency receives** under subsection (a) **before July 1, 2009,** and a confidential form under subsection (b) **that is not retained in the registry. The sheriff or law enforcement agency** shall:

(1) maintain a copy of the protective order ~~no contact order, workplace violence restraining order, or child protective order~~ in the depository established under this chapter;

(2) enter:

(A) the date and time the sheriff or law enforcement agency

receives the protective order; ~~no contact order, workplace violence restraining order, or child protective order;~~

(B) the location of the person who is subject to the protective order, ~~no contact order, workplace violence restraining order, or child protective order,~~ if reasonably ascertainable from the information received;

(C) the name and identification number of the officer who serves the protective order; ~~no contact order, workplace violence restraining order, or child protective order;~~

(D) the manner in which the protective order ~~no contact order, workplace violence restraining order, or child protective order~~ is served;

(E) the name of the petitioner and any other protected parties;

(F) the name, Social Security number, date of birth, and physical description of the person who is the subject of the protective order, ~~no contact order, workplace violence restraining order, or child protective order,~~ if reasonably ascertainable from the information received;

(G) the date the protective order ~~no contact order, workplace violence restraining order, or child protective order~~ expires;

(H) a caution indicator stating whether a person who is the subject of the protective order ~~no contact order, workplace violence restraining order, or child protective order~~ is believed to be armed and dangerous, if reasonably ascertainable from the information received; and

(I) if furnished, a Brady record indicator stating whether a person who is the subject of the protective order ~~no contact order, workplace violence restraining order, or child protective order~~ is prohibited from purchasing or possessing a firearm or ammunition under federal law, if reasonably ascertainable from the information received;

on the copy of the protective order ~~no contact order, workplace violence restraining order, or child protective order~~ or the confidential form; and

(3) **except for a protective order that is retained in the registry,** establish a confidential file in which a confidential form that contains information concerning a protected person is kept.

(d) **Except for a protective order that is retained in the registry,**

a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ may be removed from the depository established under this chapter only if the sheriff or law enforcement agency that administers the depository receives:

(1) a notice of termination on a form prescribed or approved by the division of state court administration;

(2) an order of the court; or

(3) a notice of termination and an order of the court.

(e) If a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ in a depository established under this chapter is terminated, the person who obtained the order must file a notice of termination on a form prescribed or approved by the division of state court administration with the clerk of the court. The clerk of the court shall:

(1) enter the notice of termination into; or

(2) provide a copy of the notice of termination ~~of a protective order, no contact order, workplace violence restraining order, or child protective order~~ to;

the registry and provide a copy of the notice of termination to each of the depositories to which the protective order ~~no contact order, workplace violence restraining order, or child protective order and a confidential form were~~ **was** sent. The clerk of the court shall maintain the notice of termination in the court's file.

(f) If a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ or form ~~in a depository established under this chapter~~ is extended or modified, the person who obtained the extension or modification must file a notice of extension or modification on a form prescribed or approved by the division of state court administration with the clerk of the court. **Except for a protective order retained in the registry,** the clerk of the court shall provide a copy of the notice of extension or modification of a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ to each of the depositories to which the order and a confidential form were sent. The clerk of the court shall maintain the notice of extension or modification of a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ in the court's file.

(g) The clerk of a court that issued an order terminating a protective

order ~~no contact order, workplace violence restraining order, or child protective order~~ that is an ex parte order shall provide a copy of the order to the following:

(1) Each party.

(2) **Except for a protective order retained in the registry,** the law enforcement agency provided with a copy of a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ under subsection (a).

SECTION 7. IC 5-2-9-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6.5. (a) After a court issues a protective order and issues the order to the registry, an IDACS coordinator may provide additional information about the parties in the order, including:**

(1) dates of birth;

(2) Social Security numbers;

(3) driver license numbers; and

(4) physical descriptions of the parties;

to ensure the accuracy of the orders in the registry and information in IDACS.

(b) A law enforcement agency that perfects service of a protective order issued to the registry shall enter into the registry:

(1) the date and time the law enforcement agency received the protective order;

(2) the location of the person who is the subject of the protective order, if this information is available;

(3) the name and identification number of the law enforcement officer who served the protective order; and

(4) the manner in which the protective order was served.

SECTION 8. IC 5-2-9-7, AS AMENDED BY P.L.52-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Any information:

(1) in a uniform statewide confidential form or any part of a confidential form prescribed by the division of state court administration that must be filed with a protective order; ~~no contact order, workplace violence restraining order, or child protective order,~~ or

(2) otherwise acquired concerning a protected person;

is confidential and may not be divulged to any respondent or defendant.

(b) Information described in subsection (a) may only be used by:

(1) a court;

(2) a sheriff;

(3) another law enforcement agency;

(4) a prosecuting attorney; or

(5) a court clerk;

to comply with a law concerning the distribution of the information.

SECTION 9. IC 5-2-9-8, AS AMENDED BY P.L.52-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. **Except for a protective order that is retained in the registry,** a law enforcement agency that receives a copy of a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ shall enter the information received into the Indiana data and communication system (IDACS) computer under IC 10-13-3-35 upon receiving a copy of the order.

SECTION 10. IC 34-6-2-148.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 148.5. "Victim notification capabilities" means, with respect to a GPS tracking device, the ability of the device to do the following:**

(1) Immediately notify law enforcement or other supervisory personnel if the device enters a forbidden area.

(2) Notify the victim in real time or near real time if the device enters a forbidden area.

(3) Allow a law enforcement officer or other supervisory officer to contact the offender immediately if the device enters a forbidden area.

(4) Activate an alarm to warn others of the device's presence in a forbidden area.

SECTION 11. IC 34-26-5-3, AS AMENDED BY P.L.3-2008, SECTION 243, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The division of state court administration shall:

(1) develop and adopt:

(A) a petition for an order for protection;

(B) an order for protection, including:

(i) orders issued under this chapter;

(ii) ex parte orders;

(iii) no contact orders under IC 31 and IC 35;

(iv) forms relating to workplace violence restraining orders under IC 34-26-6; and

(v) forms relating to a child protective order under IC 31-34-2.3;

(C) a confidential form;

(D) a notice of modification or extension for an order for protection, a no contact order, a workplace violence restraining order, or a child protective order;

(E) a notice of termination for an order for protection, a no contact order, a workplace violence restraining order, or a child protective order; and

(F) any other uniform statewide forms necessary to maintain an accurate registry of orders; and

(2) provide the forms under subdivision (1) to the clerk of each court authorized to issue the orders.

(b) In addition to any other required information, a petition for an order for protection must contain a statement listing each civil or criminal action involving:

(1) either party; or

(2) a child of either party.

(c) The following statements must be printed in boldface type or in capital letters on an order for protection, a no contact order, a workplace violence restraining order, or a child protective order:

VIOLATION OF THIS ORDER IS PUNISHABLE BY CONFINEMENT IN JAIL, PRISON, AND/OR A FINE.

IF SO ORDERED BY THE COURT, THE RESPONDENT IS FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S RESIDENCE OR RESIDENCE OF ANY CHILD WHO IS THE SUBJECT OF THE ORDER, EVEN IF INVITED TO DO SO BY THE PETITIONER OR ANY OTHER PERSON. IN NO EVENT IS THE ORDER FOR PROTECTION VOIDED.

PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT STATE OR TRIBAL LAND. PURSUANT TO 18 U.S.C. 922(g), ONCE A RESPONDENT HAS RECEIVED NOTICE OF THIS

ORDER AND AN OPPORTUNITY TO BE HEARD, IT IS A FEDERAL VIOLATION TO PURCHASE, RECEIVE, OR POSSESS A FIREARM WHILE SUBJECT TO THIS ORDER IF THE PROTECTED PERSON IS:

(A) THE RESPONDENT'S CURRENT OR FORMER SPOUSE;

(B) A CURRENT OR FORMER PERSON WITH WHOM THE RESPONDENT RESIDED WHILE IN AN INTIMATE RELATIONSHIP; OR

(C) A PERSON WITH WHOM THE RESPONDENT HAS A CHILD.

INTERSTATE VIOLATION OF THIS ORDER MAY SUBJECT THE RESPONDENT TO FEDERAL CRIMINAL PENALTIES UNDER 18 U.S.C. 2261 AND 18 U.S.C. 2262.

(d) The clerk of the circuit court, or a person or entity designated by the clerk of the circuit court, shall provide to a person requesting an order for protection:

(1) the forms adopted under subsection (a);

(2) all other forms required to petition for an order for protection, including forms:

(A) necessary for service; and

(B) required under IC 31-21 (or IC 31-17-3 before its repeal); and

(3) clerical assistance in reading or completing the forms and filing the petition.

Clerical assistance provided by the clerk or court personnel under this section does not constitute the practice of law. The clerk of the circuit court may enter into a contract with a person or another entity to provide this assistance. A person, other than a person or other entity with whom the clerk has entered into a contract to provide assistance, who in good faith performs the duties the person is required to perform under this subsection is not liable for civil damages that might otherwise be imposed on the person as a result of the performance of those duties unless the person commits an act or omission that amounts to gross negligence or willful and wanton misconduct.

(e) A petition for an order for protection must be:

(1) verified or under oath under Trial Rule 11; and

(2) issued on the forms adopted under subsection (a).

(f) If an order for protection is issued under this chapter, the clerk shall comply with IC 5-2-9.

(g) After receiving a petition for an order for protection, the clerk of the circuit court shall immediately enter the case in the Indiana protective order registry established by IC 5-2-9-5.5.

SECTION 12. IC 34-26-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. If a petitioner seeks:

(1) an order for protection;

(2) an extension of an order for protection;

(3) a modification of an order for protection; ~~or~~

(4) the termination of an order for protection; **or**

(5) the registration of a foreign protective order;

the petitioner is responsible for completing the forms prescribed by the division of state court administration and for transmitting those forms to the clerk of the court.

SECTION 13. IC 34-26-5-9, AS AMENDED BY P.L.68-2005, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) If it appears from a petition for an order for protection or from a petition to modify an order for protection that domestic or family violence has occurred or that a modification of an order for protection is required, a court may:

(1) without notice or hearing, immediately issue an order for protection ex parte or modify an order for protection ex parte; or

(2) upon notice and after a hearing, whether or not a respondent appears, issue or modify an order for protection.

(b) A court may grant the following relief without notice and hearing in an ex parte order for protection or in an ex parte order for protection modification:

(1) Enjoin a respondent from threatening to commit or committing acts of domestic or family violence against a petitioner and each designated family or household member.

(2) Prohibit a respondent from harassing, annoying, telephoning, contacting, or directly or indirectly communicating with a petitioner.

(3) Remove and exclude a respondent from the residence of a petitioner, regardless of ownership of the residence.

(4) Order a respondent to stay away from the residence, school, or place of employment of a petitioner or a specified place

frequented by a petitioner and each designated family or household member.

(5) Order possession and use of the residence, an automobile, and other essential personal effects, regardless of the ownership of the residence, automobile, and essential personal effects. If possession is ordered under this subdivision, the court may direct a law enforcement officer to accompany a petitioner to the residence of the parties to:

(A) ensure that a petitioner is safely restored to possession of the residence, automobile, and other essential personal effects; or

(B) supervise a petitioner's or respondent's removal of personal belongings.

(6) Order other relief necessary to provide for the safety and welfare of a petitioner and each designated family or household member.

(c) A court may grant the following relief after notice and a hearing, whether or not a respondent appears, in an order for protection or in a modification of an order for protection:

(1) Grant the relief under subsection (b).

(2) Specify arrangements for parenting time of a minor child by a respondent and:

(A) require supervision by a third party; or

(B) deny parenting time;

if necessary to protect the safety of a petitioner or child.

(3) Order a respondent to:

(A) pay attorney's fees;

(B) pay rent or make payment on a mortgage on a petitioner's residence;

(C) if the respondent is found to have a duty of support, pay for the support of a petitioner and each minor child;

(D) reimburse a petitioner or other person for expenses related to the domestic or family violence, including:

(i) medical expenses;

(ii) counseling;

(iii) shelter; and

(iv) repair or replacement of damaged property; ~~or~~

(E) pay the costs and expenses incurred in connection with

the use of a GPS tracking device under subsection (i); or

~~(E)~~ **(F)** pay the costs and fees incurred by a petitioner in bringing the action.

(4) Prohibit a respondent from using or possessing a firearm, ammunition, or a deadly weapon specified by the court, and direct the respondent to surrender to a specified law enforcement agency the firearm, ammunition, or deadly weapon for the duration of the order for protection unless another date is ordered by the court.

An order issued under subdivision (4) does not apply to a person who is exempt under 18 U.S.C. 925.

(d) The court shall:

(1) cause the order for protection to be delivered to the county sheriff for service;

(2) make reasonable efforts to ensure that the order for protection is understood by a petitioner and a respondent if present;

~~(3) transmit, by the end of the same business day on which the order for protection is issued, a copy of the order for protection to each local law enforcement agency designated by a petitioner;~~

(3) electronically notify each law enforcement agency:

(A) required to receive notification under IC 5-2-9-6; or

(B) designated by the petitioner;

(4) transmit a copy of the order to the clerk for processing under IC 5-2-9; ~~and~~

(5) ~~notify the state police department of~~ **indicate in** the order if the order and the parties meet the criteria under 18 U.S.C. 922(g)(8); **and**

(6) require the clerk to enter or provide a copy of the order to the Indiana protective order registry established by IC 5-2-9-5.5.

(e) An order for protection issued ex parte or upon notice and a hearing, or a modification of an order for protection issued ex parte or upon notice and a hearing, is effective for two (2) years after the date of issuance unless another date is ordered by the court. The sheriff of each county shall provide expedited service for an order for protection.

(f) A finding that domestic or family violence has occurred sufficient to justify the issuance of an order under this section means that a respondent represents a credible threat to the safety of a petitioner or a member of a petitioner's household. Upon a showing of

domestic or family violence by a preponderance of the evidence, the court shall grant relief necessary to bring about a cessation of the violence or the threat of violence. The relief may include an order directing a respondent to surrender to a law enforcement officer or agency all firearms, ammunition, and deadly weapons:

(1) in the control, ownership, or possession of a respondent; or

(2) in the control or possession of another person on behalf of a respondent;

for the duration of the order for protection unless another date is ordered by the court.

(g) An order for custody, parenting time, or possession or control of property issued under this chapter is superseded by an order issued from a court exercising dissolution, legal separation, paternity, or guardianship jurisdiction over the parties.

(h) The fact that an order for protection is issued under this chapter does not raise an inference or presumption in a subsequent case or hearings between the parties.

(i) Upon a finding of a violation of an order for protection, the court may:

(1) require a respondent to wear a GPS tracking device; and

(2) prohibit the respondent from approaching or entering certain locations where the petitioner may be found.

If the court requires a respondent to wear a GPS tracking device under subdivision (1), the court shall, if available, require the respondent to wear a GPS tracking device with victim notification capabilities.

(j) The court may permit a victim, a petitioner, another person, an organization, or an agency to pay the costs and expenses incurred in connection with the use of a GPS tracking device under subsection (i).

SECTION 14. IC 34-26-5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) A foreign protection order is facially valid if it:

(1) identifies the protected person and the respondent;

(2) is currently in effect;

(3) was issued by a state or tribal court with jurisdiction over the:

(A) parties; and

(B) subject matter;

under the law of the issuing state or Indian tribe; and

(4) was issued after a respondent was given reasonable notice and an opportunity to be heard sufficient to protect the respondent's right to due process. In the case of an ex parte order, notice and opportunity to be heard must be provided within the time required by state or tribal law and within a reasonable time after the order is issued sufficient to protect the respondent's due process rights.

(b) A facially valid foreign protection order is prima facie evidence of its validity. The protection order may be inscribed on a tangible medium or stored in an electronic or other medium if it is retrievable in perceivable form. Presentation of a certified copy of an order for protection is not required for enforcement.

(c) Except as provided in subsection (d), a protection order that is facially valid and issued by a court of a state (issuing state) or Indian tribe shall be accorded full faith and credit by Indiana courts.

(d) A mutual foreign protection order is not entitled to full faith and credit if the order is issued by a state or tribal court against a person who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against a family or household member, unless:

(1) a separate petition or motion was filed by a respondent;

(2) the issuing court has reviewed each motion separately and granted or denied each on its individual merits; and

(3) separate orders were issued and the issuing court made specific findings that each party was entitled to an order.

(e) Registration or filing of a foreign protection order is not a prerequisite to enforcement of the order in Indiana, and a protection order that is consistent with this section shall be accorded full faith and credit notwithstanding a failure to register or file the order in Indiana. However, if a petitioner wishes to register a foreign protection order in Indiana, all Indiana courts of record shall accommodate the request. The division of state court administration shall develop a form to be used by courts, clerks, and law enforcement agencies when a petitioner makes a request to register a foreign protection order. **Except for a protective order issued to the Indiana protective order registry established by IC 5-2-9-5.5,** the courts, clerks of the courts, and sheriffs or law enforcement agencies maintaining depositories shall employ the same procedures required under IC 5-2-9-6 for entering, modifying, extending, or terminating a foreign protection order as those

used for a protection order and a no contact order originating in Indiana.

(f) A facially valid foreign protection order shall be enforced by a law enforcement officer and a state court as if it were an order originating in Indiana. The order must be enforced if the foreign protection order contains relief that the state courts lack the power to provide in an order for protection issued in Indiana.

(g) An Indiana law enforcement officer:

(1) may not require notification, registration, or filing of a facially valid foreign order for protection as a prerequisite to enforcement of an order;

(2) if a foreign protection order is not presented, may consider other information to determine under a totality of the circumstances whether there is probable cause to believe that a valid foreign order for protection exists; and

(3) who determines that an otherwise valid foreign protection order cannot be enforced because a respondent has not been notified or served with the order, shall:

(A) inform the respondent of the order;

(B) serve the order on the respondent;

(C) ensure that the order and service of the order are entered into the state depository;

(D) allow the respondent a reasonable opportunity to comply with the order before enforcing the order; and

(E) ensure the safety of the protected person while giving the respondent the opportunity to comply with the order.

(h) After a foreign protective order is registered, the clerk shall enter the order in the Indiana protective order registry established by IC 5-2-9-5.5.

SECTION 15. IC 34-26-5-18, AS AMENDED BY P.L.52-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. The following orders are required to be entered into the Indiana data and communication system (IDACS) by a county sheriff or local law enforcement agency:

(1) A no contact order issued under IC 31-32-13 in a juvenile case.

(2) A no contact order issued under IC 31-34-20 in a child in need of services (CHINS) case.

(3) A no contact order issued under IC 31-34-25 in a CHINS case.

(4) A no contact order issued under IC 31-37-19 in a delinquency case.

(5) A no contact order issued under IC 31-37-25 in a delinquency case.

(6) A no contact order issued under IC 33-39-1-8 in a criminal case.

(7) An order for protection issued under this chapter.

(8) A workplace violence restraining order issued under IC 34-26-6.

(9) A no contact order issued under IC 35-33-8-3.2 in a criminal case.

(10) A no contact order issued under IC 35-38-2-2.3 in a criminal case.

(11) A child protective order issued under IC 31-34-2.3.

(12) A foreign protective order registered under section 17 of this chapter.

SECTION 16. IC 35-44-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) A person, except as provided in subsection (b), who intentionally flees from lawful detention commits escape, a Class C felony. However, the offense is a Class B felony if, while committing it, the person draws or uses a deadly weapon or inflicts bodily injury on another person.

(b) A person who knowingly or intentionally violates a home detention order or intentionally removes an electronic monitoring device **or GPS tracking device** commits escape, a Class D felony.

(c) A person who knowingly or intentionally fails to return to lawful detention following temporary leave granted for a specified purpose or limited period commits failure to return to lawful detention, a Class D felony. However, the offense is a Class C felony if, while committing it, the person draws or uses a deadly weapon or inflicts bodily injury on another person.

SECTION 17. [EFFECTIVE JULY 1, 2009] **(a) The division of state court administration shall submit to the general assembly before January 15, 2011, and before January 15 of each subsequent year, a report in an electronic format under IC 5-14-6 concerning:**

(1) the frequency with which GPS tracking was ordered by a court as part of an order for protection;

(2) the costs associated with GPS tracking;

(3) the circumstances under which GPS tracking was ordered;

(4) whether GPS tracking with victim notification capabilities was:

(A) available; and

(B) ordered by a court; and

(5) any other relevant information relating to electronic monitoring.

The division of state court administration may include the information as a part of its annual report under IC 33-24-6-3 or as a separate report.

(b) This SECTION expires January 30, 2013.

P.L.117-2009

[H.1028. Approved May 11, 2009.]

AN ACT concerning human services.

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

SECTION 1. [EFFECTIVE UPON PASSAGE] **(a) The area agencies on aging shall compile a report for the division of aging established by IC 12-9.1-1-1 setting forth the following information for calendar year 2009:**

(1) The process an individual must follow to be approved to use consumer directed care under a Medicaid waiver or the community and home options to institutional care for the elderly and disabled (CHOICE) program, including the time it takes for an individual to get approved and receive services, and whether this time varies according to the funding source or the area of Indiana in which the individual lives.

(2) Any barriers to using consumer directed care, including any individuals on a waiting list for services.

(b) Based on the findings set forth in the report required under subsection (a), the division of aging shall make to the legislative council and the health finance commission established by IC 2-5-23-3 any recommendations needed to improve the delivery of consumer directed care.

(c) The report required in subsection (a) shall be submitted in an electronic format under IC 5-14-6 to the legislative council and the health finance commission not later than July 1, 2010.

(d) This SECTION expires December 31, 2010.

SECTION 2. **An emergency is declared for this act.**

P.L.118-2009
[H.1032. Approved May 11, 2009.]

AN ACT to amend the Indiana Code concerning natural and cultural resources and to make an appropriation.

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

SECTION 1. IC 14-13-6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 19. (a) The Wabash River heritage corridor commission fund is established for the purpose of paying:

(1) reimbursement of the expenses of members under section 13 of this chapter;

(2) other administrative costs and expenses reasonably incurred under this chapter, including expenses for publications and postage; and

(3) costs incurred in fulfilling the directives of the Wabash River heritage corridor commission master plan, including multicounty projects and marketing and educational tools such as video tape productions, signs, and promotional literature.

(b) The fund shall be administered by the director under the

direction of the commission.

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

(d) The sources of money for the fund are:

(1) appropriations made to the fund; and

(2) any other funds obtained by the commission under section 22 of this chapter.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

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

SECTION 2. IC 14-13-6-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20. The commission may use the **Wabash River heritage corridor commission** fund to pay:

(1) reimbursement of the expenses of members under section 13 of this chapter;

(2) other administrative costs and expenses reasonably incurred under this chapter, including expenses for publications and postage; and

(3) costs incurred in fulfilling the directives of the Wabash River heritage corridor commission master plan, including multicounty projects and marketing and educational tools such as video tape productions, signs, and promotional literature.

However, the commission may not use money in the fund for the upper Wabash River basin commission established by IC 14-30-4-6.

SECTION 3. IC 14-13-6-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 23. (a) The Wabash River heritage corridor fund is established for the purpose of:**

(1) providing grants to aid the sustainable development of property under the Wabash River heritage corridor commission master plan and purposes of the commission; and

(2) paying costs incurred in fulfilling the directives of the Wabash River heritage corridor commission master plan, including multicounty projects.

However, the commission may not use money in the fund for the upper Wabash River basin commission established by IC 14-30-4-6.

(b) The fund shall be administered by the director under the direction of the commission.

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

(d) The fund consists of the following:

(1) Appropriations made by the general assembly.

(2) Interest as provided in subsection (e).

(3) Funds deposited under IC 14-38-1-13(c).

(4) Money donated to the fund.

(5) Money transferred to the fund from other funds.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

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

(g) Money in the fund is annually appropriated to the department of natural resources for its use in fulfilling the purposes of this section.

SECTION 4. IC 14-38-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) All proceeds derived:

(1) from or by virtue or by reason of a permit or lease executed or issued under this chapter; or

(2) from or by reason of any operations under this chapter;

shall, after deducting all costs incurred by the department, be paid to the treasurer of state for the use of the division of the department having the custody, control, possession, or authority of or over the real property involved.

(b) Except as provided in subsection (c), the proceeds shall be deposited in the proper fund of the appropriate division of the department.

(c) **Except as provided in subsection (d),** the proceeds from royalties or other compensation paid for minerals taken from beneath the navigable waters of the state shall be deposited in the state general

fund.

(d) The proceeds from royalties or other compensation paid for minerals taken from beneath the navigable waters of the Wabash River (as defined in IC 14-13-6-4) shall be deposited in the Wabash River heritage corridor fund established by IC 14-13-6-23.

P.L.119-2009
[H.1311. Approved May 11, 2009.]

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

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

SECTION 1. IC 16-35-8 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 8. Hearing Aid Assistance

Sec. 1. As used in this chapter, "child" means a child enrolled in a public school, accredited nonpublic school, or nonaccredited nonpublic school in kindergarten through grade 12.

Sec. 2. As used in this chapter, "fund" refers to the hearing aid fund established by section 3 of this chapter.

Sec. 3. The hearing aid fund is established for the purpose of providing hearing aid assistance to eligible children through the hearing aid assistance program established by section 9 of this chapter.

Sec. 4. The fund shall be administered by the state department.

Sec. 5. The fund consists of appropriations from the general assembly, gifts, bequests, and other sources of funding.

Sec. 6. The expenses of administering the fund shall be paid from money in the fund.

Sec. 7. The treasurer of state shall invest the money in the fund

not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

Sec. 8. (a) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(b) There is annually appropriated to the state department from the fund an amount sufficient for the purposes of this chapter.

Sec. 9. (a) The hearing aid assistance program is established.

(b) The following eligibility criteria apply for funding through the hearing aid assistance program:

(1) The hearing aid must be:

(A) prescribed for a child by a physician who is licensed under IC 25-22.5; and

(B) prescribed, fitted, and dispensed for the child by an audiologist who is licensed under IC 25-35.6.

(2) The child has not received funding from the fund for a hearing aid for the applicable ear during the previous three (3) years.

(3) Reimbursement is not available through any of the following or is not sufficient to pay the full amount required for a hearing aid:

(A) A policy of accident and sickness insurance (IC 27-8-5).

(B) A health maintenance organization contract (IC 27-13).

(C) The Medicaid program (IC 12-15).

(D) The children's health insurance program (IC 12-17.6).

(E) The federal Medicare program or any other federal assistance program.

(c) The state department may use appropriate internal and external resources to administer the hearing aid assistance program in a cost effective manner.

(d) External foundations and other organizations that provide hearing aid assistance may register with the state department to provide a centralized location from which hearing impaired individuals can obtain information regarding additional sources of hearing aid assistance.

Sec. 10. (a) The parent or guardian of a child may at any time apply to the state department for funding through the hearing aid assistance program.

(b) Upon receipt of an application made under subsection (a), if

the state department determines that the child is eligible under section 9(b) of this chapter, the state department may pay from the fund any amount not reimbursed through a source described in section 9(b)(3) of this chapter, not to exceed one thousand five hundred dollars ($1,500) per hearing aid.

Sec. 11. A public or nonpublic school may identify eligible children and assist the parents or guardians of the eligible children in submitting applications to the state department under this chapter.

Sec. 12. The state department shall give funding priority to applications under this chapter for eligible children who are less than fourteen (14) years of age.

Sec. 13. (a) The state department may, if economically feasible, create a hearing aid refurbishing program through which hearing aids that are no longer used by eligible children and other individuals are collected and refurbished for the use of other individuals.

(b) The state department may enter into an agreement with another organization to implement this section.

Sec. 14. The state department may adopt rules under IC 4-22-2 to implement this chapter.

P.L.120-2009
[H.1346. Approved May 11, 2009.]

AN ACT to amend the Indiana Code concerning elections.

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

SECTION 1. IC 3-5-2-31.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 31.5. "Member of the military or public safety officer" has the meaning set forth in IC 10-14-2-5.**

SECTION 2. IC 3-6-4.2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) Each year in which a general or municipal election is held, the election division shall call a meeting of all the members of the county election boards and the boards of registration to instruct them as to their duties under this title and federal law (including HAVA and NVRA). The election division may, but is not required to, call a meeting under this section during a year in which a general or a municipal election is not held.

(b) Each circuit court clerk shall attend a meeting called by the election division under this section.

(c) The codirectors of the election division shall set the time and place of the instructional meeting. In years in which a primary election is held, the election division:

(1) may conduct the meeting before the first day of the year; and

(2) shall conduct the meeting before primary election day.

The instructional meeting may not last for more than two (2) days.

(d) Each member of a county election board or board of registration and an individual who has been elected or selected to serve as circuit court clerk but has not yet begun serving in that office is entitled to receive all of the following **from the county general fund without appropriation:**

(1) A per diem of twenty-four dollars ($24) for attending the instructional meeting called by the election division under this section.

(2) A mileage allowance at the state rate for the distance necessarily traveled in going and returning from the place of the instructional meeting called by the election division under this section.

(3) Reimbursement for the payment of the instructional meeting registration fee. ~~from the county general fund without appropriation.~~

(4) An allowance for lodging for each night preceding conference attendance equal to the lodging allowance provided to state employees in travel status.

SECTION 3. IC 3-7-26.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 26.7. Online Voter Registration

Sec. 1. This chapter applies to an individual who:

(1) is eligible to register to vote under IC 3-7-13; and

(2) possesses a current and valid:

(A) Indiana driver's license issued under IC 9-24; or

(B) Indiana identification card for nondrivers issued under IC 9-24-16.

Sec. 2. As used in this chapter, "applicant" means an individual who submits an application as provided in this chapter.

Sec. 3. As used in this chapter, "bureau" refers to the bureau of motor vehicles created by IC 9-14-1-1.

Sec. 4. After June 30, 2010, an individual described in section 1 of this chapter may submit a voter registration application to a county voter registration office using the procedures set forth in this chapter.

Sec. 5. (a) The secretary of state, with the consent of the co-directors of the election division, shall establish a secure Internet web site to permit individuals described in section 1 of this chapter to submit applications under this chapter.

(b) The secure web site established under subsection (a) must allow an individual described in section 1 of this chapter to submit:

(1) an application:

(A) for registration as a first time voter in Indiana; or

(B) to change the individual's name, address, or other information set forth in the individual's existing voter registration record; and

(2) information to establish that the applicant is eligible under section 1 of this chapter to register online.

Sec. 6. (a) When an applicant submits an application described in section 5(b)(1) of this chapter by use of the secure Internet web site established under this chapter, the bureau shall compare the information submitted by the applicant with the information maintained in the bureau's data base listing individuals who possess a current and valid Indiana:

(1) driver's license; or

(2) identification card for nondrivers.

(b) If the bureau confirms that the applicant possesses a current and valid:

(1) Indiana driver's license issued under IC 9-24; or

(2) Indiana identification card for nondrivers issued under

IC 9-24-16;

the completed application and information compiled by the bureau (including the digital signature of the applicant) shall be submitted to the county voter registration office in the county in which the applicant currently resides using the computerized statewide voter registration list maintained under IC 3-7-26.3.

(c) If the bureau is unable to confirm that the applicant possesses a current and valid:

(1) Indiana driver's license issued under IC 9-24; or

(2) Indiana identification card for nondrivers issued under IC 9-24-16;

the bureau shall send the application submitted by the applicant and information indicating that the bureau cannot confirm that the applicant possesses a current and valid Indiana driver's license or identification card to the county voter registration office in the county shown on the application. The county voter registration office shall send a notice to the applicant that the applicant's application cannot be processed because the bureau cannot confirm that the applicant possesses a current and valid Indiana driver's license or identification card. The county voter registration office shall send the notice to the applicant at the electronic address from which the applicant submitted the application and at the mailing address provided in the application.

Sec. 7. Except as otherwise provided in this chapter, the county voter registration office shall process the application under IC 3-7.

SECTION 4. IC 3-7-32-2, AS AMENDED BY P.L.164-2006, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. A registration application must be signed:

(1) in indelible ink or indelible pencil; or

(2) with an electronic signature in a manner authorized under:

(A) IC 3-7-26.3 if submitted to a license branch under IC 3-7-14; **or**

(B) IC 3-7-26.7 (online voter registration).

SECTION 5. IC 3-7-33-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.5. (a) This section applies to a voter registration application submitted online in accordance with IC 3-7-26.7.**

(b) An eligible applicant who submits a complete application

online in accordance with IC 3-7-26.7 not later than midnight on the twenty-ninth day before the election shall be registered to vote in the election.

SECTION 6. IC 3-11-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Applications may be made **on application forms approved by the commission by any of the following means:**

(1) In person.

(2) By fax transmission. ~~or~~

(3) By mail.

~~on application forms furnished by the county election board or approved by the commission.~~

(4) By electronic mail with a scanned image of the application and signature of the applicant, if transmitted by an overseas voter acting under section 6 of this chapter.

(b) Application forms shall:

(1) be furnished to ~~all~~ **a** central ~~committees in~~ **committee of** the county ~~no later than~~

~~(A) June 15, for a general election or a special election ordered under IC 3-12-8-17 or IC 3-12-11-18 following the primary election; or~~

~~(B) January 15, for a primary election or a special election ordered under IC 3-12-8-17 or IC 3-12-11-18 following the general election;~~

at the request of the central committee;

(2) be:

(A) mailed; ~~or~~

(B) transmitted by fax; **or**

(C) transmitted by electronic mail with a scanned image of the application;

upon request, to a voter applying by mail, by telephone, **by electronic mail,** or by fax; and

(3) be delivered to a voter in person who applies at the circuit court clerk's office.

(c) The county election board shall:

(1) accept; and

(2) transmit;

applications for absentee ballots under subsection (a) by fax **or**

electronic mail, if the county election board has access to a fax machine or electronic mail. A county election board shall accept an application for an absentee ballot transmitted by fax even though the application is delivered to the county election board by a person other than the person submitting the application.

(d) When an application is received under subsection (a)(4), the circuit court clerk's office (or, in a county subject to IC 3-6-5.2 or IC 3-6-5.4, the office of the board of elections and registration) shall send an automatic electronic mail receipt acknowledging receipt of the voter's application.

SECTION 7. IC 3-11-8-25.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 25.7. (a) This section applies only to a voter who is a member of the military or public safety officer.**

(b) Notwithstanding section 25.5 of this chapter, if a voter signs the voter's name and either:

(1) writes the voter's address; or

(2) checks the "Address Unchanged" box;

on the poll list under section 25.1 of this chapter and then leaves the polls without casting a ballot or after casting a provisional ballot, the voter may reenter the polls to cast a ballot at the election as provided in this section.

(c) A voter who leaves the polls to respond to an emergency in the voter's capacity as a member of the military or public safety officer must notify a precinct election officer that the voter is leaving the polls to respond to an emergency in the voter's capacity as a member of the military or public safety officer.

(d) A poll clerk or assistant poll clerk shall make a notation on the poll list with the voter's name indicating that the voter has left the polls as permitted by this section and the time the voter left the polls.

(e) If the voter returns to the polls, the voter shall be permitted to vote if the voter executes an affidavit stating all of the following:

(1) The name of the voter.

(2) That the voter is a member of the military or public safety officer.

(3) The military or public safety position the voter holds.

(4) That after the voter signed the poll list, but before the voter voted, the voter was called to respond to an emergency

in the voter's capacity as a member of the military or public safety officer.

(5) A brief description of the emergency to which the voter responded.

(6) The time at which the voter returned to the polls.

(f) The commission shall prescribe the form of the affidavit required by this section.

SECTION 8. IC 3-11-10-24, AS AMENDED BY P.L.103-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 24. (a) Except as provided in subsection (b), a voter who satisfies any of the following is entitled to vote by mail:

(1) The voter has a specific, reasonable expectation of being absent from the county on election day during the entire twelve (12) hours that the polls are open.

(2) The voter will be absent from the precinct of the voter's residence on election day because of service as:

(A) a precinct election officer under IC 3-6-6;

(B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;

(C) a challenger or pollbook holder under IC 3-6-7; or

(D) a person employed by an election board to administer the election for which the absentee ballot is requested.

(3) The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury during the entire twelve (12) hours that the polls are open.

(4) The voter is a voter with disabilities.

(5) The voter is an elderly voter.

(6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury during the entire twelve (12) hours that the polls are open.

(7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.

(8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

(9) The voter is prevented from voting due to observance of a religious discipline or religious holiday during the entire twelve (12) hours that the polls are open.

(10) The voter is an address confidentiality program participant

(as defined in IC 5-26.5-1-6).

(11) The voter is a member of the military or public safety officer.

(b) A voter with disabilities who:

(1) is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope; and

(2) requests that the absentee ballot be delivered to an address within Indiana;

must vote before an absentee voter board under section 25(b) of this chapter.

(c) If a voter receives an absentee ballot by mail, the voter shall personally mark the ballot in secret and seal the marked ballot inside the envelope provided by the county election board for that purpose. The voter shall:

(1) deposit the sealed envelope in the United States mail for delivery to the county election board; or

(2) authorize a member of the voter's household or the individual designated as the voter's attorney in fact to:

(A) deposit the sealed envelope in the United States mail; or

(B) deliver the sealed envelope in person to the county election board.

(d) If a member of the voter's household or the voter's attorney in fact delivers the sealed envelope containing a voter's absentee ballot to the county election board, the individual delivering the ballot shall complete an affidavit in a form prescribed by the commission. The affidavit must contain the following information:

(1) The name and residence address of the voter whose absentee ballot is being delivered.

(2) A statement of the full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the individual delivering the absentee ballot.

(3) A statement indicating whether the individual delivering the absentee ballot is a member of the voter's household or is the attorney in fact for the voter. If the individual is the attorney in fact for the voter, the individual must attach a copy of the power of attorney for the voter, unless a copy of this document has already been filed with the county election board.

(4) The date and location at which the absentee ballot was

delivered by the voter to the individual delivering the ballot to the county election board.

(5) A statement that the individual delivering the absentee ballot has complied with Indiana laws governing absentee ballots.

(6) A statement that the individual delivering the absentee ballot is executing the affidavit under the penalties of perjury.

(7) A statement setting forth the penalties for perjury.

(e) The county election board shall record the date and time that the affidavit under subsection (d) was filed with the board.

(f) After a voter has mailed or delivered an absentee ballot to the office of the circuit court clerk, the voter may not recast a ballot, except as provided in:

(1) section 1.5 of this chapter; or

(2) section 33 of this chapter.

SECTION 9. IC 3-11-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. Each application for certification of a voting system shall be accompanied by a fee of one thousand five hundred dollars ($1,500). **All fees collected under this section shall be deposited with the treasurer of state in the voting system technical oversight program account established by IC 3-11-17-6.**

SECTION 10. IC 3-11-15-13.3, AS AMENDED BY P.L.164-2006, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.3. (a) To be approved by the commission for use in Indiana, a voting system must meet:

(1) the Voting System Standards adopted by the Federal Election Commission on April 30, 2002; **or**

(2) the Voluntary Voting System Guidelines adopted by the United States Election Assistance Commission on December 13, 2005.

(b) A county may continue to use an optical scan ballot card voting system or an electronic voting system whose approval or certification expired on or before October 1, ~~2005,~~ **2009,** if the voting system:

(1) was:

(A) approved by the commission for use in elections in Indiana before October 1, ~~2005,~~ **2009;** and

(B) purchased by the county before October 1, ~~2005,~~ **2009;** and

(2) otherwise complies with the applicable provisions of HAVA and this article.

However, a voting system vendor may not market, sell, lease, or install a voting system described in this subsection.

(c) As provided by 42 U.S.C. 15481, to be used in an election in Indiana, a voting system must be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.

(d) As provided by 42 U.S.C. 15481, an election board conducting an election satisfies the requirements of subsection (c) if the election board provides at least one (1) electronic voting system or other voting system equipped for individuals with disabilities at each polling place.

(e) If a voter who is otherwise qualified to cast a ballot in a precinct chooses to cast the voter's ballot on the voting system provided under subsection (d), the voter must be allowed to cast the voter's ballot on that voting system, whether or not the voter is an individual with disabilities.

SECTION 11. IC 3-11-17-6, AS AMENDED BY P.L.3-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The voting system technical oversight program account is established with the state general fund to provide money for administering and enforcing IC 3-11-7, IC 3-11-7.5, IC 3-11-15, IC 3-11-16, and this chapter.

(b) The election division shall administer the account. With the approval of the budget agency, funds in the account are available to augment and supplement the funds appropriated to the election division for the purposes described in this section.

(c) The expenses of administering the account shall be paid from the money in the account.

(d) The account consists of **the following:**

(1) All civil penalties collected under this chapter.

(2) Fees collected under IC 3-11-15-4.

(3) Contributions to the account made in accordance with a settlement agreement executed with a voting system vendor.

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

SECTION 12. IC 9-24-2.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter prescribes the procedures to be followed by the commission in processing voter registration applications under 42 U.S.C. 1973gg-3, ~~and~~ IC 3-7-14, **and IC 3-7-26.7.**

SECTION 13. IC 9-24-2.5-4, AS AMENDED BY P.L.164-2006, SECTION 137, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) As required under 42 U.S.C. 1973gg-3(e)(1), the manager or designated license branch employee shall transmit a copy of the completed voter registration portion of each application for a driver's license or an identification card for nondrivers issued under this article to the county voter registration office of the county in which the individual's residential address (as indicated on the application) is located.

(b) The voter registration application shall be transmitted to the county voter registration office in an electronic format and on an expedited basis (as defined by IC 3-5-2-23.2) using the computerized list established under IC 3-7-26.3. **Except in the case of applications submitted online under IC 3-7-26.7,** the paper copy of the application shall be transmitted under subsection (a) to the county voter registration office not later than five (5) days after the application is accepted at the license branch.

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

P.L.121-2009
[H.1462. Approved May 11, 2009.]

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

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

SECTION 1. IC 4-6-2-1.5, AS AMENDED BY P.L.78-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) Whenever any state governmental official or employee, whether elected or appointed, is made a party to a suit, and the attorney general determines that said suit has arisen out of an act which such official or employee in good faith believed to be within the scope of the official's or employee's duties as prescribed by statute or duly adopted regulation, the attorney general shall defend such person throughout such action.

(b) Whenever a teacher (as defined in IC 20-18-2-22) is made a party to a civil suit, and the attorney general determines that the suit has arisen out of an act that the teacher in good faith believed was within the scope of the teacher's duties in enforcing discipline policies developed under IC 20-33-8-12, the attorney general shall defend the teacher throughout the action.

(c) Not later than August 15 of each year:

(1) the attorney general shall draft; and

(2) the state superintendent of public instruction shall disseminate in:

(A) written;

(B) electronic; or

(C) other;

form;

a notice to each teacher concerning the teacher's qualified immunity under IC 20-33-8-8(b)(3) and rights under this section.

~~(c)~~ **(d)** Whenever a school corporation (as defined in IC 20-26-2-4)

is made a party to a civil suit and the attorney general determines that the suit has arisen out of an act authorized under IC 20-30-5-0.5 or IC 20-30-5-4.5, the attorney general shall defend the school corporation throughout the action.

~~(d)~~ **(e)** A determination by the attorney general under subsection (a), (b), or ~~(c)~~ **(d)** shall not be admitted as evidence in the trial of any such civil action for damages.

~~(e)~~ **(f)** Nothing in this chapter shall be construed to deprive any such person of the person's right to select counsel of the person's own choice at the person's own expense.

SECTION 2. IC 10-13-3-36, AS AMENDED BY P.L.2-2007, SECTION 147, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 36. (a) The department may not charge a fee for responding to a request for the release of a limited criminal history record if the request is made by a nonprofit organization:

(1) that has been in existence for at least ten (10) years; and

(2) that:

(A) has a primary purpose of providing an individual relationship for a child with an adult volunteer if the request is made as part of a background investigation of a prospective adult volunteer for the organization;

(B) is a home health agency licensed under IC 16-27-1;

(C) is a community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-39);

(D) is a supervised group living facility licensed under IC 12-28-5;

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

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

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

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

(b) Except as provided in subsection (d), the department may not charge a fee for responding to a request for the release of a limited criminal history record made by the department of child services or the division of family resources if the request is made as part of a

background investigation of an applicant for a license under IC 12-17.2 or IC 31-27.

(c) The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made by a school corporation, special education cooperative, or nonpublic school (as defined in IC 20-18-2-12) as part of a background investigation of a prospective or current employee or a prospective or current adult volunteer for the school corporation, special education cooperative, or nonpublic school.

(d) As used in this subsection, "state agency" means an authority, a board, a branch, a commission, a committee, a department, a division, or another instrumentality of state government, including the executive and judicial branches of state government, the principal secretary of the senate, the principal clerk of the house of representatives, the executive director of the legislative services agency, a state elected official's office, or a body corporate and politic, but does not include a state educational institution. The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made:

(1) by a state agency; and

(2) through the computer gateway that is administered by the office of technology established by IC 4-13.1-2-1.

(e) The department may not charge a fee for responding to a request for the release of a limited criminal history record made by the Indiana professional licensing agency established by IC 25-1-5-3 if the request is:

(1) made through the computer gateway that is administered by the office of technology; and

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

(f) The department may not charge a church or religious society a fee for responding to a request for the release of a limited criminal history record if:

(1) the church or religious society is a religious organization exempt from federal income taxation under Section 501 of the Internal Revenue Code;

(2) the request is made as part of a background investigation of a

prospective or current employee or a prospective or current adult volunteer; and

(3) the employee or volunteer works in a nonprofit program or ministry of the church or religious society, including a child care ministry registered under IC 12-17.2-6.

(g) The department may not charge the school of education of a public or private postsecondary educational institution a fee for responding to a request for the release of a limited criminal history record if the request is made as part of a background investigation of a student before or after the student begins the student's field or classroom experience. However, the department may charge the student a fee for responding to a request for the release of a limited criminal history record.

SECTION 3. IC 13-19-5-3, AS AMENDED BY P.L.221-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The authority shall do the following under this chapter:

(1) Be responsible for the management of all aspects of the program.

(2) Prepare and provide program information.

(3) Negotiate the negotiable aspects of each financial assistance agreement and submit the agreement to the budget agency for approval.

(4) Sign each financial assistance agreement.

(5) Review each proposed project and financial assistance agreement to determine if the project meets the credit, economic, or fiscal criteria established by guidelines of the authority.

(6) Periodically inspect or cause to be inspected projects to determine compliance with this chapter.

(7) Conduct or cause to be conducted an evaluation concerning the financial ability of a political subdivision to:

(A) pay a loan or other financial assistance and other obligations evidencing loans or other financial assistance, if required to be paid; and

(B) otherwise comply with terms of the financial assistance agreement.

(8) Evaluate or cause to be evaluated the technical aspects of the political subdivision's:

(A) environmental assessment of potential brownfield properties;

(B) proposed remediation; and

(C) remediation activities conducted on brownfield properties.

(9) Inspect or cause to be inspected remediation activities conducted under this chapter.

(10) Act as a liaison to the United States Environmental Protection Agency regarding the program.

(11) Be a point of contact for political subdivisions concerning questions about the program.

(12) Enter into memoranda of understanding, as necessary, with the department and the budget agency concerning the administration and management of the fund and the program.

(b) The authority may do the following under this chapter:

(1) Undertake activities to make private environmental insurance products available to encourage and facilitate the cleanup and redevelopment of brownfield properties.

(2) Enter into agreements with political subdivisions to manage any of the following conducted on brownfield properties:

(A) Environmental assessment activities.

(B) Environmental remediation activities.

(c) The authority may:

(1) negotiate with;

(2) select; and

(3) contract with;

one (1) or more insurers to provide insurance products as described in subsection (b)(1).

(d) Notwithstanding IC 13-23, IC 13-24-1, and IC 13-25-4, the authority is not liable for any contamination addressed by the authority under an agreement under subsection (b)(2) unless existing contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the authority.

(e) For purposes of subsection (d), reckless, willful, or wanton misconduct constitutes gross negligence.

(f) The authority is entitled to the same governmental immunity afforded a political subdivision under ~~IC 34-13-3-3(23)~~ **IC 34-13-3-3(22)** for any act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a

brownfield under an agreement under subsection (b)(2).

SECTION 4. IC 20-19-3-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 9. The department shall establish and maintain a searchable data base of information concerning employees and former employees who have been reported to the department under IC 20-28-5-8. The department shall make the data base available to the public.**

SECTION 5. IC 20-24-8-5, AS AMENDED BY P.L.2-2006, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. The following statutes and rules and guidelines adopted under the following statutes apply to a charter school:

(1) IC 5-11-1-9 (required audits by the state board of accounts).

(2) IC 20-39-1-1 (unified accounting system).

(3) IC 20-35 (special education).

(4) IC 20-26-5-10 ~~and IC 20-28-5-9~~ (criminal history).

(5) IC 20-26-5-6 (subject to laws requiring regulation by state agencies).

(6) IC 20-28-7-14 (void teacher contract when two (2) contracts are signed).

(7) IC 20-28-10-12 (nondiscrimination for teacher marital status).

(8) IC 20-28-10-14 (teacher freedom of association).

(9) IC 20-28-10-17 (school counselor immunity).

(10) For conversion charter schools only, IC 20-28-6, IC 20-28-7, IC 20-28-8, IC 20-28-9, and IC 20-28-10.

(11) IC 20-33-2 (compulsory school attendance).

(12) IC 20-33-3 (limitations on employment of children).

(13) IC 20-33-8-19, IC 20-33-8-21, and IC 20-33-8-22 (student due process and judicial review).

(14) IC 20-33-8-16 (firearms and deadly weapons).

(15) IC 20-34-3 (health and safety measures).

(16) IC 20-33-9 (reporting of student violations of law).

(17) IC 20-30-3-2 and IC 20-30-3-4 (patriotic commemorative observances).

(18) IC 20-31-3, IC 20-32-4, IC 20-32-5, IC 20-32-6, IC 20-32-8, or any other statute, rule, or guideline related to standardized testing (assessment programs, including remediation under the

assessment programs).

(19) IC 20-33-7 (parental access to education records).

(20) IC 20-31 (accountability for school performance and improvement).

SECTION 6. IC 20-26-1-1, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a)** IC 20-26-1 through IC 20-26-5 and IC 20-26-7 apply to all school corporations.

(b) Notwithstanding subsection (a), IC 20-26-5-10 applies to:

(1) a school corporation;

(2) a charter school; and

(3) an accredited nonpublic school.

SECTION 7. IC 20-26-2-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.5. "Expanded criminal history check" means a criminal history background check of an individual that includes:**

(1) a:

(A) search of the records maintained by all counties in Indiana in which the individual who is the subject of the background check resided;

(B) search of the records maintained by all counties or similar governmental units in another state, if the individual who is the subject of the background check resided in another state; and

(C) check of:

(i) sex offender registries in all fifty (50) states; or

(ii) the national sex offender registry maintained by the United States Department of Justice; or

(2) a:

(A) national criminal history background check (as defined in IC 10-13-3-12); and

(B) check of:

(i) sex offender registries in all fifty (50) states; or

(ii) the national sex offender registry maintained by the United States Department of Justice.

SECTION 8. IC 20-26-5-10, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) A school corporation, including a ~~school~~

~~township~~ **charter school and an accredited nonpublic school,** shall adopt a policy concerning criminal history information for individuals who:

(1) apply for:

(A) employment with the school corporation; or

(B) employment with an entity with which the school corporation contracts for services;

(2) seek to enter into a contract to provide services to the school corporation; or

(3) are employed by an entity that seeks to enter into a contract to provide services to the school corporation;

if the individuals are likely to have direct, ongoing contact with children within the scope of the individuals' employment.

(b) A school corporation, including a ~~school~~ ~~township~~ **charter school and an accredited nonpublic school,** shall administer a policy adopted under this section uniformly for all individuals to whom the policy applies. A policy adopted under this section ~~may~~ **must** require ~~any of the following:~~ **that the school corporation, charter school, or accredited nonpublic school conduct an expanded criminal history check**

~~(1) The school corporation, including a school township, may request limited criminal history information~~ concerning each applicant for noncertificated employment or certificated employment ~~from a local or state law enforcement agency~~ before or not later than three (3) months after the applicant's employment by the school corporation, **charter school, or accredited nonpublic school.**

~~(2)~~ Each individual hired for noncertificated employment or certificated employment may be required to provide a written consent for the school corporation, **charter school, or accredited nonpublic school** to request ~~under IC 10-13-3 limited criminal history information or a national criminal history background~~ **an expanded criminal history** check concerning the individual before or not later than three (3) months after the individual's employment by the school corporation. The school corporation, **charter school, or accredited nonpublic school** may require the individual to provide a set of fingerprints and pay any fees required for ~~a national criminal history background~~ **the expanded**

criminal history check.

~~(3) Each individual hired for noncertificated employment may be required at the time the individual is hired to submit a certified copy of the individual's limited criminal history (as defined in IC 10-13-3-11) to the school corporation.~~

~~(4) Each individual hired for noncertificated employment may be required at the time the individual is hired to:~~

~~(A) submit a request to the Indiana central repository for limited criminal history information under IC 10-13-3;~~

~~(B) obtain a copy of the individual's limited criminal history; and~~

~~(C) submit to the school corporation the individual's limited criminal history and a document verifying a disposition (as defined in IC 10-13-3-7) that does not appear on the limited criminal history.~~

~~(5)~~ Each applicant for noncertificated employment or certificated employment may be required at the time the individual applies to answer questions concerning the individual's ~~limited~~ **expanded** criminal history **check.** The failure to answer honestly questions asked under this ~~subdivision~~ **subsection** is grounds for termination of the employee's employment.

~~(6) Each individual that:~~

~~(A) seeks to enter into a contract to provide services to a school corporation; or~~

~~(B) is employed by an entity that seeks to enter into a contract with a school corporation;~~

~~may be required at the time the contract is formed to comply with the procedures described in subdivisions (2), (4), and (5). An individual who is employed by an entity that seeks to enter into a contract with a school corporation to provide student services in which the entity's employees have direct contact with students in a school based program may be required to provide the consent described in subdivision (2) or the information described in subdivisions (4) and (5) to either the individual's employer or the school corporation. Failure to comply with subdivisions (2), (4), and (5), as required by the school corporation, is grounds for termination of the contract. An entity that enters into a contract with a school corporation to provide student services in which the~~

~~entity's employees have direct contact with students in a school based program is allowed to obtain limited criminal history information or a national criminal history background check regarding the entity's applicants or employees in the same manner that a school corporation may obtain the information.~~

~~(c) If an individual is required to obtain a limited criminal history under this section, the individual is responsible~~ **The applicant is responsible** for all costs associated with obtaining the ~~limited~~ **expanded** criminal history **check. An applicant may not be required by a school corporation, charter school, or accredited nonpublic school to obtain an expanded criminal history check more than one (1) time during a five (5) year period.**

~~(d)~~ **(c)** Information obtained under this section must be used in accordance with ~~IC 10-13-3-29.~~ **law.**

SECTION 9. IC 20-28-4-11, AS ADDED BY P.L.150-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) This section applies only to:

(1) a school corporation; or

(2) a subject area;

that is designated by the state board as having an insufficient supply of licensed teachers.

(b) The governing body of a school corporation or the appointing authority of an accredited nonpublic school may employ a program participant if the program participant is hired to teach in a subject area or a school corporation to which this section applies.

(c) Before employing a program participant under subsection (b), the superintendent of the school corporation must make a determination that one (1) of the following conditions exists:

(1) There is no fully certified and highly qualified teacher available for the position.

(2) The program participant is the best qualified candidate for the position.

(d) A program participant who is employed under this section is eligible to receive a transition to teaching permit. The transition to teaching permit is valid for three (3) years, and may not be renewed. ~~IC 20-28-5-9 applies to a program participant who applies for a transition to teaching permit.~~

(e) A program participant who is employed under this section:

(1) shall enter into either:

(A) a regular teacher's contract under IC 20-28-6-5; or

(B) a temporary teacher's contract under IC 20-28-6-6, if replacing a teacher on a leave of absence;

(2) is eligible to participate in a mentor teacher program; and

(3) satisfies the field or classroom experience component of the program under section 4(3) of this chapter.

(f) The state board:

(1) shall review; and

(2) may renew;

the designation of a school corporation or a subject area as having an insufficient supply of licensed teachers not more than two (2) years following the initial designation under subsection (a).

SECTION 10. IC 20-28-5-8, AS AMENDED BY P.L.151-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) This section applies when a prosecuting attorney knows that a licensed employee of a public school or a nonpublic school has been convicted of an offense listed in subsection (c). The prosecuting attorney shall immediately give written notice of the conviction to the following:

(1) The state superintendent.

(2) Except as provided in subdivision (3), the superintendent of the school corporation that employs the licensed employee or the equivalent authority if a nonpublic school employs the licensed employee.

(3) The presiding officer of the governing body of the school corporation that employs the licensed employee, if the convicted licensed employee is the superintendent of the school corporation.

(b) The superintendent of a school corporation, presiding officer of the governing body, or equivalent authority for a nonpublic school shall immediately notify the state superintendent when the individual knows that a current or former licensed employee of the public school or nonpublic school has been convicted of an offense listed in subsection (c), **or when the governing body or equivalent authority for a nonpublic school takes any final action in relation to an employee who engaged in any offense listed in subsection (c).**

(c) The department, after holding a hearing on the matter, shall permanently revoke the license of a person who is known by the

department to have been convicted of any of the following felonies:

(1) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.

(2) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.

(3) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(4) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

(5) Child molesting (IC 35-42-4-3).

(6) Child exploitation (IC 35-42-4-4(b)).

(7) Vicarious sexual gratification (IC 35-42-4-5).

(8) Child solicitation (IC 35-42-4-6).

(9) Child seduction (IC 35-42-4-7).

(10) Sexual misconduct with a minor (IC 35-42-4-9).

(11) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

(12) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).

(13) Dealing in methamphetamine (IC 35-48-4-1.1).

(14) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(15) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(16) Dealing in a schedule V controlled substance (IC 35-48-4-4).

(17) Dealing in a counterfeit substance (IC 35-48-4-5).

(18) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10(b)).

(19) Possession of child pornography (IC 35-42-4-4(c)).

(d) A license may be suspended by the state superintendent as specified in IC 20-28-7-7.

(e) The department shall develop a data base of information on school corporation employees who have been reported to the department under this section.

SECTION 11. IC 20-28-5-15, AS ADDED BY P.L.75-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) Notwithstanding section 3(b)(6) of this chapter, the department shall grant an initial practitioner's license in a

specific subject area to an applicant who:

(1) has earned a postgraduate degree from a regionally accredited postsecondary educational institution in the subject area in which the applicant seeks to be licensed;

(2) has at least one (1) academic year of experience teaching students in a middle school, high school, or college classroom setting; and

(3) complies with sections 4 ~~9,~~ and 12 of this chapter.

(b) An individual who receives an initial practitioner's license under this section may teach in the specific subject for which the individual is licensed only in:

(1) high school; or

(2) middle school;

if the subject area is designated by the state board as having an insufficient supply of licensed teachers.

(c) After receiving an initial practitioner's license under this section, an applicant who seeks to renew the applicant's initial practitioner's license or obtain a proficient practitioner's license must:

(1) demonstrate that the applicant has:

(A) participated in cultural competency professional development activities;

(B) obtained training and information from a special education teacher concerning exceptional learners; and

(C) received:

(i) training or certification that complies; or

(ii) an exemption from compliance;

with the standards set forth in section 3(c) of this chapter; and

(2) meet the same requirements as other candidates.

SECTION 12. IC 20-33-8-8, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) Student supervision and the desirable behavior of students in carrying out school purposes is the responsibility of:

(1) a school corporation; and

(2) the students of a school corporation.

(b) In all matters relating to the discipline and conduct of students, school corporation personnel:

(1) stand in the relation of parents to the students of the school

corporation; ~~and~~

(2) have the right to take any disciplinary action necessary to promote student conduct that conforms with an orderly and effective educational system, subject to this chapter; **and**

(3) have qualified immunity with respect to a disciplinary action taken to promote student conduct under subdivision (2) if the action is taken in good faith and is reasonable.

(c) Students must:

(1) follow responsible directions of school personnel in all educational settings; and

(2) refrain from disruptive behavior that interferes with the educational environment.

SECTION 13. IC 20-33-8-9, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) This section applies to an individual who:

(1) is a teacher or other school staff member; and

(2) has students under the individual's charge.

(b) An individual may take any action that is reasonably necessary to carry out or to prevent an interference with an educational function that the individual supervises.

(c) Subject to rules of the governing body and the administrative staff, an individual may remove a student for a period that does not exceed five (5) school days from an educational function supervised by the individual or another individual who is a teacher or other school staff member.

(d) If an individual removes a student from a class under subsection (c), the principal may place the student in another appropriate class or placement or into inschool suspension. The principal may not return the student to the class from which the student was removed until the principal has met with the student, the student's teacher, and the student's parents to determine an appropriate behavior plan for the student. If the student's parents do not meet with the principal and the student's teacher within a reasonable amount of time, the student may be moved to another class at the principal's discretion.

SECTION 14. IC 34-6-2-38, AS AMENDED BY P.L.1-2007, SECTION 223, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2009]: Sec. 38. (a) "Employee" and "public employee", for purposes of section 91 of this chapter, IC 34-13-2, IC 34-13-3, IC 34-13-4, and IC 34-30-14, mean a person presently or formerly acting on behalf of a governmental entity, whether temporarily or permanently or with or without compensation, including members of boards, committees, commissions, authorities, and other instrumentalities of governmental entities, volunteer firefighters (as defined in IC 36-8-12-2), and elected public officials.

(b) The term also includes attorneys at law whether employed by the governmental entity as employees or independent contractors and physicians licensed under IC 25-22.5 and optometrists who provide medical or optical care to confined offenders (as defined in IC 11-8-1) within the course of their employment by or contractual relationship with the department of correction. However, the term does not include:

(1) an independent contractor (other than an attorney at law, a physician, or an optometrist described in this section);

(2) an agent or employee of an independent contractor;

(3) a person appointed by the governor to an honorary advisory or honorary military position; or

(4) a physician licensed under IC 25-22.5 with regard to a claim against the physician for an act or omission occurring or allegedly occurring in the physician's capacity as an employee of a hospital.

~~(c) A physician licensed under IC 25-22.5 who is an employee of a governmental entity (as defined in section 49 of this chapter) shall be considered a public employee for purposes of IC 34-13-3-3(21).~~

~~(d)~~ **(c)** For purposes of IC 34-13-3 and IC 34-13-4, the term includes a person that engages in an act or omission before July 1, 2004, in the person's capacity as:

(1) a contractor under IC 6-1.1-4-32 (repealed);

(2) an employee acting within the scope of the employee's duties for a contractor under IC 6-1.1-4-32 (repealed);

(3) a subcontractor of the contractor under IC 6-1.1-4-32 (repealed) that is acting within the scope of the subcontractor's duties; or

(4) an employee of a subcontractor described in subdivision (3) that is acting within the scope of the employee's duties.

SECTION 15. IC 34-13-3-3, AS AMENDED BY P.L.47-2006, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]: Sec. 3. A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the following:

(1) The natural condition of unimproved property.

(2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.

(3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.

(4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.

(5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:

(A) a set of rules governing the use of the extreme sport area;

(B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and

(C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.

(6) The initiation of a judicial or an administrative proceeding.

(7) The performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act.

(8) The adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment.

(9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.

(10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.

(11) The issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke any permit, license,

certificate, approval, order, or similar authorization, where the authority is discretionary under the law.

(12) Failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety.

(13) Entry upon any property where the entry is expressly or impliedly authorized by law.

(14) Misrepresentation if unintentional.

(15) Theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission.

(16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter.

(17) Injury to the person or property of a person under supervision of a governmental entity and who is:

(A) on probation; or

(B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12.

(18) Design of a highway (as defined in IC 9-13-2-73), toll road project (as defined in IC 8-15-2-4(4)), tollway (as defined in IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the claimed loss occurs at least twenty (20) years after the public highway, toll road project, tollway, or project was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition.

(19) Development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication system.

(20) Injury to a student or a student's property by an employee of

a school corporation if the employee is acting reasonably under a discipline policy adopted under ~~IC 20-33-8-7(b).~~ **IC 20-33-8-12.**

~~(21) An error resulting from or caused by a failure to recognize the year 1999, 2000, or a subsequent year, including an incorrect date or incorrect mechanical or electronic interpretation of a date, that is produced, calculated, or generated by:~~

~~(A) a computer;~~

~~(B) an information system; or~~

~~(C) equipment using microchips;~~

~~that is owned or operated by a governmental entity. However, this subdivision does not apply to acts or omissions amounting to gross negligence, willful or wanton misconduct, or intentional misconduct. For purposes of this subdivision, evidence of gross negligence may be established by a party by showing failure of a governmental entity to undertake an effort to review, analyze, remediate, and test its electronic information systems or by showing failure of a governmental entity to abate, upon notice, an electronic information system error that caused damage or loss. However, this subdivision expires June 30, 2003.~~

~~(22)~~ **(21)** An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.

~~(23)~~ **(22)** An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield (as defined in IC 13-11-2-19.3) unless:

(A) the loss is a result of reckless conduct; or

(B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

SECTION 16. IC 34-30-2-84.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 84.7. IC 20-33-8-8 (Concerning school corporation personnel who take reasonable actions concerning school discipline).**

SECTION 17. THE FOLLOWING ARE REPEALED [EFFECTIVE

JULY 1, 2009]: IC 20-28-1-8; IC 20-28-5-9.

SECTION 18. **An emergency is declared for this act.**

P.L.122-2009
[S.96. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 25-1-2-6, AS AMENDED BY P.L.3-2008, SECTION 176, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) As used in this section, "license" includes all occupational and professional licenses, registrations, permits, and certificates issued under the Indiana Code, and "licensee" includes all occupational and professional licensees, registrants, permittees, and certificate holders regulated under the Indiana Code.

(b) This section applies to the following entities that regulate occupations or professions under the Indiana Code:

(1) Indiana board of accountancy.
(2) Indiana grain buyers and warehouse licensing agency.
(3) Indiana auctioneer commission.
(4) Board of registration for architects and landscape architects.
(5) State board of barber examiners.
(6) State board of cosmetology examiners.
(7) Medical licensing board of Indiana.
(8) Secretary of state.
(9) State board of dentistry.
(10) State board of funeral and cemetery service.
(11) Worker's compensation board of Indiana.
(12) Indiana state board of health facility administrators.

(13) Committee of hearing aid dealer examiners.
(14) Indiana state board of nursing.
(15) Indiana optometry board.
(16) Indiana board of pharmacy.
(17) Indiana plumbing commission.
(18) Board of podiatric medicine.
(19) Private investigator and security guard licensing board.
(20) State board of registration for professional engineers.
(21) Board of environmental health specialists.
(22) State psychology board.
(23) Indiana real estate commission.
(24) Speech-language pathology and audiology board.
(25) Department of natural resources.
(26) State boxing commission.
(27) Board of chiropractic examiners.
(28) Mining board.
(29) Indiana board of veterinary medical examiners.
(30) State department of health.
(31) Indiana physical therapy committee.
(32) Respiratory care committee.
(33) Occupational therapy committee.
(34) ~~Social worker, marriage and family therapist, and mental health counselor~~ **Behavioral health and human services licensing** board.
(35) Real estate appraiser licensure and certification board.
(36) State board of registration for land surveyors.
(37) Physician assistant committee.
(38) Indiana dietitians certification board.
(39) Indiana hypnotist committee.
(40) Attorney general (only for the regulation of athlete agents).
(41) Manufactured home installer licensing board.
(42) Home inspectors licensing board.
(43) State board of massage therapy.
(44) Any other occupational or professional agency created after June 30, 1981.

(c) Notwithstanding any other law, the entities included in subsection (b) shall send a notice of the upcoming expiration of a license to each licensee at least sixty (60) days prior to the expiration

of the license. The notice must inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity, the license is renewed within forty-five (45) days of the receipt of the notice.

SECTION 2. IC 25-1-4-0.3, AS AMENDED BY P.L.2-2008, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 0.3. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects and landscape architects (IC 25-4-1-2).
(3) Indiana athletic trainers board (IC 25-5.1-2-1).
(4) Indiana auctioneer commission (IC 25-6.1-2-1).
(5) State board of barber examiners (IC 25-7-5-1).
(6) State boxing commission (IC 25-9-1).
(7) Board of chiropractic examiners (IC 25-10-1).
(8) State board of cosmetology examiners (IC 25-8-3-1).
(9) State board of dentistry (IC 25-14-1).
(10) Indiana dietitians certification board (IC 25-14.5-2-1).
(11) State board of registration for professional engineers (IC 25-31-1-3).
(12) Board of environmental health specialists (IC 25-32-1).
(13) State board of funeral and cemetery service (IC 25-15-9).
(14) Indiana state board of health facility administrators (IC 25-19-1).
(15) Committee of hearing aid dealer examiners (IC 25-20-1-1.5).
(16) Home inspectors licensing board (IC 25-20.2-3-1).
(17) Indiana hypnotist committee (IC 25-20.5-1-7).
(18) State board of registration for land surveyors (IC 25-21.5-2-1).
(19) Manufactured home installer licensing board (IC 25-23.7).
(20) Medical licensing board of Indiana (IC 25-22.5-2).
(21) Indiana state board of nursing (IC 25-23-1).
(22) Occupational therapy committee (IC 25-23.5).
(23) Indiana optometry board (IC 25-24).
(24) Indiana board of pharmacy (IC 25-26).

(25) Indiana physical therapy committee (IC 25-27-1).

(26) Physician assistant committee (IC 25-27.5).

(27) Indiana plumbing commission (IC 25-28.5-1-3).

(28) Board of podiatric medicine (IC 25-29-2-1).

(29) Private investigator and security guard licensing board (IC 25-30-1-5.2).

(30) State psychology board (IC 25-33).

(31) Indiana real estate commission (IC 25-34.1-2).

(32) Real estate appraiser licensure and certification board (IC 25-34.1-8).

(33) Respiratory care committee (IC 25-34.5).

(34) ~~Social worker, marriage and family therapist, and mental health counselor~~ **Behavioral health and human services licensing** board (IC 25-23.6).

(35) Speech-language pathology and audiology board (IC 25-35.6-2).

(36) Indiana board of veterinary medical examiners (IC 25-38.1-2).

SECTION 3. IC 25-1-5-3, AS AMENDED BY P.L.2-2008, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) There is established the Indiana professional licensing agency. The agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

(1) Board of chiropractic examiners (IC 25-10-1).

(2) State board of dentistry (IC 25-14-1).

(3) Indiana state board of health facility administrators (IC 25-19-1).

(4) Medical licensing board of Indiana (IC 25-22.5-2).

(5) Indiana state board of nursing (IC 25-23-1).

(6) Indiana optometry board (IC 25-24).

(7) Indiana board of pharmacy (IC 25-26).

(8) Board of podiatric medicine (IC 25-29-2-1).

(9) Board of environmental health specialists (IC 25-32).

(10) Speech-language pathology and audiology board (IC 25-35.6-2).

(11) State psychology board (IC 25-33).

(12) Indiana board of veterinary medical examiners (IC 25-38.1-2).

(13) Controlled substances advisory committee (IC 35-48-2-1).

(14) Committee of hearing aid dealer examiners (IC 25-20).

(15) Indiana physical therapy committee (IC 25-27).

(16) Respiratory care committee (IC 25-34.5).

(17) Occupational therapy committee (IC 25-23.5).

(18) ~~Social worker, marriage and family therapist, and mental health counselor~~ **Behavioral health and human services licensing** board (IC 25-23.6).

(19) Physician assistant committee (IC 25-27.5).

(20) Indiana athletic trainers board (IC 25-5.1-2-1).

(21) Indiana dietitians certification board (IC 25-14.5-2-1).

(22) Indiana hypnotist committee (IC 25-20.5-1-7).

(b) Nothing in this chapter may be construed to give the agency policy making authority, which authority remains with each board.

SECTION 4. IC 25-1-5-10, AS AMENDED BY P.L.2-2008, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) As used in this section, "provider" means an individual licensed, certified, registered, or permitted by any of the following:

(1) Board of chiropractic examiners (IC 25-10-1).

(2) State board of dentistry (IC 25-14-1).

(3) Indiana state board of health facility administrators (IC 25-19-1).

(4) Medical licensing board of Indiana (IC 25-22.5-2).

(5) Indiana state board of nursing (IC 25-23-1).

(6) Indiana optometry board (IC 25-24).

(7) Indiana board of pharmacy (IC 25-26).

(8) Board of podiatric medicine (IC 25-29-2-1).

(9) Board of environmental health specialists (IC 25-32-1).

(10) Speech-language pathology and audiology board (IC 25-35.6-2).

(11) State psychology board (IC 25-33).

(12) Indiana board of veterinary medical examiners (IC 25-38.1-2).

(13) Indiana physical therapy committee (IC 25-27).

(14) Respiratory care committee (IC 25-34.5).

(15) Occupational therapy committee (IC 25-23.5).

(16) ~~Social worker, marriage and family therapist, and mental health counselor~~ **Behavioral health and human services licensing** board (IC 25-23.6).

(17) Physician assistant committee (IC 25-27.5).

(18) Indiana athletic trainers board (IC 25-5.1-2-1).

(19) Indiana dietitians certification board (IC 25-14.5-2-1).

(20) Indiana hypnotist committee (IC 25-20.5-1-7).

(b) The agency shall create and maintain a provider profile for each provider described in subsection (a).

(c) A provider profile must contain the following information:

(1) The provider's name.

(2) The provider's license, certification, registration, or permit number.

(3) The provider's license, certification, registration, or permit type.

(4) The date the provider's license, certification, registration, or permit was issued.

(5) The date the provider's license, certification, registration, or permit expires.

(6) The current status of the provider's license, certification, registration, or permit.

(7) The provider's city and state of record.

(8) A statement of any disciplinary action taken against the provider within the previous ten (10) years by a board or committee described in subsection (a).

(d) The agency shall make provider profiles available to the public.

(e) The computer gateway administered by the office of technology established by IC 4-13.1-2-1 shall make the information described in subsection (c)(1), (c)(2), (c)(3), (c)(6), (c)(7), and (c)(8) generally available to the public on the Internet.

(f) The agency may adopt rules under IC 4-22-2 to implement this section.

SECTION 5. IC 25-1-7-1, AS AMENDED BY P.L.3-2008, SECTION 178, AND AS AMENDED BY P.L.134-2008, SECTION 16, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of

regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of the attorney general.

"Licensee" means a person who is:

(1) licensed, certified, or registered by a board listed in this section; and

(2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State boxing commission (IC 25-9-1).

(6) Board of chiropractic examiners (IC 25-10-1).

(7) State board of cosmetology examiners (IC 25-8-3-1).

(8) State board of dentistry (IC 25-14-1).

(9) State board of funeral and cemetery service (IC 25-15-9).

(10) State board of registration for professional engineers (IC 25-31-1-3).

(11) Indiana state board of health facility administrators (IC 25-19-1).

(12) Medical licensing board of Indiana (IC 25-22.5-2).

(13) Indiana state board of nursing (IC 25-23-1).

(14) Indiana optometry board (IC 25-24).

(15) Indiana board of pharmacy (IC 25-26).

(16) Indiana plumbing commission (IC 25-28.5-1-3).

(17) Board of podiatric medicine (IC 25-29-2-1).

(18) Board of environmental health specialists (IC 25-32-1).

(19) State psychology board (IC 25-33).

(20) Speech-language pathology and audiology board (IC 25-35.6-2).

(21) Indiana real estate commission (IC 25-34.1-2).

(22) Indiana board of veterinary medical examiners ~~*(IC 15-5-1.1).*~~ *(IC 25-38.1).*

(23) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.

(24) Respiratory care committee (IC 25-34.5).

(25) Private investigator and security guard licensing board (IC 25-30-1-5.2).

(26) Occupational therapy committee (IC 25-23.5).

(27) ~~Social worker, marriage and family therapist, and mental health counselor~~ **Behavioral health and human services licensing** board (IC 25-23.6).

(28) Real estate appraiser licensure and certification board (IC 25-34.1-8).

(29) State board of registration for land surveyors (IC 25-21.5-2-1).

(30) Physician assistant committee (IC 25-27.5).

(31) Indiana athletic trainers board (IC 25-5.1-2-1).

(32) Indiana dietitians certification board (IC 25-14.5-2-1).

(33) Indiana hypnotist committee (IC 25-20.5-1-7).

(34) Indiana physical therapy committee (IC 25-27).

(35) Manufactured home installer licensing board (IC 25-23.7).

(36) Home inspectors licensing board (IC 25-20.2-3-1).

(37) State department of health, *for out-of-state mobile health care entities.*

(38) State board of massage therapy (IC 25-21.8-2-1).

(39) Any other occupational or professional agency created after June 30, 1981.

SECTION 6. IC 25-1-8-1, AS AMENDED BY P.L.3-2008, SECTION 179, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State boxing commission (IC 25-9-1).

(6) Board of chiropractic examiners (IC 25-10-1).

(7) State board of cosmetology examiners (IC 25-8-3-1).
(8) State board of dentistry (IC 25-14-1).
(9) State board of funeral and cemetery service (IC 25-15).
(10) State board of registration for professional engineers (IC 25-31-1-3).
(11) Indiana state board of health facility administrators (IC 25-19-1).
(12) Medical licensing board of Indiana (IC 25-22.5-2).
(13) Mining board (IC 22-10-1.5-2).
(14) Indiana state board of nursing (IC 25-23-1).
(15) Indiana optometry board (IC 25-24).
(16) Indiana board of pharmacy (IC 25-26).
(17) Indiana plumbing commission (IC 25-28.5-1-3).
(18) Board of environmental health specialists (IC 25-32-1).
(19) State psychology board (IC 25-33).
(20) Speech-language pathology and audiology board (IC 25-35.6-2).
(21) Indiana real estate commission (IC 25-34.1-2-1).
(22) Indiana board of veterinary medical examiners (IC 25-38.1-2-1).
(23) Department of insurance (IC 27-1).
(24) State police department (IC 10-11-2-4), for purposes of certifying polygraph examiners under IC 25-30-2.
(25) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
(26) Private investigator and security guard licensing board (IC 25-30-1-5.2).
(27) Occupational therapy committee (IC 25-23.5-2-1).
(28) ~~Social worker, marriage and family therapist, and mental health counselor~~ **Behavioral health and human services licensing** board (IC 25-23.6-2-1).
(29) Real estate appraiser licensure and certification board (IC 25-34.1-8).
(30) State board of registration for land surveyors (IC 25-21.5-2-1).
(31) Physician assistant committee (IC 25-27.5).
(32) Indiana athletic trainers board (IC 25-5.1-2-1).
(33) Board of podiatric medicine (IC 25-29-2-1).

(34) Indiana dietitians certification board (IC 25-14.5-2-1).
(35) Indiana physical therapy committee (IC 25-27).
(36) Manufactured home installer licensing board (IC 25-23.7).
(37) Home inspectors licensing board (IC 25-20.2-3-1).
(38) State board of massage therapy (IC 25-21.8-2-1).
(39) Any other occupational or professional agency created after June 30, 1981.

SECTION 7. IC 25-1-8-6, AS AMENDED BY P.L.105-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) As used in this section, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects and landscape architects (IC 25-4-1-2).
(3) Indiana athletic trainers board (IC 25-5.1-2-1).
(4) Indiana auctioneer commission (IC 25-6.1-2-1).
(5) State board of barber examiners (IC 25-7-5-1).
(6) State boxing commission (IC 25-9-1).
(7) Board of chiropractic examiners (IC 25-10-1).
(8) State board of cosmetology examiners (IC 25-8-3-1).
(9) State board of dentistry (IC 25-14-1).
(10) Indiana dietitians certification board (IC 25-14.5-2-1).
(11) State board of registration for professional engineers (IC 25-31-1-3).
(12) Board of environmental health specialists (IC 25-32-1).
(13) State board of funeral and cemetery service (IC 25-15-9).
(14) Indiana state board of health facility administrators (IC 25-19-1).
(15) Committee of hearing aid dealer examiners (IC 25-20-1-1.5).
(16) Home inspectors licensing board (IC 25-20.2-3-1).
(17) Indiana hypnotist committee (IC 25-20.5-1-7).
(18) State board of registration for land surveyors (IC 25-21.5-2-1).
(19) Manufactured home installer licensing board (IC 25-23.7).
(20) Medical licensing board of Indiana (IC 25-22.5-2).
(21) Indiana state board of nursing (IC 25-23-1).
(22) Occupational therapy committee (IC 25-23.5).
(23) Indiana optometry board (IC 25-24).

(24) Indiana board of pharmacy (IC 25-26).

(25) Indiana physical therapy committee (IC 25-27).

(26) Physician assistant committee (IC 25-27.5).

(27) Indiana plumbing commission (IC 25-28.5-1-3).

(28) Board of podiatric medicine (IC 25-29-2-1).

(29) Private investigator and security guard licensing board (IC 25-30-1-5.2).

(30) State psychology board (IC 25-33).

(31) Indiana real estate commission (IC 25-34.1-2).

(32) Real estate appraiser licensure and certification board (IC 25-34.1-8).

(33) Respiratory care committee (IC 25-34.5).

(34) ~~Social worker, marriage and family therapist, and mental health counselor~~ **Behavioral health and human services licensing** board (IC 25-23.6).

(35) Speech-language pathology and audiology board (IC 25-35.6-2).

(36) Indiana board of veterinary medical examiners (IC 25-38.1).

(37) State board of massage therapy (IC 25-21.8-2-1).

(b) This section does not apply to a license, certificate, or registration that has been revoked or suspended.

(c) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration and except as provided in section 8 of this chapter, the holder of a license, certificate, or registration that was issued by the board that is three (3) years or less delinquent must be reinstated upon meeting the following requirements:

(1) Submission of the holder's completed renewal application.

(2) Payment of the current renewal fee established by the board under section 2 of this chapter.

(3) Payment of a reinstatement fee established by the Indiana professional licensing agency.

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; or

(B) shall, if the holder has not complied with the continuing

education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6.

(d) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration and except as provided in section 8 of this chapter, unless a statute specifically does not allow a license, certificate, or registration to be reinstated if it has lapsed for more than three (3) years, the holder of a license, certificate, or registration that was issued by the board that is more than three (3) years delinquent must be reinstated upon meeting the following requirements:

(1) Submission of the holder's completed renewal application.

(2) Payment of the current renewal fee established by the board under section 2 of this chapter.

(3) Payment of a reinstatement fee equal to the current initial application fee.

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; or

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6.

(5) Complete such remediation and additional training as deemed appropriate by the board given the lapse of time involved.

(6) Any other requirement that is provided for in statute or rule that is not related to fees.

SECTION 8. IC 25-1-9-1, AS AMENDED BY P.L.2-2008, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Board of chiropractic examiners (IC 25-10-1).

(2) State board of dentistry (IC 25-14-1).

(3) Indiana state board of health facility administrators (IC 25-19-1).

(4) Medical licensing board of Indiana (IC 25-22.5-2).

(5) Indiana state board of nursing (IC 25-23-1).

(6) Indiana optometry board (IC 25-24).

(7) Indiana board of pharmacy (IC 25-26).

(8) Board of podiatric medicine (IC 25-29-2-1).

(9) Board of environmental health specialists (IC 25-32).

(10) Speech-language pathology and audiology board (IC 25-35.6-2).

(11) State psychology board (IC 25-33).

(12) Indiana board of veterinary medical examiners (IC 25-38.1-2).

(13) Indiana physical therapy committee (IC 25-27-1).

(14) Respiratory care committee (IC 25-34.5).

(15) Occupational therapy committee (IC 25-23.5).

(16) ~~Social worker, marriage and family therapist, and mental health counselor~~ **Behavioral health and human services licensing** board (IC 25-23.6).

(17) Physician assistant committee (IC 25-27.5).

(18) Indiana athletic trainers board (IC 25-5.1-2-1).

(19) Indiana dietitians certification board (IC 25-14.5-2-1).

(20) Indiana hypnotist committee (IC 25-20.5-1-7).

SECTION 9. IC 25-20.5-1-1, AS AMENDED BY P.L.134-2008, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter does not apply to the following if the person has received training in the performance of hypnotism:

(1) A licensed dentist practicing dentistry under IC 25-14.

(2) A licensed physician practicing medicine under IC 25-22.5.

(3) A licensed osteopath practicing medicine under IC 25-22.5.

(4) A licensed psychologist practicing psychology under IC 25-33.

(5) A licensed social worker or clinical social worker practicing social work or clinical social work under IC 25-23.6.

(6) A registered nurse licensed under IC 25-23.

(7) A licensed marriage and family therapist practicing marriage and family therapy under IC 25-23.6.

(8) A licensed mental health counselor practicing mental health counseling under IC 25-23.6.

(9) A licensed addiction counselor or a licensed clinical addiction counselor practicing addiction counseling or clinical addiction counseling under IC 25-23.6.

~~(9)~~ **(10)** An individual who teaches Lamaze prenatal and delivery

relaxation techniques to pregnant women.

~~(10)~~ **(11)** A law enforcement officer who:

(A) is trained in hypnotism; and

(B) uses hypnosis only for law enforcement purposes.

~~(11)~~ **(12)** A licensed chiropractor practicing the science of chiropractic under IC 25-10.

~~(12)~~ **(13)** An individual who performs hypnotism exclusively for entertainment or amusement purposes at a theater, night club, or other place that offers entertainment to the public for consideration or promotional purposes.

SECTION 10. IC 25-23.6-1-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.2. "Addiction counseling experience" refers to a time during which an applicant provides addiction counseling services directly to clients diagnosed with a substance use disorder, including treatment of clients, and at least fifty percent (50%) of the time consists of providing addiction counseling services directly to clients diagnosed with a substance use disorder.**

SECTION 11. IC 25-23.6-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. "Board" refers to the ~~social worker, marriage and family therapist, and mental health counselor~~ **behavioral health and human services licensing** board.

SECTION 12. IC 25-23.6-1-2.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.6. "Clinical addiction counseling experience" refers to a time during which an applicant provides clinical services, including evaluation and treatment of clients, and at least fifty percent (50%) of the time consists of providing addiction counseling services directly to clients diagnosed with a substance use disorder.**

SECTION 13. IC 25-23.6-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. "Clinical social worker" means an individual who is licensed under ~~this article.~~ **IC 25-23.6-5.**

SECTION 14. IC 25-23.6-1-3.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3.8. Except as provided in IC 25-23.6-7-5, ~~as used in this chapter,~~ "counselor" refers to a social

worker, **a** clinical social worker, **a** marriage and family therapist, ~~or~~ a mental health counselor, **an addiction counselor, or a clinical addiction counselor** who is licensed under this article.

SECTION 15. IC 25-23.6-1-4.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4.3. "Licensed addiction counselor" means an individual who is licensed as an addiction counselor under IC 25-23.6-10.5.**

SECTION 16. IC 25-23.6-1-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4.5. "Licensed clinical addiction counselor" means an individual who is licensed as a clinical addiction counselor under IC 25-23.6-10.5.**

SECTION 17. IC 25-23.6-1-4.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.8. "Licensed social worker" means an individual who is licensed under ~~this article.~~ **IC 25-23.6-5.**

SECTION 18. IC 25-23.6-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. "Marriage and family therapist" means an individual who is licensed under ~~this article.~~ **IC 25-23.6-8.**

SECTION 19. IC 25-23.6-1-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5.5. "Mental health counselor" means an individual **who is** licensed under ~~this article.~~ **IC 25-23.6-8.5.**

SECTION 20. IC 25-23.6-1-5.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5.7. (a) "Practice of addiction counseling" means the providing of professional services that are delivered by a licensed addiction counselor, that are designed to change substance use or addictive behavior, and that involve specialized knowledge and skill related to addictions and addictive behaviors, including understanding addiction, knowledge of the treatment process, application to practice, and professional readiness. The term includes:**

(1) gathering information through structured interview screens using routine protocols;

(2) reviewing assessment findings to assist in the development

of a plan individualized for treatment services and to coordinate services;

(3) referring for assessment, diagnosis, evaluation, and mental health therapy;

(4) providing client and family education related to addictions;

(5) providing information on social networks and community systems for referrals and discharge planning;

(6) participating in multidisciplinary treatment team meetings or consulting with clinical addiction professionals;

(7) counseling, through individual and group counseling, as well as group and family education, to treat addiction and substance abuse in a variety of settings, including:

(A) mental and physical health facilities; and

(B) child and family service agencies; and

(8) maintaining the highest level of professionalism and ethical responsibility.

(b) The term does not include the use of psychotherapy or diagnosis (as defined in IC 25-22.5-1-1.1(c) or as defined as the practice of psychology under IC 25-33-1-2(a)).

(c) For an individual who obtains a license as an addiction counselor by:

(1) holding a valid:

(A) level II or higher certification or the equivalent certification from a credentialing agency approved by the division of mental health and addiction; or

(B) certification as an addiction counselor or addiction therapist from a credentialing agency that is approved by the board;

(2) having at least ten (10) years of experience in addiction counseling;

(3) furnishing satisfactory evidence to the board that the individual does not have:

(A) a conviction for a crime of violence (as defined in IC 35-50-1-2(a)(1) through IC 35-50-1-2(a)(13); or

(B) a conviction in the previous two (2) years that has a direct bearing on the individual's ability to practice competently; and

(4) filing an initial application with the board before July 1,

2010;

the term includes the provision of addiction counseling services in private practice in consultation with other licensed professionals as required by the client's individualized treatment plan.

SECTION 21. IC 25-23.6-1-5.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5.9. (a) "Practice of clinical addiction counseling" means the providing of professional services that are delivered by a licensed clinical addiction counselor, that are designed to change substance use or addictive behavior, and that involve specialized knowledge and skill related to addictions and addictive behaviors, including understanding addiction, knowledge of the treatment process, application to practice, and professional readiness. The term includes:**

(1) gathering information through structured interview screens using routine protocols and standardized clinical instruments;

(2) using appraisal instruments as an aid in individualized treatment planning that the licensed clinical addiction counselor is qualified to employ because of:

(A) education;

(B) training; and

(C) experience;

(3) providing psychosocial evaluations using accepted classifications, including classifications from the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, as amended and supplemented, to the extent of the licensed clinical addiction counselor's education, training, experience, and scope of practice as established by this article;

(4) reviewing assessment findings to:

(A) develop a plan for individualized addiction treatment;

(B) coordinate services; and

(C) provide subsequent assessment updates;

(5) using counseling and psychotherapeutic techniques through individual, group, and family counseling to treat addiction and other substance related problems and conditions in a variety of settings, including:

(A) mental and physical health facilities;

(B) child and family service agencies; and

(C) private practice;

(6) providing client and family education related to addictions;

(7) providing information on social networks and community systems for referrals and discharge planning;

(8) participating in multidisciplinary treatment team meetings or consulting with clinical addiction professionals; and

(9) maintaining the highest level of professionalism and ethical responsibility.

(b) The term does not include diagnosis (as defined in IC 25-22.5-1-1.1(c)).

SECTION 22. IC 25-23.6-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. The ~~social worker, marriage and family therapist, and mental health counselor~~ **behavioral health and human services licensing** board is established.

SECTION 23. IC 25-23.6-2-2, AS AMENDED BY P.L.2-2007, SECTION 329, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The board consists of ~~nine (9)~~ **eleven (11)** members appointed by the governor for terms of three (3) years. The board must include the following:

(1) Two (2) marriage and family therapists who:

(A) have at least a master's degree in marriage and family therapy or a related field from an eligible postsecondary educational institution;

(B) are licensed under this chapter; and

(C) have five (5) years of experience in marriage and family therapy.

(2) One (1) social worker who:

(A) has at least a master's degree in social work from an eligible postsecondary educational institution accredited by the Council on Social Work Education;

(B) is licensed under this article; and

(C) has at least five (5) years of experience as a social worker.

(3) One (1) social services director of a hospital with a social work degree who has at least three (3) years of experience in a hospital setting.

(4) Two (2) mental health counselors who:

(A) have at least a master's degree in mental health counseling;

(B) are licensed under this article; and

(C) have at least five (5) years experience as a mental health counselor.

(5) Two (2) consumers who have never been credentialed under this article.

(6) One (1) physician licensed under IC 25-22.5 who has training in psychiatric medicine.

(7) Two (2) licensed clinical addiction counselors who:

(A) are licensed under IC 25-23.6-10.5; and

(B) have at least five (5) years experience in clinical addiction counseling.

(b) Not more than ~~five (5)~~ **six (6)** members of the board may be from the same political party.

SECTION 24. IC 25-23.6-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) The board shall adopt rules under IC 4-22-2 establishing standards for the following:

(1) The competent practice of marriage and family therapy, social work, clinical social work, ~~and~~ mental health counseling, **addiction counseling, and clinical addiction counseling.**

(2) The renewal of licenses issued under this article.

(3) Standards for the administration of this article.

(4) Continuing education requirements for an individual seeking renewal of licensure as a social worker, clinical social worker, or marriage and family therapist.

(5) The retention of patient records and reports by a counselor.

(6) The approval of continuing education providers, programs, courses, fees, and proof of course completion.

(b) The board shall establish fees under IC 25-1-8-2.

(c) The board shall do the following:

(1) Consider the qualifications of individuals who apply for a license under this article.

(2) Provide for examinations required under this article.

(3) Subject to IC 25-1-8-6, renew licenses under this article.

(4) Conduct proceedings under IC 25-1-9.

SECTION 25. IC 25-23.6-2-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 9.5. (a) The addiction counselor**

section of the board is established. The section consists of the following:

(1) Two (2) licensed clinical addiction counselor members of the board.

(2) Two (2) consumer members of the board.

(3) One (1) physician member of the board.

(b) Three (3) members of the addiction counselor section, two (2) of whom must be addiction counselors, constitute a quorum.

SECTION 26. IC 25-23.6-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. The social worker, marriage and family therapist, ~~and~~ mental health counselor, **and addiction counselor** sections of the board shall do the following:

(1) Approve continuing education courses authorized under this article.

(2) Propose rules to the board concerning the practice of the profession regulated by each section.

(3) Other duties as directed by the board.

SECTION 27. IC 25-23.6-4-2, AS AMENDED BY P.L.2-2007, SECTION 331, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) This article may not be construed to limit the social work or clinical social work services performed by a person who does not use a title specified in this article and who is one (1) of the following:

(1) A licensed or certified health care professional acting within the scope of the person's license or certificate.

(2) A student, an intern, or a trainee pursuing a course of study in medicine, psychology, or a course of study to gain licensure under this article in an accredited eligible postsecondary educational institution or training institution accredited by the Council on Social Work Education, or a graduate accumulating experience required for licensure if:

(A) the services are performed under qualified supervision and constitute a part of the person's supervised course of study or other level of supervision; and

(B) the student or graduate uses a title that contains the term "intern", "student", or "trainee".

(3) Not a resident of Indiana if the person performed social work in Indiana for not more than five (5) days in any one (1) month or

more than fifteen (15) days in any one (1) calendar year and the person is authorized to perform such services under the laws of the state or country in which the person resides.

(4) A rabbi, priest, Christian Science practitioner, minister, or other member of the clergy.

(5) An employee or a volunteer for an organization performing charitable, religious, or educational functions, providing pastoral counseling, or other assistance.

(6) A person who provides school counseling. ~~or a person who is certified by a state or national organization that is recognized by the Indiana division of mental health and addiction and who provides counseling in the areas of alcohol or drug abuse addictions.~~

(7) A governmental employee who remains in the same job classification or job family of that job classification.

(b) Nothing in this section prohibits a person referred to in subsection (a) from qualifying for licensure under this article.

SECTION 28. IC 25-23.6-10.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 10.1. Addiction Counselors and Therapists; Unlawful Practices; Penalty

Sec. 1. (a) Beginning July 1, 2010, an individual may not:

(1) profess to be a licensed addiction counselor or licensed clinical addiction counselor;

(2) use the title:

(A) "licensed addiction counselor";

(B) "licensed clinical addiction counselor";

(C) "licensed clinical addiction therapist";

(D) "licensed addiction therapist";

(E) "addiction counselor";

(F) "addiction therapist";

(G) "clinical addiction counselor";

(H) "clinical addiction therapist";

(I) "substance abuse counselor";

(J) "substance abuse therapist";

(K) "clinical substance abuse counselor"; or

(L) "clinical substance abuse therapist";

(3) use any other title containing the words:

(A) "licensed addiction counselor";

(B) "licensed addiction therapist";

(C) "licensed clinical addiction counselor";

(D) "licensed clinical addiction therapist";

(E) "addiction counselor";

(F) "addiction therapist";

(G) "clinical addiction counselor";

(H) "clinical addiction therapist";

(I) "substance abuse counselor";

(J) "substance abuse therapist";

(K) "clinical substance abuse counselor"; or

(L) "clinical substance abuse therapist";

(4) use any other:

(A) words;

(B) letters;

(C) abbreviations; or

(D) insignia;

indicating or implying that the individual is a licensed addiction counselor or licensed clinical addiction counselor; or

(5) practice as an addiction counselor or clinical addiction counselor for compensation;

unless the individual is licensed under this article.

(b) Subsection (a)(5) does not apply to a person who is described in section 2(a) or 3 of this chapter.

(c) An individual who is exempt from licensing under section 2(a)(4) of this chapter may use the title "pastoral addiction counselor" and may engage in the practice of addiction counseling for compensation.

Sec. 2. (a) This article may not be construed to limit addiction counselor or clinical addiction counselor services performed by a person who does not use a title specified in this article and who is any of the following:

(1) A licensed or certified health care professional acting within the scope of the person's license or certificate, including a:

(A) social worker licensed under this article;

(B) clinical social worker licensed under this article;

(C) marriage and family therapist licensed under this article;

(D) mental health counselor licensed under this article;

(E) psychologist licensed under IC 25-33;

(F) physician licensed under IC 25-22.5; or

(G) nurse licensed under IC 25-23;

and who has training and experience in addiction counseling.

(2) A student, an intern, or a trainee pursuing a course of study in medicine or psychology or a course of study to gain licensure under this article:

(A) in an accredited eligible postsecondary educational institution or training institution accredited by the Council for Accreditation of Counseling and Related Educational Programs;

(B) through a National Association of Alcohol and Drug Abuse Counselors approved academic education provider; or

(C) by a graduate accumulating experience required for licensure if:

(i) the services are performed under qualified supervision and constitute a part of the person's supervised course of study or other level of supervision; and

(ii) the student or graduate uses a title that contains the term "intern", "student", or "trainee".

(3) A nonresident of Indiana if the person performs addiction counseling or therapy in Indiana for not more than:

(A) five (5) days in any one (1) month; or

(B) fifteen (15) days in any one (1) calendar year;

and the person is authorized to perform such services under the laws of the state or country in which the person resides.

(4) A rabbi, priest, Christian Science practitioner, minister, or other member of the clergy.

(5) An employee or a volunteer for an organization performing charitable, religious, or educational functions or providing pastoral counseling or other assistance.

(6) A person who provides school counseling.

(7) A governmental employee who remains in the same job classification or job family of that job classification.

(8) An employee of a court alcohol and drug program, a drug court, or a reentry court certified by the Indiana Judicial Center when performing assigned job duties.

(9) A probation officer when performing assigned job duties.

(b) This section does not prohibit a person referred to in subsection (a) from qualifying for licensure under this article.

Sec. 3. A person who is not licensed under this article may provide or ensure the provision of addiction counseling services in:

(1) a health facility licensed under IC 16-28;

(2) a hospital licensed under IC 16-21 or IC 12-25;

(3) a substance abuse facility certified by the division of mental health and addiction as an addiction services regular agency;

(4) a home health agency licensed under IC 16-27-1;

(5) a community health center;

(6) an institution operated by the department of correction; or

(7) a community mental health center under IC 12-21-2-3;

if the person has met all of the requirements established by a credentialing agency approved by the department of mental health and addiction, and the person does not profess to be a licensed addiction therapist or a licensed addiction counselor under this article.

Sec. 4. An individual who is licensed as an addiction counselor or clinical addiction counselor must include the words "licensed addiction counselor" or "licensed clinical addiction counselor" or the letters "LAC" or "LCAC" on all promotional materials, including:

(1) business cards;

(2) brochures;

(3) stationery:

(4) advertisements; and

(5) signs;

that name the individual.

Sec. 5. A licensed addiction counselor or licensed clinical addiction counselor licensed under this article may provide factual testimony but may not provide expert testimony.

Sec. 6. An individual who knowingly and intentionally violates this chapter after July 1, 2010, commits a Class A misdemeanor.

SECTION 29. IC 25-23.6-10.5 IS ADDED TO THE INDIANA

CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 10.5. Addiction Counselors; Clinical Addiction Counselors; Licensure; Examinations

Sec. 1. An individual who applies for a license as an addiction counselor must meet the following requirements:

(1) Furnish satisfactory evidence to the board that the individual has:

(A) received a baccalaureate or higher degree in addiction counseling or in a related area as determined by the board from:

(i) an eligible postsecondary educational institution that meets the requirements under section 3(1) of this chapter; or

(ii) a foreign school that has a program of study that meets the requirements under section 3(2) or 3(3) of this chapter;

(B) completed the educational requirements under section 5 of this chapter; and

(C) completed the experience requirements under section 7 of this chapter.

(2) Furnish satisfactory evidence to the board that the individual does not have a:

(A) conviction for a crime of violence (as defined in IC 35-50-1-2(a)(1) through IC 35-50-1-2(a)(13); or

(B) conviction in the previous two (2) years that has a direct bearing on the individual's ability to practice competently.

(3) Furnish satisfactory evidence to the board that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice as an addiction counselor without endangering the public.

(4) Pass an examination established by the board.

(5) Pay the fee established by the board.

Sec. 2. An individual who applies for a license as a clinical addiction counselor must meet the following requirements:

(1) Furnish satisfactory evidence to the board that the

individual has:

(A) received a master's or doctor's degree in addiction counseling, addiction therapy, or a related area as determined by the board from an eligible postsecondary educational institution that meets the requirements under section 4(a)(1) of this chapter or from a foreign school that has a program of study that meets the requirements under section 4(a)(2) or 4(a)(3) of this chapter;

(B) completed the educational requirements under section 6 of this chapter; and

(C) completed the experience requirements under section 8 of this chapter.

(2) Furnish satisfactory evidence to the board that the individual does not have a:

(A) conviction for a crime of violence (as defined in IC 35-50-1-2(a)(1) through IC 35-50-1-2(a)(13); or

(B) conviction in the previous two (2) years that has a direct bearing on the individual's ability to practice competently.

(3) Furnish satisfactory evidence to the board that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice as a clinical addiction counselor without endangering the public.

(4) Pass an examination established by the board.

(5) Pay the fee established by the board.

Sec. 3. An applicant under section 1 of this chapter must have a baccalaureate or higher degree in addiction counseling or in a related area as determined by the board from an eligible postsecondary educational institution that meets the following requirements:

(1) If the institution is located in the United States or a territory of the United States, at the time of the applicant's graduation the institution was accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation.

(2) If the institution is located in Canada, at the time of the applicant's graduation the institution was a member in good

standing with the Association of Universities and Colleges of Canada.

(3) If the institution is located in a foreign country other than Canada, at the time of the applicant's graduation the institution:

(A) was recognized by the government of the country where the school was located as a program to train in the practice of addiction counseling; and

(B) maintained a standard of training substantially equivalent to the standards of institutions accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation.

Sec. 4. (a) An applicant under section 2 of this chapter must have a master's or doctor's degree in addiction counseling, addiction therapy, or a related area as determined by the board from an eligible postsecondary educational institution that meets the following requirements:

(1) If the institution is located in the United States or a territory of the United States, at the time of the applicant's graduation the institution was accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation.

(2) If the institution is located in Canada, at the time of the applicant's graduation the institution was a member in good standing with the Association of Universities and Colleges of Canada.

(3) If the institution is located in a foreign country other than Canada, at the time of the applicant's graduation the institution:

(A) was recognized by the government of the country where the school was located as a program to train in the practice of addiction counseling; and

(B) maintained a standard of training substantially equivalent to the standards of institutions accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation.

(b) An applicant under section 2 of this chapter who has a master's or doctor's degree from a program that did not emphasize addiction counseling may complete the course work requirement

from an institution that is:

(1) accredited by the Council for Accreditation of Counseling and Related Educational Programs;

(2) recognized by the National Association of Alcohol and Drug Abuse Counselors;

(3) recognized by the International Certification and Reciprocity Consortium;

(4) accredited by the Commission on Accreditation of Marriage and Family Therapy Education;

(5) accredited by the American Psychological Association's Commission on Accreditation; or

(6) accredited by the Council on Social Work Education.

Sec. 5. (a) An applicant under section 1 of this chapter must complete the following educational requirements:

(1) Forty (40) semester hours or sixty (60) quarter hours of course work from an eligible postsecondary educational institution that includes the following content areas:

(A) Addictions theory.

(B) Psychoactive drugs.

(C) Addictions counseling skills.

(D) Theories of personality.

(E) Developmental psychology.

(F) Abnormal psychology.

(G) Treatment planning.

(H) Cultural competency.

(I) Ethics and professional development.

(J) Family education.

(K) Areas of content as approved by the board.

(2) At least one (1) supervised practicum, internship, or field experience in an addiction counseling setting that requires the applicant to provide at least three hundred fifty (350) hours of addiction counseling services.

(b) The content areas under subsection (a)(1) may be combined into any one (1) college level course if the applicant can prove that the course work was devoted to each content area listed in subsection (a)(1).

Sec. 6. (a) An applicant under section 2 of this chapter must complete the following educational requirements:

(1) Twenty-seven (27) semester hours or forty-one (41)

quarter hours of graduate course work that must include graduate level course credits with material in at least the following content areas:

(A) Addiction counseling theories and techniques.

(B) Clinical problems.

(C) Psychopharmacology.

(D) Psychopathology.

(E) Clinical appraisal and assessment.

(F) Theory and practice of group addiction counseling.

(G) Counseling addicted family systems.

(H) Multicultural counseling.

(I) Research methods in addictions.

(J) Areas of content as approved by the board.

(2) At least one (1) graduate level course of two (2) semester hours or three (3) quarter hours in the following areas:

(A) Legal, ethical, and professional standards issues in the practice of addiction counseling and therapy or an equivalent course approved by the board.

(B) Appraisal and assessment for individual or interpersonal disorder or dysfunction.

(3) At least one (1) supervised clinical practicum, internship, or field experience in an addiction counseling setting that requires the applicant to provide seven hundred (700) hours of clinical addiction counseling services and that must include the following:

(A) Two hundred eighty (280) face to face client contact hours of addiction counseling services under the supervision of a licensed clinical addiction counselor who has at least five (5) years of experience or a qualified supervisor approved by the board.

(B) One hundred five (105) hours of supervision from a licensed clinical addiction counselor who has at least five (5) years experience as a qualified supervisor approved by the board.

(4) Any qualifications established by the board under subsection (c).

(b) The content areas under subsection (a)(1) may be combined into any one (1) graduate level course if the applicant can prove that the course work was devoted to each content area.

(c) The board shall adopt rules to establish any additional educational or clinical qualifications as specified by the Council for Accreditation of Counseling and Related Educational Programs or a successor organization.

Sec. 7. (a) An applicant under section 1 of this chapter must have at least two (2) years of addiction counseling experience that must include at least one hundred fifty (150) hours under supervision, one hundred (100) hours of which must be under individual supervision and fifty (50) hours of which must be under group supervision. The supervision required must be provided by a qualified supervisor, as determined by the board.

(b) A doctoral internship may be applied toward the supervised work experience requirement.

(c) Except as provided in subsection (d), the experience requirement may be met by work performed at or away from the premises of the qualified supervisor.

(d) The work requirement may not be performed away from the qualified supervisor's premises if:

(1) the work is the independent private practice of addiction counseling; and

(2) the work is not performed at a place that has the supervision of a qualified supervisor.

Sec. 8. (a) An applicant under section 2 of this chapter must have at least two (2) years of clinical addiction counseling experience that must include at least two hundred (200) hours under supervision, one hundred (100) hours of which must be under individual supervision and one hundred (100) hours of which must be under group supervision. The supervision required must be provided by a qualified supervisor, as determined by the board.

(b) A doctoral internship may be applied toward the supervised work experience requirement.

(c) Except as provided in subsection (d), the experience requirement may be met by work performed at or away from the premises of the qualified supervisor.

(d) The work requirement may not be performed away from the qualified supervisor's premises if:

(1) the work is the independent private practice of addiction therapy; and

(2) the work is not performed at a place that has the

supervision of a qualified supervisor.

Sec. 9. (a) An individual who satisfies the requirements of sections 4, 6, and 8 of this chapter may take the licensed clinical addiction counselor examination established by the board.

(b) An individual who satisfies the requirements of sections 3, 5, and 7 of this chapter may take the licensed addiction counselor examination established by the board.

Sec. 10. (a) The board may issue a temporary permit to allow an individual to profess to be a licensed addiction counselor or licensed clinical addiction counselor if the individual pays a fee established by the board and the individual:

(1) has a valid license or certificate to practice from another state and the individual has applied for a license from the board;

(2) is practicing in a state that does not license addiction counselors or therapists but is certified by a national association approved by the board and the individual has applied for a license from the board; or

(3) has been approved by the board to take the examination and has graduated from a school or program approved by the board and the individual has completed any experience requirement.

(b) A temporary permit issued under this section expires the earliest of:

(1) the date the individual holding the permit is issued a license under this article;

(2) the date the board disapproves the individual's license application; or

(3) one hundred eighty (180) days after the initial permit is issued.

(c) The board may renew a temporary permit if the individual holding the permit is scheduled to take the next examination and the individual:

(1) does not take the examination; and

(2) shows good cause for not taking the examination.

(d) A permit renewed under subsection (c) expires on the date the individual holding the permit receives the results from the next examination given after the permit was issued.

Sec. 11. (a) An individual who applies for an addiction counselor

license under this article may be exempted by the board from the examination requirement under section 1 of this chapter if the individual:

(1) is licensed or certified as an addiction counselor in another state and has passed a licensing examination substantially equivalent to the licensing examination required under this article;

(2) has engaged in the practice of addiction counseling for at least three (3) of the previous five (5) years;

(3) has passed an examination pertaining to the addiction counseling laws and rules of Indiana; and

(4) has not committed any act and is not under investigation for any act that constitutes a violation of this article;

and is otherwise qualified under sections 1, 3, 5, and 7 of this chapter.

(b) An individual who applies for a clinical addiction counselor license under this article may be exempted by the board from the examination requirement under section 2 of this chapter if the individual:

(1) is licensed or certified as a clinical addiction counselor in another state and has passed a licensing examination substantially equivalent to the licensing examination required under this article;

(2) has passed an examination pertaining to the addiction therapy laws and rules of Indiana; and

(3) has not committed any act and is not under investigation for any act that constitutes a violation of this article;

and is otherwise qualified under sections 2, 4, 6, and 8 of this chapter.

Sec. 12. (a) A license issued by the board under this chapter is valid for the remainder of the renewal period in effect on the date the license was issued.

(b) An individual may renew a license by paying a renewal fee on or before the expiration date of the license.

(c) If an individual fails to pay a renewal fee on or before the expiration date of a license, the license becomes invalid.

Sec. 13. (a) The board may reinstate an invalid license up to three (3) years after the expiration date of the license if the individual holding the invalid license meets the requirements under

IC 25-1-8-6.

(b) If more than three (3) years have elapsed since the date a license expired, the individual holding the license may renew the license by satisfying the requirements for renewal established by the board and meeting the requirements of IC 25-1-8-6.

Sec. 14. (a) An individual who is licensed under this article shall notify the board in writing when the individual retires from practice.

(b) Upon receipt of the notice, the board shall:

(1) record the fact the individual is retired; and

(2) release the individual from further payment of renewal fees.

Sec. 15. (a) The board shall exempt an individual from the requirements set forth in this article and grant the individual a clinical addiction counselor license if the individual meets the following requirements:

(1) Holds, before July 1, 2011, a master's or doctor's degree in a human services or behavioral science discipline from an eligible postsecondary educational institution.

(2) Holds a valid:

(A) level II or higher certification or the equivalent certification from a credentialing agency approved by the division of mental health and addiction; or

(B) certification as an addiction counselor or addiction therapist from a credentialing agency that is approved by the board.

(3) Furnishes satisfactory evidence to the board that the individual does not have a:

(A) conviction for a crime of violence (as defined in IC 35-50-1-2(a)(1) through IC 35-50-1-2(a)(13)); or

(B) conviction in the previous two (2) years that has a direct bearing on the individual's ability to practice competently.

(4) Files an initial application to the board before July 1, 2011.

(b) The board shall exempt an individual from the requirements set forth in this article and grant the individual a clinical addiction counselor license if the individual meets the following requirements:

(1) Holds, before July 1, 2011, a master's or doctor's degree in

a human services or behavioral science discipline from an eligible postsecondary educational institution.

(2) Has at least five (5) years of clinical addiction counseling experience.

(3) Furnishes satisfactory evidence to the board that the individual does not have a:

(A) conviction for a crime of violence (as defined in IC 35-50-1-2(a)(1) through IC 35-50-1-2(a)(13)); or

(B) conviction in the previous two (2) years that has a direct bearing on the individual's ability to practice competently.

(4) Holds a license in good standing as a:

(A) clinical social worker under IC 25-23.6-5-2;

(B) marriage and family therapist under IC 25-23.6-8-1;

(C) mental health counselor under IC 25-23.6-8.5-1; or

(D) psychologist under IC 25-33-1-5.1.

(5) Files an initial application with the board before July 1, 2011.

(c) The board shall exempt an individual from the requirements set forth in this article and grant the individual an addiction counselor license if the individual meets the following requirements:

(1) Holds a valid:

(A) level II or higher certification or the equivalent certification from a credentialing agency approved by the division of mental health and addiction; or

(B) certification as an addiction counselor or addiction therapist from a credentialing agency that is approved by the board.

(2) Has at least ten (10) years of addiction counseling experience.

(3) Furnishes satisfactory evidence to the board that the individual does not have a:

(A) conviction for a crime of violence (as defined in IC 35-50-1-2(a)(1) through IC 35-50-1-2(a)(13)); or

(B) conviction in the previous two (2) years that has a direct bearing on the individual's ability to practice competently.

(4) Files an initial application with the board before July 1,

2011.

(d) The board shall exempt an individual from the requirements set forth in this article and grant the individual an addiction counselor license if the individual meets the following requirements:

(1) Has at least three (3) years of addiction counseling experience.

(2) Furnishes satisfactory evidence to the board that the individual does not have a:

(A) conviction for a crime of violence (as defined in IC 35-50-1-2(a)(1) through IC 35-50-1-2(a)(13)); or

(B) conviction in the previous two (2) years that has a direct bearing on the individual's ability to practice competently.

(3) Holds a license in good standing as a:

(A) social worker under IC 25-23.6-5-1;

(B) clinical social worker under IC 25-23.6-5-2;

(C) marriage and family therapist under IC 25-23.6-8-1;

(D) mental health counselor under IC 25-23.6-8.5-1; or

(E) psychologist under IC 25-33-1-5.1.

(4) Files an initial application with the board before July 1, 2011.

(e) The board may exempt an individual from the requirements set forth in this article and grant the individual a clinical addiction counselor license if the individual meets the following requirements:

(1) Holds, before July 1, 2011, a bachelor's degree in a human services or behavioral science discipline from an eligible postsecondary educational institution.

(2) Holds the following:

(A) A Level IV certification from the Indiana Counselors Association on Alcohol and Drug Abuse.

(B) Certification at the Internationally Certified Advanced Alcohol and Other Drug Abuse Counselor level from the International Certification and Reciprocity Consortium.

(C) The level of certification from the National Association of Alcohol and Drug Abuse Counselors that the board determines is similar to the Level IV certification from the Indiana Counselors Association on Alcohol and Drug

Abuse.

(3) Furnishes satisfactory evidence to the board that the individual does not have a:

(A) conviction for a crime of violence (as defined in IC 35-50-1-2(a)(1) through IC 35-50-1-2(a)(13)); or

(B) conviction in the previous two (2) years that has a direct bearing on the individual's ability to practice competently.

(4) Has at least twenty (20) years of clinical addiction counseling experience.

(5) Files an initial application to the board before July 1, 2011.

(f) This section expires July 1, 2011.

SECTION 30. IC 31-32-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. The privileged communication between:

(1) a husband and wife;

(2) a health care provider and the health care provider's patient;

(3) a:

(A) ~~certified~~ **licensed** social worker;

(B) ~~certified~~ **licensed** clinical social worker; ~~or~~

(C) ~~certified~~ **licensed** marriage and family therapist;

(D) licensed mental health counselor;

(E) licensed addiction counselor; or

(F) licensed clinical addiction counselor;

and a client of any of the professionals described in clauses (A) through ~~(C);~~ **(F);**

(4) a school counselor and a student; or

(5) a school psychologist and a student;

is not a ground for excluding evidence in any judicial proceeding resulting from a report of a child who may be a victim of child abuse or neglect or relating to the subject matter of the report or failing to report as required by IC 31-33.

SECTION 31. [EFFECTIVE JULY 1, 2009] **(a) The definitions in IC 25-23.6-1, as amended by this act, apply throughout this SECTION.**

(b) Notwithstanding IC 25-23.6-2-2(a)(7), as amended by this act, before July 1, 2010, a clinical addiction counselor member of the board is not required to be licensed under IC 25-23.6.

(c) Notwithstanding IC 25-23.6-2-2(a), as amended by this act, the two (2) members initially appointed to the board under IC 25-23.6-2-2(a)(7), as amended by this act, shall be appointed to terms beginning July 1, 2009, as follows:

(1) One (1) licensed clinical addiction counselor shall be appointed to a term of two (2) years by the governor from among individuals recommended by the president pro tempore of the senate.

(2) One (1) licensed clinical addiction counselor shall be appointed to a term of three (3) years by the governor from among individuals recommended by the speaker of the house of representatives.

(d) Notwithstanding IC 25-23.6-2-2(b), as amended by this act, a member of the board may continue to serve until the member's term expires.

(e) This SECTION expires July 2, 2013.

P.L.123-2009
[S.136. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-22-15-20.5, AS AMENDED BY P.L.4-2005, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20.5. (a) This section applies only to a contract awarded by a state agency.

(b) As used in this section, "Indiana business" refers to any of the following:

(1) A business whose principal place of business is located in Indiana.

(2) A business that pays a majority of its payroll (in dollar volume) to residents of Indiana.

(3) A business that employs Indiana residents as a majority of its employees.

(4) A business that makes significant capital investments in Indiana.

(5) A business that has a substantial positive economic impact on Indiana as defined by criteria developed under subsection (c).

(c) The Indiana department of administration shall consult with the Indiana economic development corporation in developing criteria for determining whether a business is an Indiana business under subsection (b). The Indiana department of administration may consult with the Indiana economic development corporation to determine whether a particular business meets the requirements of this section and the criteria developed under this subsection.

(d) There are the following price preferences for supplies purchased from an Indiana business:

(1) Five percent (5%) for a purchase expected by the state agency to be less than five hundred thousand dollars ($500,000).

(2) Three percent (3%) for a purchase expected by the state agency to be at least five hundred thousand dollars ($500,000) but less than one million dollars ($1,000,000).

(3) One percent (1%) for a purchase expected by the state agency to be at least one million dollars ($1,000,000).

(e) Notwithstanding subsection (d), a state agency shall award a contract to the lowest responsive and responsible offeror, regardless of the preference provided in this section, if:

(1) the offeror is an Indiana business; or

(2) the offeror is a business from a state bordering Indiana and the business's home state does not provide a preference to the home state's businesses more favorable than is provided by Indiana law to Indiana businesses.

(f) A business that wants to claim a preference provided under this section must do all of the following:

(1) State in the business's bid that the business claims the preference provided by this section.

(2) Provide the following information to the department:

(A) The location of the business's principal place of business.

If the business claims the preference as an Indiana business described in subsection (b)(1), a statement explaining the reasons the business considers the location named as the business's principal place of business.

(B) The amount of the business's total payroll and the amount of the business's payroll paid to Indiana residents.

(C) The number of the business's employees and the number of the business's employees who are Indiana residents.

(D) If the business claims the preference as an Indiana business described in subsection (b)(4), a description of the capital investments made in Indiana and a statement of the amount of those capital investments.

(E) If the business claims the preference as an Indiana business described in subsection (b)(5), a description of the substantial positive economic impact the business has on Indiana.

~~(g) This section expires July 1, 2009.~~

P.L.124-2009
[S.142. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 27-7-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) **Except as provided in subsection (d),** the insurer shall make available, in each automobile liability or motor vehicle liability policy of insurance which is delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state, insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person and for injury to or destruction of property to

others arising from the ownership, maintenance, or use of a motor vehicle, or in a supplement to such a policy, the following types of coverage:

(1) in limits for bodily injury or death and for injury to or destruction of property not less than those set forth in IC 9-25-4-5 under policy provisions approved by the commissioner of insurance, for the protection of persons insured under the policy who are legally entitled to recover damages from owners or operators of uninsured or underinsured motor vehicles because of bodily injury, sickness or disease, including death, and for the protection of persons insured under the policy who are legally entitled to recover damages from owners or operators of uninsured motor vehicles for injury to or destruction of property resulting therefrom; or

(2) in limits for bodily injury or death not less than those set forth in IC 9-25-4-5 under policy provisions approved by the commissioner of insurance, for the protection of persons insured under the policy provisions who are legally entitled to recover damages from owners or operators of uninsured or underinsured motor vehicles because of bodily injury, sickness or disease, including death resulting therefrom.

The uninsured and underinsured motorist coverages must be provided by insurers for either a single premium or for separate premiums, in limits at least equal to the limits of liability specified in the bodily injury liability provisions of an insured's policy, unless such coverages have been rejected in writing by the insured. However, underinsured motorist coverage must be made available in limits of not less than fifty thousand dollars ($50,000). At the insurer's option, the bodily injury liability provisions of the insured's policy may be required to be equal to the insured's underinsured motorist coverage. Insurers may not sell or provide underinsured motorist coverage in an amount less than fifty thousand dollars ($50,000). Insurers must make underinsured motorist coverage available to all existing policyholders on the date of the first renewal of existing policies that occurs on or after January 1, 1995, and on any policies newly issued or delivered on or after January 1, 1995. Uninsured motorist coverage or underinsured motorist coverage may be offered by an insurer in an amount exceeding the limits of liability specified in the bodily injury and property damage liability provisions

of the insured's policy.

(b) ~~Any~~ **A** named insured of an automobile or motor vehicle liability policy has the right, ~~on behalf of all other named insureds, and all other insureds,~~ in writing, to:

(1) reject both the uninsured motorist coverage and the underinsured motorist coverage provided for in this section; or

(2) reject either the uninsured motorist coverage alone or the underinsured motorist coverage alone, if the insurer provides the coverage not rejected separately from the coverage rejected.

A rejection of coverage under this subsection by a named insured is a rejection on behalf of all other named insureds, all other insureds, and all other persons entitled to coverage under the policy. No insured may have uninsured motorist property damage liability insurance coverage under this section unless the insured also has uninsured motorist bodily injury liability insurance coverage under this section. Following rejection of either or both uninsured motorist coverage or underinsured motorist coverage, unless later requested in writing, the insurer need not offer uninsured motorist coverage or underinsured motorist coverage in or supplemental to a renewal or replacement policy issued to the same insured by the same insurer or a subsidiary or an affiliate of the originally issuing insurer. Renewals of policies issued or delivered in this state which have undergone interim policy endorsement or amendment do not constitute newly issued or delivered policies for which the insurer is required to provide the coverages described in this section.

(c) A rejection under subsection (b) must specify:

(1) that the named insured is rejecting:

(A) the uninsured motorist coverage;

(B) the underinsured motorist coverage; or

(C) both the uninsured motorist coverage and the underinsured motorist coverage;

that would otherwise be provided under the policy; and

(2) the date on which the rejection is effective.

(d) An insurer is not required to make available the coverage described in subsection (a) in a commercial umbrella or excess liability policy, including a commercial umbrella or excess liability policy that is issued or delivered to a motor carrier (as defined in IC 8-2.1-17-10) that is in compliance with the minimum levels of

financial responsibility set forth in 49 CFR Part 387.

(e) A rejection under subsection (b) of uninsured motorist coverage or underinsured motorist coverage in an underlying commercial policy of insurance is also a rejection of uninsured motorist coverage or underinsured motorist coverage in a commercial umbrella or excess liability policy.

SECTION 2. [EFFECTIVE JULY 1, 2009] **(a) As used in this SECTION, "commercial vehicle policy" means an insurance policy that provides coverage for at least one (1) of the following:**

(1) A motor vehicle that is rated or insured as a business or commercial vehicle.

(2) A motor vehicle that is licensed by the state as a commercial vehicle.

(3) A commercial motor vehicle business, including an:

(A) individual who; or

(B) entity that;

is in the business or occupation of selling, repairing, servicing, storing, or parking motor vehicles, including a business that is a commercial garage operation, an automobile sales entity, a motor vehicle repair entity, a motor vehicle service station, or a public parking operation.

(4) A motor vehicle that is used as a public or private livery or a rental conveyance.

(5) A motor vehicle that is owned or used by a named insured that is not a natural person.

(b) Notwithstanding the effective date of the SECTION of this act amending IC 27-7-5-2, IC 27-7-5-2, as amended by this act, applies to a commercial vehicle policy that is issued or delivered after December 31, 2009.

(c) Notwithstanding the effective date of the SECTION of this act amending IC 27-7-5-2, an insurer shall make available to the policyholder of a commercial vehicle policy that is in effect before and on January 1, 2010, uninsured motorist coverage and underinsured motorist coverage as required by IC 27-7-5-2, as amended by this act, on the date of the first renewal of the commercial vehicle policy that occurs after December 31, 2009.

(d) This SECTION expires December 31, 2015.

SECTION 3. [EFFECTIVE JULY 1, 2009] **Notwithstanding the effective date of the SECTION of this act amending IC 27-7-5-2,**

IC 27-7-5-2, as amended by this act, applies to a case in which:

(1) a claim under a policy's uninsured motorist coverage or underinsured motorist coverage arises after December 31, 2009;

(2) a rejection is made under IC 27-7-5-2, as amended by this act, of the uninsured motorist coverage or underinsured motorist coverage under which the claim described in subdivision (1) is made; and

(3) the rejection described in subdivision (2) is made after December 31, 2009.

SECTION 4. IC 27-7-5-1.5 IS REPEALED [EFFECTIVE JANUARY 1, 2010].

P.L.125-2009

[S.181. Approved May 12, 2009.]

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

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

SECTION 1. IC 16-41-8-1, AS AMENDED BY P.L.135-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a) As used in this chapter, "potentially disease transmitting offense" means any of the following:**

(1) Battery by body waste (IC 35-42-2-6).

(2) An offense relating to a criminal sexual act (as defined in IC 35-41-1-19.3), if sexual intercourse or deviate sexual conduct occurred.

The term includes an attempt to commit an offense, if sexual intercourse or deviate sexual conduct occurred, and a delinquent act that would be a crime if committed by an adult.

~~(a)~~ **(b)** Except as provided in ~~subsections (d) and (c),~~ **this chapter,**

a person may not disclose or be compelled to disclose medical or epidemiological information involving a communicable disease or other disease that is a danger to health (as defined under rules adopted under IC 16-41-2-1). This information may not be released or made public upon subpoena or otherwise, except under the following circumstances:

(1) Release may be made of medical or epidemiologic information for statistical purposes if done in a manner that does not identify an individual.

(2) Release may be made of medical or epidemiologic information with the written consent of all individuals identified in the information released.

(3) Release may be made of medical or epidemiologic information to the extent necessary to enforce public health laws, laws described in IC 31-37-19-4 through IC 31-37-19-6, IC 31-37-19-9 through IC 31-37-19-10, IC 31-37-19-12 through IC 31-37-19-23, IC 35-38-1-7.1, and IC 35-42-1-7, or to protect the health or life of a named party.

(4) Release may be made of the medical information of a person in accordance with this chapter.

~~(b)~~ **(c)** Except as provided in ~~subsection (a),~~ **this chapter,** a person responsible for recording, reporting, or maintaining information required to be reported under IC 16-41-2 who recklessly, knowingly, or intentionally discloses or fails to protect medical or epidemiologic information classified as confidential under this section commits a Class A misdemeanor.

~~(c)~~ **(d)** In addition to subsection ~~(b),~~ **(c),** a public employee who violates this section is subject to discharge or other disciplinary action under the personnel rules of the agency that employs the employee.

~~(d)~~ **(e)** Release shall be made of the medical records concerning an individual to:

(1) the individual;

(2) a person authorized in writing by the individual to receive the medical records; or

(3) a coroner under IC 36-2-14-21.

~~(e)~~ **(f)** An individual may voluntarily disclose information about the individual's communicable disease.

~~(f)~~ **(g)** The provisions of this section regarding confidentiality apply

to information obtained under IC 16-41-1 through IC 16-41-16.

SECTION 2. IC 16-41-8-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4. (a) This section applies to the release of medical information that may be relevant to the prosecution or defense of a person who has been charged with a potentially disease transmitting offense.**

(b) A:

(1) prosecuting attorney may seek to obtain access to a defendant's medical information if the defendant has been charged with a potentially disease causing offense; and

(2) defendant who has been charged with a potentially disease causing offense may seek access to the medical information of another person if the medical information would be relevant to the defendant's defense;

by filing a verified petition for the release of medical information with the court.

(c) The prosecuting attorney or defendant who files a petition under subsection (b) shall serve a copy of the petition on:

(1) the person whose medical information is sought;

(2) the guardian, guardian ad litem, or court appointed special advocate appointed for a minor, parent, or custodian of a person who is incompetent, if applicable; and

(3) the provider that maintains the record, or the attorney general if the provider is a state agency;

at the time of filing in accordance with Indiana Trial Rule 4.

(d) The court shall set the matter for hearing not later than twenty (20) days after the date of filing.

(e) If, following a hearing for release of a person's medical information, the court finds probable cause to believe that the medical information may be relevant to the prosecution or defense of a person who has been charged with a potentially disease transmitting offense, the court shall order the person having custody of the person's medical information to release the medical information to the court.

(f) The court shall examine the person's medical information in camera. If, after examining the medical information in camera and considering the evidence presented at the hearing, the court finds probable cause to believe that the medical information is relevant

to the prosecution or defense of a person who has been charged with a potentially disease transmitting offense, the court may order the release of a person's medical information to the petitioner.

(g) In an order issued under subsection (f), the court shall:

(1) permit the disclosure of only those parts of the person's medical information that are essential to fulfill the objective of the order;

(2) restrict access to the medical information to those persons whose need for the information is the basis of the order; and

(3) include in its order any other appropriate measures to limit disclosure of the medical information to protect the right to privacy of the person who is the subject of the medical information.

(h) A hearing for the release of a person's medical information may be closed to the public. The transcript of the hearing, the court's order, and all documents filed in connection with the hearing are confidential. In addition, if a person's medical information is disclosed in a legal proceeding, the court shall order the record or transcript of the testimony to be preserved as a confidential court record.

(i) This section does not prohibit the application to medical information of any law concerning medical information that is not addressed by this section.

SECTION 3. IC 16-41-8-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5. (a) The following definitions apply throughout this section:**

(1) "Bodily fluid" means blood, human waste, or any other bodily fluid.

(2) "Dangerous disease" means any of the following:

(A) Chancroid.

(B) Chlamydia.

(C) Gonorrhea.

(D) Hepatitis.

(E) Human immunodeficiency virus (HIV).

(F) Lymphogranuloma venereum.

(G) Syphilis.

(H) Tuberculosis.

(3) "Offense involving the transmission of a bodily fluid"

means any offense (including a delinquent act that would be a crime if committed by an adult) in which a bodily fluid is transmitted from the defendant to the victim in connection with the commission of the offense.

(b) This subsection applies only to a defendant who has been charged with a potentially disease transmitting offense. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of a potentially disease transmitting offense to submit to a screening test to determine whether the defendant is infected with a dangerous disease. In the petition, the prosecuting attorney must set forth information demonstrating that the defendant has committed a potentially disease transmitting offense. The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this subsection. The alleged victim, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed a potentially disease transmitting offense, the court may order the defendant to submit to a screening test for one (1) or more dangerous diseases. If the defendant is charged with committing battery by body waste (IC 35-42-2-6), the court may limit testing under this subsection to a test only for human immunodeficiency virus (HIV). However, the court may order additional testing for human immunodeficiency virus (HIV) as may be medically appropriate. The court shall take actions to ensure the confidentiality of evidence introduced at the hearing.

(c) This subsection applies only to a defendant who has been charged with an offense involving the transmission of a bodily fluid. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than

eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of an offense involving the transmission of a bodily fluid to submit to a screening test to determine whether the defendant is infected with a dangerous disease. In the petition, the prosecuting attorney must set forth information demonstrating that:

(1) the defendant has committed an offense; and

(2) a bodily fluid was transmitted from the defendant to the victim in connection with the commission of the offense.

The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this subsection. The alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed an offense and that a bodily fluid was transmitted from the defendant to the alleged victim in connection with the commission of the offense, the court may order the defendant to submit to a screening test for one (1) or more dangerous diseases. If the defendant is charged with committing battery by body waste (IC 35-42-2-6), the court may limit testing under this subsection to a test only for human immunodeficiency virus (HIV). However, the court may order additional testing for human immunodeficiency virus (HIV) as may be medically appropriate. The court shall take actions to ensure the confidentiality of evidence introduced at the hearing.

(d) The testimonial privileges applying to communication between a husband and wife and between a health care provider and the health care provider's patient are not sufficient grounds for not testifying or providing other information at a hearing conducted in accordance with this section.

(e) A health care provider (as defined in IC 16-18-2-163) who discloses information that must be disclosed to comply with this

section is immune from civil and criminal liability under Indiana statutes that protect patient privacy and confidentiality.

(f) The results of a screening test conducted under this section shall be kept confidential if the defendant ordered to submit to the screening test under this section has not been convicted of the potentially disease transmitting offense or offense involving the transmission of a bodily fluid with which the defendant is charged. The results may not be made available to any person or public or private agency other than the following:

(1) The defendant and the defendant's counsel.

(2) The prosecuting attorney.

(3) The department of correction or the penal facility, juvenile detention facility, or secure private facility where the defendant is housed.

(4) The alleged victim or the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), and the alleged victim's counsel.

The results of a screening test conducted under this section may not be admitted against a defendant in a criminal proceeding or against a child in a juvenile delinquency proceeding.

(g) As soon as practicable after a screening test ordered under this section has been conducted, the alleged victim or the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), and the victim's counsel shall be notified of the results of the test.

(h) An alleged victim may disclose the results of a screening test to which a defendant is ordered to submit under this section to an individual or organization to protect the health and safety of or to seek compensation for:

(1) the alleged victim;

(2) the alleged victim's sexual partner; or

(3) the alleged victim's family.

(i) The court shall order a petition filed and any order entered under this section sealed.

(j) A person that knowingly or intentionally:

(1) receives notification or disclosure of the results of a screening test under this section; and

(2) discloses the results of the screening test in violation of this section;

commits a Class B misdemeanor.

SECTION 4. IC 34-30-2-81.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 81.3. IC 16-41-8-6 (Concerning a health care provider who discloses information in compliance with IC 16-41-8-5).**

SECTION 5. IC 35-38-1-10.5, AS AMENDED BY P.L.125-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10.5. (a) The court:

(1) shall order that a person undergo a screening test for the human immunodeficiency virus (HIV) if the person is:

(A) convicted of an offense relating to a criminal sexual act and the offense created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV); or

(B) convicted of an offense relating to controlled substances and the offense involved:

(i) the delivery by any person to another person; or

(ii) the use by any person on another person;

of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact; and

(2) may order that a person undergo a screening test for ~~the human immunodeficiency virus (HIV) if the court has made a finding of probable cause after a hearing under section 10.7 of this chapter.~~ **a dangerous disease (as defined in IC 16-41-8-5) in accordance with IC 16-41-8-5.**

(b) If the screening test required by this section indicates the presence of antibodies to HIV, the court shall order the person to undergo a confirmatory test.

(c) If the confirmatory test confirms the presence of the HIV antibodies, the court shall report the results to the state department of health and require a probation officer to conduct a presentence

investigation to:

(1) obtain the medical record of the convicted person from the state department of health under IC 16-41-8-1(a)(3); and

(2) determine whether the convicted person had received risk counseling that included information on the behavior that facilitates the transmission of HIV.

(d) A person who, in good faith:

(1) makes a report required to be made under this section; or

(2) testifies in a judicial proceeding on matters arising from the report;

is immune from both civil and criminal liability due to the offering of that report or testimony.

(e) The privileged communication between a husband and wife or between a health care provider and the health care provider's patient is not a ground for excluding information required under this section.

(f) A mental health service provider (as defined in IC 34-6-2-80) who discloses information that must be disclosed to comply with this section is immune from civil and criminal liability under Indiana statutes that protect patient privacy and confidentiality.

SECTION 6. IC 35-38-1-10.6, AS AMENDED BY P.L.125-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10.6. (a) The state department of health shall notify victims of an offense relating to a criminal sexual act or an offense relating to controlled substances if tests conducted under section 10.5 ~~or 10.7~~ of this chapter **or IC 16-41-8-5** confirm that the person tested had antibodies for the human immunodeficiency virus (HIV).

(b) The state department of health shall provide counseling to persons notified under this section.

SECTION 7. IC 35-42-4-7, AS AMENDED BY P.L.1-2005, SECTION 228, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) As used in this section, "adoptive parent" has the meaning set forth in IC 31-9-2-6.

(b) As used in this section, "adoptive grandparent" means the parent of an adoptive parent.

(c) As used in this section, "charter school" has the meaning set forth in IC 20-18-2-2.5.

~~(c)~~ **(d)** As used in this section, "child care worker" means a person

who:

(1) provides care, supervision, or instruction to a child within the scope of the person's employment in a shelter care facility; ~~or~~

(2) is employed by a:

(A) school corporation; ~~or~~

(B) charter school;

~~(B)~~ **(C)** nonpublic school; **or**

(D) special education cooperative;

attended by a child who is the victim of a crime under this chapter; **or**

(3) is:

(A) affiliated with a:

(i) school corporation;

(ii) charter school;

(iii) nonpublic school; or

(iv) special education cooperative;

attended by a child who is the victim of a crime under this chapter, regardless of how or whether the person is compensated;

(B) in a position of trust in relation to a child who attends the school or cooperative;

(C) engaged in the provision of care or supervision to a child who attends the school or cooperative; and

(D) at least four (4) years older than the child who is the victim of a crime under this chapter.

The term does not include a student who attends the school or cooperative.

~~(d)~~ **(e)** As used in this section, "custodian" means any person who resides with a child and is responsible for the child's welfare.

(f) As used in this section, "military recruiter" means a member of the armed forces of the United States (as defined in IC 20-33-10-2) or the Indiana National Guard whose primary job function, classification, or specialty is recruiting individuals to enlist with the armed forces of the United States or the Indiana National Guard.

~~(e)~~ **(g)** As used in this section, "nonpublic school" has the meaning set forth in IC 20-18-2-12.

~~(f)~~ **(h)** As used in this section, "school corporation" has the meaning

set forth in IC 20-18-2-16.

(i) As used in this section, "special education cooperative" has the meaning set forth in IC 20-35-5-1.

~~(g)~~ **(j)** As used in this section, "stepparent" means an individual who is married to a child's custodial or noncustodial parent and is not the child's adoptive parent.

~~(h)~~ **(k)** If a person who: ~~is:~~

(1) **is** at least eighteen (18) years of age; and

(2) **is:**

(A) the:

~~(A)~~ **(i)** guardian, adoptive parent, adoptive grandparent, custodian, or stepparent of; or

~~(B)~~ **(ii)** child care worker for; **or**

(B) a military recruiter who is attempting to enlist;

a child at least sixteen (16) years of age but less than eighteen (18) years of age;

engages with the child in sexual intercourse, deviate sexual conduct (as defined in IC 35-41-1-9), or any fondling or touching with the intent to arouse or satisfy the sexual desires of either the child or the adult, the person commits child seduction, a Class D felony.

SECTION 8. IC 35-50-2-14, AS AMENDED BY P.L.173-2006, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. **(a) As used in this section, "sex offense" means a felony conviction:**

(1) under IC 35-42-4-1 through IC 35-42-4-9 or under IC 35-46-1-3;

(2) for an attempt or conspiracy to commit an offense described in subdivision (1); or

(3) for an offense under the laws of another jurisdiction, including a military court, that is substantially similar to an offense described in subdivision (1).

~~(a)~~ **(b)** The state may seek to have a person sentenced as a repeat sexual offender for a sex offense ~~under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3, or for an offense committed in another jurisdiction that is substantially similar to a sex offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3,~~ **described in subsection (a)(1) or (a)(2)** by alleging, on a page separate from the rest of the charging instrument, that the person has accumulated one (1)

prior unrelated felony conviction for a sex offense ~~under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3, or for an offense committed in another jurisdiction that is substantially similar to a sex offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3.~~ **described in subsection (a).**

~~(b)~~ **(c)** After a person has been convicted and sentenced for a felony ~~committed~~ **described in subsection (a)(1) or (a)(2)** after ~~sentencing~~ **having been sentenced** for a prior unrelated ~~felony conviction under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3, or for an offense committed in another jurisdiction that is substantially similar to a sex offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3,~~ **sex offense described in subsection (a),** the person has accumulated one (1) prior unrelated felony **sex offense** conviction. However, a conviction does not count for purposes of this subsection, if:

(1) it has been set aside; or

(2) it is ~~one~~ **a conviction** for which the person has been pardoned.

~~(c)~~ **(d)** If the person was convicted of the **sex** offense in a jury trial, the jury shall reconvene to hear evidence in the enhancement hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall hear evidence in the enhancement hearing.

~~(d)~~ **(e)** A person is a repeat sexual offender if the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person had accumulated one (1) prior unrelated felony **sex offense** conviction. ~~under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3, or had accumulated one (1) prior unrelated conviction for an offense committed in another jurisdiction that is substantially similar to a sex offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3.~~

~~(e)~~ **(f)** The court may sentence a person found to be a repeat sexual offender to an additional fixed term that is the advisory sentence for the underlying offense. However, the additional sentence may not exceed ten (10) years.

SECTION 9. IC 35-38-1-10.7 IS REPEALED [EFFECTIVE JULY 1, 2009].

SECTION 10. [EFFECTIVE JULY 1, 2009] **IC 35-42-4-7 and IC 35-50-2-14, both as amended by this act, apply only to crimes committed after June 30, 2009.**

P.L.126-2009
[S.218. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 21-44-1-10, AS ADDED BY P.L.2-2007, SECTION 285, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. "Eligible institution", for purposes of:

(1) sections 2 and 11 of this chapter and IC 21-44-2, means a university, college, or other educational institution that:

(A) operates in ~~Indiana,~~ **the United States;** and

(B) offers a health education program leading to a baccalaureate, graduate, or postgraduate degree in a health related field including:

(i) medicine;

(ii) dentistry;

(iii) optometry;

(iv) nursing;

(v) physical therapy;

(vi) occupational therapy; or

(vii) other allied health fields; and

(2) IC 21-44-3, refers to a postsecondary educational institution that qualifies as an eligible institution under IC 21-44-3-1(4).

P.L.127-2009
[S.221. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning environmental law.

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

SECTION 1. IC 13-11-2-8, AS AMENDED BY P.L.154-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. **(a) "Applicant", for purposes of IC 13-11-2-191 and IC 13-18-10, refers to a person (as defined in section 158(b) of this chapter) that submits an application to the department under IC 13-18-10-2.**

~~(a)~~ **(b)** "Applicant", for purposes of IC 13-19-4, means an individual, a corporation, a limited liability company, a partnership, or a business association that:

(1) receives, for commercial purposes, solid or hazardous waste generated offsite for storage, treatment, processing, or disposal; and

(2) applies for the issuance, transfer, or major modification of a permit described in IC 13-15-1-3 other than a postclosure permit or an emergency permit.

For purposes of this subsection, an application for the issuance of a permit does not include an application for renewal of a permit.

~~(b)~~ **(c)** "Applicant", for purposes of IC 13-20-2, means an individual, a corporation, a limited liability company, a partnership, or a business association that applies for an original permit for the construction or operation of a landfill.

~~(c)~~ **(d)** For purposes of subsection ~~(a),~~ **(b),** "applicant" does not include an individual, a corporation, a limited liability company, a partnership, or a business association that:

(1) generates solid or hazardous waste; and

(2) stores, treats, processes, or disposes of the solid or hazardous waste at a site that is:

(A) owned by the individual, corporation, partnership, or business association; and

(B) limited to the storage, treatment, processing, or disposal of solid or hazardous waste generated by that individual, corporation, limited liability company, partnership, or business association.

SECTION 2. IC 13-11-2-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 40. "Confined feeding operation", for purposes of IC 13-18-10, means:

(1) any confined feeding of:

(A) at least three hundred (300) cattle;

(B) at least six hundred (600) swine or sheep; ~~and~~

(C) at least thirty thousand (30,000) fowl; **or**

(D) at least five hundred (500) horses.

(2) any animal feeding operation electing to be subject to IC 13-18-10; or

(3) any animal feeding operation that is causing a violation of:

(A) water pollution control laws;

(B) any rules of the water pollution control board; or

(C) IC 13-18-10.

A determination by the department under this subdivision is appealable under IC 4-21.5.

SECTION 3. IC 13-11-2-71, AS AMENDED BY P.L.137-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 71. "Environmental management laws" refers to the following:

(1) IC 13-12-2 and IC 13-12-3.

(2) IC 13-13.

(3) IC 13-14.

(4) IC 13-15.

(5) IC 13-16.

(6) IC 13-17-3-15, IC 13-17-8-10, IC 13-17-10, and IC 13-17-11.

(7) **IC 13-18-10,** IC 13-18-12, IC 13-18-13-31, and IC 13-18-15 through IC 13-18-20.

(8) IC 13-19-1, IC 13-19-4, and IC 13-19-5-17.

(9) IC 13-20-1, IC 13-20-2, IC 13-20-4 through IC 13-20-15, IC 13-20-17.7, IC 13-20-19 through IC 13-20-21, and IC 13-20-22-21.

(10) IC 13-22.
(11) IC 13-23.
(12) IC 13-24.
(13) IC 13-25-1 through IC 13-25-5.
(14) IC 13-27-8.
(15) IC 13-30, except IC 13-30-1.

SECTION 4. IC 13-11-2-191 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 191. **(a) "Responsible party", for purposes of IC 13-18-10, means any of the following:**

(1) An applicant.

(2) An officer, a corporation director, or a senior management official of any of the following that is an applicant:

(A) A corporation.

(B) A partnership.

(C) A limited liability company.

(D) A business association.

~~(a)~~ **(b)** "Responsible party", for purposes of IC 13-19-4, means:

(1) an officer, a corporation director, or a senior management official of a corporation, partnership, limited liability company, or business association that is an applicant; or

(2) an individual, a corporation, a limited liability company, a partnership, or a business association that owns, directly or indirectly, at least a twenty percent (20%) interest in the applicant.

~~(b)~~ **(c)** "Responsible party", for purposes of IC 13-20-6, means:

(1) an officer, a corporation director, or a senior management official of a corporation, partnership, limited liability company, or business association that is an operator; or

(2) an individual, a corporation, a limited liability company, a partnership, or a business association that owns, directly or indirectly, at least a twenty percent (20%) interest in the operator.

~~(c)~~ **(d)** "Responsible party", for purposes of IC 13-24-2, has the meaning set forth in Section 1001 of the federal Oil Pollution Act of 1990 (33 U.S.C. 2701).

~~(d)~~ **(e)** "Responsible party", for purposes of IC 13-25-6, means a person:

(1) who:

(A) owns hazardous material that is involved in a hazardous

materials emergency; or

(B) owns a container or owns or operates a vehicle that contains hazardous material that is involved in a hazardous materials emergency; and

(2) who:

(A) causes; or

(B) substantially contributes to the cause of;

the hazardous materials emergency.

SECTION 5. IC 13-18-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. ~~(a)~~ A person may not start:

(1) construction of a confined feeding operation; **or**

(2) expansion of a confined feeding operation that increases animal capacity or manure containment capacity, or both;

without obtaining the prior approval of the department.

~~(b) Obtaining an NPDES permit for a CAFO meets the requirements of subsection (a) and 327 IAC 16 to obtain an approval.~~

SECTION 6. IC 13-18-10-1.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.4. (a) Subject to subsection (b), an application for approval under section 1 of this chapter must include for each responsible party the disclosure statement referred to in subsection (c) if either or both of the following apply:**

(1) State or federal officials at any time alleged that the responsible party committed acts or omissions that constituted a material violation of state or federal environmental law.

(2) Foreign officials at any time alleged that the responsible party committed acts or omissions that:

(A) constituted a material violation of foreign environmental law; and

(B) would have constituted a material violation of state or federal environmental law if the act or omission had occurred in the United States.

(b) Subsection (a):

(1) applies only if the acts or omissions alleged under subsection (a)(1) or (a)(2) presented a substantial endangerment to human health or the environment; and

(2) does not apply to a renewal of an approval under section 1 of this chapter that does not involve construction or expansion as described in section 1 of this chapter.

(c) A responsible party referred to in subsection (a) must make reasonable efforts to provide complete and accurate information to the department in a disclosure statement that includes the following:

(1) The name and business address of the responsible party.

(2) A description of the responsible party's experience in managing the environmental aspects of the type of facility that will be managed under the permit.

(3) A description of all pending administrative, civil, or criminal enforcement actions filed in the United States against the responsible party alleging any acts or omissions that:

(A) constitute a material violation of state or federal environmental law; and

(B) present a substantial endangerment to human health or the environment.

(4) A description of all pending administrative, civil, or criminal enforcement actions filed in a foreign country against the responsible party alleging any acts or omissions that:

(A) constitute a material violation of foreign environmental law;

(B) would have constituted a material violation of state or federal environmental law if the act or omission on which the action is based had occurred in the United States; and

(C) present a substantial endangerment to human health or the environment.

(5) A description of all finally adjudicated or settled administrative, civil, or criminal enforcement actions in the United States resolved against the responsible party within the five (5) years that immediately precede the date of the application involving acts or omissions that:

(A) constitute a material violation of federal or state environmental law; and

(B) present a substantial endangerment to human health or the environment.

(6) A description of all finally adjudicated or settled

administrative, civil, or criminal enforcement actions in a foreign country resolved against the responsible party within the five (5) years that immediately precede the date of the application involving acts or omissions that:

(A) constitute a material violation of foreign environmental law;

(B) would have constituted a material violation of state or federal environmental law if the act or omission on which the action is based had occurred in the United States; and

(C) present a substantial endangerment to human health or the environment.

(7) Identification of all state, federal, or foreign environmental permits:

(A) applied for by the responsible party that were denied; or

(B) previously held by the responsible party that were revoked.

(d) A disclosure statement submitted under subsection (c):

(1) must be executed under oath or affirmation; and

(2) is subject to the penalty for perjury under IC 35-44-2-1.

(e) The department may investigate and verify the information set forth in a disclosure statement submitted under this section.

SECTION 7. IC 13-18-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Application for approval **under section 1 of this chapter** of the construction **or expansion** of a confined feeding operation must be made on a form provided by the department. An applicant must submit the completed application form to the department together with the following:

(1) Plans and specifications for the design and operation of manure treatment and control facilities.

(2) A manure management plan that outlines procedures for the following:

(A) Soil testing.

(B) Manure testing.

(3) Maps of manure application areas.

(4) Supplemental information that the department requires, including the following:

(A) General features of topography.

(B) Soil types.

(C) Drainage course.

(D) Identification of nearest streams, ditches, and lakes.

(E) Location of field tiles.

(F) Location of land application areas.

(G) Location of manure treatment facilities.

(H) Farmstead plan, including the location of water wells on the site.

(5) A fee of one hundred dollars ($100). The department shall refund the fee if the department does not make a determination in accordance with the time period established under section 2.1 of this chapter.

(b) An applicant who applies for approval **under section 1 of this chapter** to construct **or expand** a confined feeding operation on land ~~that is undeveloped or~~ for which a valid existing approval has not been issued shall make a reasonable effort to provide notice **not more than ten (10) working days after submitting an application:**

~~(1) to:~~

~~(A) each person who owns land that adjoins the land on which the confined feeding operation is to be located; or~~

~~(B) if a person who owns land that adjoins the land on which the confined feeding operation is to be located does not occupy the land, all occupants of the land; and~~

~~(2)~~ **(1)** to the county executive of the county in which the confined feeding operation is to be located **or expanded; and**

(2) to each owner and each occupant of land of which any part of the boundary is one-half (1/2) mile or less from the following:

(A) Any part of the proposed footprint of either or both of the following to be located on the land on which the confined feeding operation is to be located:

(i) A livestock or poultry production structure.

(ii) A permanent manure storage facility.

(B) Any part of the proposed footprint of either or both of the following to be located on the land on which the confined feeding operation is to be expanded:

(i) A livestock or poultry production structure.

(ii) The expanded area of a livestock or poultry

production structure.

~~not more than ten (10) working days after submitting an application.~~ The notice must be sent by mail, be in writing, include the date on which the application was submitted to the department, and include a brief description of the subject of the application. The applicant shall pay the cost of complying with this subsection. The applicant shall submit an affidavit to the department that certifies that the applicant has complied with this subsection.

(c) Plans and specifications for manure treatment or control facilities for a confined feeding operation must secure the approval of the department. The department shall approve the construction **or expansion** and **the** operation of the manure management system of the confined feeding operation if the commissioner determines that the applicant meets the requirements of:

(1) this chapter;

(2) rules adopted under this chapter;

(3) the water pollution control laws;

(4) rules adopted under the water pollution control laws; and

(5) policies and statements adopted under IC 13-14-1-11.5 relative to confined feeding operations.

SECTION 8. IC 13-18-10-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.1. (a) The department:

(1) shall make a determination on an application **made under section 2 of this chapter** not later than ninety (90) days after the date the department receives the completed application, including all required supplemental information, unless the department and the applicant agree to a longer time; and

(2) may conduct any inquiry or investigation, consistent with the department's duties under this chapter, the department considers necessary before making a determination.

(b) If the department fails to make a determination on an application not later than ninety (90) days after the date the department receives the completed application, the applicant may request and receive a refund of an approval application fee paid by the applicant, and the commissioner shall:

(1) continue to review the application;

(2) approve or deny the application as soon as practicable; and

(3) refund the applicant's application fee not later than twenty-five (25) working days after the receipt of the applicant's request.

(c) The commissioner may suspend the processing of an application and the ninety (90) day period described under this section if the department determines within thirty (30) days after the department receives the application that the application is incomplete and has mailed a notice of deficiency to the applicant that specifies the parts of the application that:

(1) do not contain adequate information for the department to process the application; or

(2) are not consistent with applicable law.

(d) The department may establish requirements in an approval regarding that part of the confined feeding operation that concerns manure handling and application to assure compliance with:

(1) this chapter;

(2) rules adopted under this chapter;

(3) the water pollution control laws;

(4) rules adopted under the water pollution control laws; and

(5) policies and statements adopted under IC 13-14-1-11.5 relative to confined feeding operations.

(e) Subject to subsection (f), the commissioner may deny an application upon making either or both of the following findings:

(1) A responsible party intentionally misrepresented or concealed any material fact in either or both of the following:

(A) An application for approval under section 1 of this chapter.

(B) A disclosure statement required by section 1.4 of this chapter.

(2) An enforcement action was resolved against a responsible party as described in either or both of the following:

(A) Section 1.4(c)(5) of this chapter.

(B) Section 1.4(c)(6) of this chapter.

(f) Before making a determination to approve or deny an application, the commissioner must consider the following factors:

(1) The nature and details of the acts attributed to the responsible party.

(2) The degree of culpability of the responsible party.

(3) The responsible party's cooperation with the state, federal,

or foreign agencies involved in the investigation of the activities involved in actions referred to in section 1.4(c)(5) and 1.4(c)(6) of this chapter.

(4) The responsible party's dissociation from any other persons or entities convicted in a criminal enforcement action referred to in section 1.4(c)(5) and 1.4(c)(6) of this chapter.

(5) Prior or subsequent self-policing or internal education programs established by the responsible party to prevent acts, omissions, or violations referred to in section 1.4(c)(5) and 1.4(c)(6) of this chapter.

(g) Except as provided in subsection (h), in taking action under subsection (e), the commissioner must make separately stated findings of fact to support the action taken. The findings of fact must:

(1) include a statement of ultimate fact; and

(2) be accompanied by a concise statement of the underlying basic facts of record to support the findings.

(h) If the commissioner denies an application under subsection (e), the commissioner is not required to explain the extent to which any of the factors set forth in subsection (f) influenced the denial.

~~(c)~~ **(i)** The department may amend an approval **under section 1 of this chapter** or revoke an approval **under section 1 of this chapter:**

(1) for failure to comply with:

(A) this chapter;

(B) rules adopted under this chapter;

(C) the water pollution control laws; or

(D) rules adopted under the water pollution control laws; and

(2) as needed to prevent discharges of manure into the environment that pollute or threaten to pollute the waters of the state.

SECTION 9. IC 13-18-10-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.2. (a) If an applicant receives an approval under this chapter and completes construction **or expansion,** not more than thirty (30) days after the date the applicant completes the construction **or expansion** the applicant shall execute and send to the department an affidavit that affirms under penalties of perjury that the confined feeding operation:

(1) was constructed **or expanded;** and

(2) will be operated;

in accordance with the requirements of the department's approval.

(b) Construction **or expansion** of an approved confined feeding operation must:

(1) begin not later than two (2) years; and

(2) be completed not later than four (4) years;

after the date the department approves the construction **or expansion** of the confined feeding operation or the date all appeals brought under IC 4-21.5 concerning the construction **or expansion** of the confined feeding operation have been completed, whichever is later.

SECTION 10. IC 13-18-10-4, AS AMENDED BY P.L.2-2007, SECTION 167, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The board may adopt rules under IC 4-22-2 and IC 13-14-9 and the department may adopt policies or statements under IC 13-14-1-11.5 that are necessary for the proper administration of this chapter. The rules, policies, or statements may concern construction, **expansion,** and operation of confined feeding operations and may include uniform standards for:

(1) construction, **expansion,** and manure containment that are appropriate for a specific site; and

(2) manure application and handling that are consistent with best management practices:

(A) designed to reduce the potential for manure to be conveyed off a site by runoff or soil erosion; and

(B) that are appropriate for a specific site.

(b) Standards adopted in a rule, policy, or statement under subsection (a) must:

(1) consider confined feeding standards that are consistent with standards found in publications from:

(A) the United States Department of Agriculture;

(B) the Natural Resources Conservation Service of the United States Department of Agriculture;

(C) the Midwest Plan Service; and

(D) postsecondary educational institution extension bulletins; and

(2) be developed through technical review by the department, postsecondary educational institution specialists, and other animal industry specialists.

SECTION 11. IC 36-8-12-2, AS AMENDED BY P.L.43-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. As used in this chapter:

"Employee" means a person in the service of another person under a written or implied contract of hire or apprenticeship.

"Employer" means:

(1) a political subdivision;

(2) an individual or the legal representative of a deceased individual;

(3) a firm;

(4) an association;

(5) a limited liability company;

(6) an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in IC 22-3-2-2.5(a); or

(7) a corporation or its receiver or trustee;

that uses the services of another person for pay.

"Essential employee" means an employee:

(1) who the employer has determined to be essential to the operation of the employer's daily enterprise; and

(2) without whom the employer is likely to suffer economic injury as a result of the absence of the essential employee.

"Nominal compensation" means annual compensation of not more than twenty thousand dollars ($20,000).

"Public servant" has the meaning set forth in IC 35-41-1-24.

"Responsible party" has the meaning set forth in ~~IC 13-11-2-191(d).~~ **IC 13-11-2-191(e).**

"Volunteer fire department" means a department or association organized for the purpose of answering fire alarms, extinguishing fires, and providing other emergency services, the majority of members of which receive no compensation or nominal compensation for their services.

"Volunteer firefighter" means a firefighter:

(1) who, as a result of a written application, has been elected or appointed to membership in a volunteer fire department;

(2) who has executed a pledge to faithfully perform, with or without nominal compensation, the work related duties assigned and orders given to the firefighter by the chief of the volunteer

fire department or an officer of the volunteer fire department, including orders or duties involving education and training as prescribed by the volunteer fire department or the state; and

(3) whose name has been entered on a roster of volunteer firefighters that is kept by the volunteer fire department and that has been approved by the proper officers of the unit.

"Volunteer member" means a member of a volunteer emergency medical services association connected with a unit as set forth in IC 16-31-5-1(6).

SECTION 12. IC 36-8-12-13, AS AMENDED BY P.L.107-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) A volunteer fire department may impose a charge on the owner of property, the owner of a vehicle, or a responsible party (as defined in ~~IC 13-11-2-191(d))~~ **IC 13-11-2-191(e))** that is involved in a hazardous material or fuel spill or chemical or hazardous material related fire (as defined in IC 13-11-2-96(b)):

(1) that is responded to by the volunteer fire department; and

(2) that members of that volunteer fire department assisted in extinguishing, containing, or cleaning up.

(b) The volunteer fire department shall bill the owner or responsible party of the vehicle for the total dollar value of the assistance that was provided, with that value determined by a method that the state fire marshal shall establish under IC 36-8-12-16. A copy of the fire incident report to the state fire marshal must accompany the bill. This billing must take place within thirty (30) days after the assistance was provided. The owner or responsible party shall remit payment directly to the governmental unit providing the service. Any money that is collected under this section may be:

(1) deposited in the township firefighting fund established in IC 36-8-13-4;

(2) used to pay principal and interest on a loan made by the department of homeland security established by IC 10-19-2-1 or a division of the department for the purchase of new or used firefighting and other emergency equipment or apparatus; or

(3) used for the purchase of equipment, buildings, and property for firefighting, fire protection, and other emergency services.

(c) The volunteer fire department may maintain a civil action to recover an unpaid charge that is imposed under subsection (a).

SECTION 13. IC 36-8-12.2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. As used in this chapter, "responsible party" has the meaning set forth in ~~IC 13-11-2-191(d).~~ **IC 13-11-2-191(e).**

SECTION 14. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies notwithstanding the effective date of:**

(1) IC 13-18-10-1.4, as added by this act; and

(2) the amendments under this act to IC 13-11-2-8, IC 13-11-2-40, IC 13-11-2-191, IC 13-18-10-1, IC 13-18-10-2, IC 13-18-10-2.1, and IC 13-18-10-2.2.

(b) The definitions in IC 13-11-2 apply throughout this SECTION.

(c) Subject to subsection (d), the Indiana Code sections referred to in subsection (a), as added or amended by this act, apply to a confined feeding operation for which a person is required to submit an application to the department for approval under IC 13-18-10-1, as amended by this act, in the same manner those sections would have applied if those sections had been in effect on the date the application was submitted to the department.

(d) Subsection (c) applies only if an application referred to in subsection (c) was not approved by the department before the effective date of this SECTION.

SECTION 15. **An emergency is declared for this act.**

P.L.128-2009
[S.223. Approved May 12, 2009.]

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

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

SECTION 1. IC 34-10-1-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3. If an offender has filed at least three (3) civil actions in which a state court has dismissed the action or a claim under IC 34-58-1-2, the offender may not file a new complaint or petition as an indigent person under this chapter, unless a court determines the offender is in immediate danger of serious bodily injury.**

SECTION 2. IC 35-44-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) As used in this section, "juvenile facility" means the following:

(1) A secure facility (as defined in IC 31-9-2-114) in which a child is detained under IC 31 or used for a child awaiting adjudication or adjudicated under IC 31 as a child in need of services or a delinquent child.

(2) A shelter care facility (as defined in IC 31-9-2-117) in which a child is detained under IC 31 or used for a child awaiting adjudication or adjudicated under IC 31 as a child in need of services or a delinquent child.

(b) Except as provided in subsection (d), a person who, without the prior authorization of the person in charge of a penal facility or juvenile facility knowingly or intentionally:

(1) delivers, or carries into the penal facility or juvenile facility with intent to deliver, an article to an inmate or child of the facility;

(2) carries, or receives with intent to carry out of the penal facility

or juvenile facility, an article from an inmate or child of the facility; ~~or~~

(3) delivers, or carries to a worksite with the intent to deliver, alcoholic beverages to an inmate or child of a jail work crew or community work crew; **or**

(4) possesses in or carries into a penal facility or a juvenile facility:

(A) a controlled substance; or

(B) a deadly weapon;

commits trafficking with an inmate, a Class A misdemeanor.

(c) If the person who committed the offense under subsection (b) is an employee of:

(1) the department of correction; or

(2) a penal facility;

and the article is a cigarette or tobacco product (as defined in IC 6-7-2-5), the court shall impose a mandatory five thousand dollar ($5,000) fine under IC 35-50-3-2, in addition to any term of imprisonment imposed under IC 35-50-3-2.

(d) The offense under subsection (b) is a Class C felony if the article is:

(1) a controlled substance; ~~or~~

(2) a deadly weapon; **or**

(3) a cellular telephone or other wireless or cellular communications device.

SECTION 3. P.L.216-2007, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 56. (a) As used in this SECTION, "committee" refers to the sentencing policy study committee established by subsection (c).

(b) The general assembly finds that a comprehensive study of sentencing laws and policies is desirable in order to:

(1) ensure that sentencing laws and policies protect the public safety;

(2) establish fairness and uniformity in sentencing laws and policies;

(3) determine whether incarceration or alternative sanctions are appropriate for various categories of criminal offenses; and

(4) maximize cost effectiveness in the administration of sentencing laws and policies.

(c) The sentencing policy study committee is established to evaluate sentencing laws and policies as they relate to:

(1) the purposes of the criminal justice and corrections systems;

(2) the availability of sentencing options; and

(3) the inmate population in department of correction facilities.

If, based on the committee's evaluation under this subsection, the committee determines changes are necessary or appropriate, the committee shall make recommendations to the general assembly for the modification of sentencing laws and policies and for the addition, deletion, or expansion of sentencing options.

(d) The committee shall do the following:

(1) Evaluate the existing classification of criminal offenses into felony and misdemeanor categories. In determining the proper category for each felony and misdemeanor, the committee shall consider, to the extent they have relevance, the following:

(A) The nature and degree of harm likely to be caused by the offense, including whether the offense involves property, irreplaceable property, a person, a number of persons, or a breach of the public trust.

(B) The deterrent effect a particular classification may have on the commission of the offense.

(C) The current incidence of the offense in Indiana.

(D) The rights of the victim.

(2) Recommend structures to be used by a sentencing court in determining the most appropriate sentence to be imposed in a criminal case, including any combination of imprisonment, probation, restitution, community service, or house arrest. The committee shall also consider the following:

(A) The nature and characteristics of the offense.

(B) The severity of the offense in relation to other offenses.

(C) The characteristics of the defendant that mitigate or aggravate the seriousness of the criminal conduct and the punishment deserved for that conduct.

(D) The number of the defendant's prior convictions.

(E) The available resources and capacity of the department of correction, local confinement facilities, and community based sanctions.

(F) The rights of the victim.

The committee shall include with each set of sentencing structures an estimate of the effect of the sentencing structures on the department of correction and local facilities with respect to both fiscal impact and inmate population.

(3) Review community corrections and home detention programs for the purpose of:

(A) standardizing procedures and establishing rules for the supervision of home detainees; and

(B) establishing procedures for the supervision of home detainees by community corrections programs of adjoining counties.

(4) Determine the long range needs of the criminal justice and corrections systems and recommend policy priorities for those systems.

(5) Identify critical problems in the criminal justice and corrections systems and recommend strategies to solve the problems.

(6) Assess the cost effectiveness of the use of state and local funds in the criminal justice and corrections systems.

(7) Recommend a comprehensive community corrections strategy based on the following:

(A) A review of existing community corrections programs.

(B) The identification of additional types of community corrections programs necessary to create an effective continuum of corrections sanctions.

(C) The identification of categories of offenders who should be eligible for sentencing to community corrections programs and the impact that changes to the existing system of community corrections programs would have on sentencing practices.

(D) The identification of necessary changes in state oversight and coordination of community corrections programs.

(E) An evaluation of mechanisms for state funding and local community participation in the operation and implementation of community corrections programs.

(F) An analysis of the rate of recidivism of clients under the supervision of existing community corrections programs.

(8) Propose plans, programs, and legislation for improving the effectiveness of the criminal justice and corrections systems.

(9) Evaluate the use of faith based organizations as an alternative to incarceration.

(10) Study issues related to sex offenders, including:

(A) lifetime parole;

(B) GPS or other electronic monitoring;

(C) a classification system for sex offenders;

(D) recidivism; and

(E) treatment.

(e) In 2009, the committee shall evaluate whether the state should pay all costs of trial in a prosecution for an offense committed at a state correctional facility.

~~(e)~~ **(f)** The committee may study other topics assigned by the legislative council or as directed by the committee chair. The committee may meet as often as necessary.

~~(f)~~ **(g)** The committee consists of twenty (20) members appointed as follows:

(1) Four (4) members of the senate, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the president pro tempore of the senate.

(2) Four (4) members of the house of representatives, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the speaker of the house of representatives.

(3) The chief justice of the supreme court or the chief justice's designee.

(4) The commissioner of the department of correction or the commissioner's designee.

(5) The director of the Indiana criminal justice institute or the director's designee.

(6) The executive director of the prosecuting attorneys council of Indiana or the executive director's designee.

(7) The executive director of the public defender council of Indiana or the executive director's designee.

(8) One (1) person with experience in administering community corrections programs, appointed by the governor.

(9) One (1) person with experience in administering probation programs, appointed by the governor.

(10) Two (2) judges who exercise juvenile jurisdiction, not more

than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.

(11) Two (2) judges who exercise criminal jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.

(12) One (1) board certified psychologist or psychiatrist who has expertise in treating sex offenders, appointed by the governor to act as a nonvoting advisor to the committee.

~~(g)~~ **(h)** The chairman of the legislative council shall appoint a legislative member of the committee to serve as the chairperson of the committee. Whenever there is a new chairman of the legislative council, the new chairman may remove the chairperson of the committee and appoint another chairperson.

~~(h)~~ **(i)** If a legislative member of the committee ceases to be a member of the chamber from which the member was appointed, the member also ceases to be a member of the committee.

~~(i)~~ **(j)** A legislative member of the committee may be removed at any time by the appointing authority who appointed the legislative member.

~~(j)~~ **(k)** If a vacancy exists on the committee, the appointing authority who appointed the former member whose position is vacant shall appoint an individual to fill the vacancy.

~~(k)~~ **(l)** The committee shall submit:

(1) an interim report of the results of its study to the legislative council before November 1, 2008; and

(2) a final report of the results of its study to the legislative council before November 1, 2010.

The interim and final reports must be in an electronic format under IC 5-14-6.

~~(l)~~ **(m)** The Indiana criminal justice institute shall provide staff support to the committee.

~~(m)~~ **(n)** Each member of the committee is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative and lay members, respectively, of interim study committees established by the legislative council.

~~(n)~~ **(o)** The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including the final report.

~~(o)~~ **(p)** Except as otherwise specifically provided by this act, the committee shall operate under the rules of the legislative council. All funds necessary to carry out this act shall be paid from appropriations to the legislative council and legislative services agency.

~~(p)~~ **(q)** This SECTION expires December 31, 2010.

SECTION 4. IC 34-58-2-1 IS REPEALED [EFFECTIVE JULY 1, 2009].

SECTION 5. **An emergency is declared for this act.**

P.L.129-2009
[S.342. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 5-2-6.1-5.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5.7. As used in this chapter, "out-of-pocket loss" means an amount equal to the amount of reimbursement payable under IC 27-8-10-3 for each of the types of services and items provided to a victim as a result of the bodily injury or death upon which an application is based.**

SECTION 2. IC 5-2-6.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. As used in this chapter, "violent crime" means the following:

(1) A crime under the Indiana Code that is a felony of any kind or a Class A misdemeanor that results in bodily injury or death to the victim but does not include any of the following:

(A) A crime under IC 9-30-5 resulting from the operation of a vehicle other than a motor vehicle.

(B) Involuntary manslaughter resulting from the operation of a motor vehicle by a person who was not intoxicated

(IC 35-42-1-4).

(C) Reckless homicide resulting from the operation of a motor vehicle by a person who was not intoxicated (IC 35-42-1-5).

(D) Criminal recklessness involving the use of a motor vehicle, unless the offense was intentional or the person using the motor vehicle was intoxicated (IC 35-42-2-2).

(E) A crime involving the operation of a motor vehicle if the driver of the motor vehicle was not charged with an offense under IC 9-30-5.

(2) A crime in another jurisdiction in which the elements of the crime are substantially similar to the elements of a crime that, if the crime results in death or bodily injury to the victim, would be a felony or a Class A misdemeanor if committed in Indiana. However, the term does not include any of the following:

(A) A crime in another jurisdiction resulting from operating a vehicle, other than a motor vehicle, while intoxicated.

(B) A crime in another jurisdiction with elements substantially similar to involuntary manslaughter resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(C) A crime in another jurisdiction with elements substantially similar to reckless homicide resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(D) A crime in another jurisdiction with elements substantially similar to criminal recklessness involving the use of a motor vehicle unless the offense was intentional or the person using the motor vehicle was intoxicated.

(E) A crime involving the operation of a motor vehicle if the driver of the motor vehicle was not charged with an offense under IC 9-30-5.

(3) A terrorist act.

SECTION 3. IC 5-2-6.1-15, AS AMENDED BY P.L.121-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) If ~~an unmarried~~ **a** victim of a violent crime dies as a result of the crime, the division may pay the reasonable expenses incurred for funeral, burial, or cremation.

(b) The division shall adopt guidelines to determine when the

payment of expenses under subsection (a) is appropriate. In adopting guidelines under this subsection, the division shall consider the availability of other sources of compensation, including township assistance and federal programs.

SECTION 4. IC 5-2-6.1-17, AS AMENDED BY P.L.121-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) The division may not award compensation under this chapter unless the violent crime was reported to a law enforcement officer not more than ~~forty-eight (48)~~ **seventy-two (72)** hours after the occurrence of the crime.

(b) The division may not award compensation under this chapter until:

(1) law enforcement and other records concerning the circumstances of the crime are available; and

(2) any criminal investigation directly related to the crime has been substantially completed.

(c) If the crime involved a motor vehicle, the division may not award compensation under this chapter until an information or indictment alleging the commission of a crime has been filed by a prosecuting attorney.

SECTION 5. IC 5-2-6.1-21, AS AMENDED BY P.L.121-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) This section applies to claims filed with the division after December 31, 2005, **and before July 1, 2009.**

(b) This subsection does not apply to reimbursement for forensic and evidence gathering services provided under section 39 of this chapter. ~~As used in this chapter, "out-of-pocket loss" means an amount equal to the amount of reimbursement payable under IC 27-8-10-3 for each of the types of services and items provided to the victim as a result of the bodily injury or death upon which the application is based.~~

(c) An award may not be made unless the claimant has incurred an out-of-pocket loss of at least one hundred dollars ($100).

(d) Subject to subsections (b) and (c), the division may order the payment of compensation under this chapter for any of the following:

(1) Reasonable expenses incurred for necessary medical, chiropractic, hospital, dental, psychological, optometric, psychiatric, and ambulance services and prescription drugs and prosthetic devices that do not exceed the claimant's out-of-pocket

loss.

(2) Loss of income the:

(A) victim would have earned had the victim not died or been injured, if the victim was employed at the time of the crime; or

(B) parent, guardian, or custodian of a victim who is less than eighteen (18) years of age incurred by taking time off work to care for the victim.

A claimant seeking reimbursement under this subdivision must provide the division with proof of employment and current wages.

(3) Reasonable emergency shelter care expenses, not to exceed the expenses for thirty (30) days, that are incurred for the claimant or a dependent of the claimant to avoid contact with a person who committed the violent crime.

(4) Reasonable expense incurred for child care, not to exceed one thousand dollars ($1,000), to replace child care the victim would have supplied had the victim not died or been injured.

(5) Loss of financial support the victim would have supplied to legal dependents had the victim not died or been injured.

(6) Documented expenses incurred for funeral, burial, or cremation of the victim that do not exceed four thousand dollars ($4,000). The division shall disburse compensation under this subdivision in accordance with guidelines adopted by the division.

(7) Other actual expenses resulting from the bodily injury or death of the victim, including costs of mental health care, not to exceed two thousand dollars ($2,000) for the immediate family of a homicide or sex crime victim, and any other actual expenses that the division determines reasonable.

(e) If a health care provider accepts payment from the division under this chapter, the health care provider may not require the victim to pay a copayment or an additional fee for the provision of services.

(f) A health care provider who seeks compensation from the division under this chapter may not simultaneously seek funding for services provided to a victim from any other source.

SECTION 6. IC 5-2-6.1-21.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 21.1. (a) This section applies to claims filed with the division after June 30, 2009.**

(b) This subsection does not apply to reimbursement for forensic and evidence gathering services provided under section 39 of this chapter.

(c) An award may not be made unless the claimant has incurred an out-of-pocket loss of at least one hundred dollars ($100).

(d) Subject to subsections (b) and (c), the division may order the payment of compensation under this chapter for any of the following:

(1) Reasonable expenses incurred within one hundred eighty (180) days after the date of the violent crime for necessary:

(A) medical, chiropractic, hospital, dental, optometric, and ambulance services;

(B) prescription drugs; and

(C) prosthetic devices;

that do not exceed the claimant's out-of-pocket loss.

(2) Loss of income:

(A) the victim would have earned had the victim not died or been injured, if the victim was employed at the time of the violent crime; or

(B) the parent, guardian, or custodian of a victim who is less than eighteen (18) years of age incurred by taking time off from work to care for the victim.

A claimant seeking reimbursement under this subdivision must provide the division with proof of employment and current wages.

(3) Reasonable emergency shelter care expenses, not to exceed the expenses for thirty (30) days, that are incurred for the claimant or a dependent of the claimant to avoid contact with a person who committed the violent crime.

(4) Reasonable expense incurred for child care, not to exceed one thousand dollars ($1,000), to replace child care the victim would have supplied had the victim not died or been injured.

(5) Loss of financial support the victim would have supplied to legal dependents had the victim not died or been injured.

(6) Documented expenses incurred for funeral, burial, or cremation of the victim that do not exceed five thousand dollars ($5,000). The division shall disburse compensation under this subdivision in accordance with guidelines adopted by the division.

(7) Outpatient mental health counseling, not to exceed three thousand dollars ($3,000), concerning mental health issues related to the violent crime.

(8) Other actual expenses related to bodily injury to or the death of the victim that the division determines are reasonable.

(e) If a health care provider accepts payment from the division under this chapter, the health care provider may not require the victim to pay a copayment or an additional fee for the provision of services.

(f) A health care provider who seeks compensation from the division under this chapter may not simultaneously seek funding for services provided to a victim from any other source.

(g) The director may extend the one hundred eighty (180) day compensation period established by subsection (d)(1) for a period not to exceed two (2) years after the date of the violent crime if:

(1) the victim or the victim's representative requests the extension; and

(2) medical records and other documentation provided by the attending medical providers indicate that an extension is appropriate.

(h) The director may extend the one hundred eighty (180) day compensation period established by subsection (d)(1) for outpatient mental health counseling, established by subsection (d)(7), if the victim:

(1) was allegedly a victim of a sex crime (under IC 35-42-4) or incest (under IC 35-46-1-3);

(2) was under eighteen (18) years of age at the time of the alleged crime; and

(3) did not reveal the crime within two (2) years after the date of the alleged crime.

SECTION 7. IC 5-2-6.1-39, AS AMENDED BY P.L.41-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 39. (a) When a hospital acting under IC 16-21-8 provides a forensic medical exam to an alleged sex crime victim, the hospital shall furnish the forensic medical exam described in IC 16-21-8-6 without charge. The victim services division of the Indiana criminal justice institute shall reimburse a hospital for its costs in providing these services and shall adopt rules and procedures to

provide for reasonable reimbursement. A hospital may not charge the victim for services required under this chapter, despite delays in reimbursement from the victim services division of the Indiana criminal justice institute.

(b) When a hospital acting under IC 16-21-8 provides **a forensic medical exam to an alleged sex crime victim, the hospital may also furnish** additional forensic services to ~~an~~ **the** alleged sex crime victim. ~~who cooperates with law enforcement under IC 16-21-8-5(b),~~ **However,** the ~~hospital shall furnish the~~ additional forensic services, **if furnished, shall be furnished** without charge. The victim services division of the Indiana criminal justice institute shall reimburse a hospital for its costs in providing these services and may adopt rules and procedures to provide for reasonable reimbursement. A hospital may not charge the victim for services required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

~~(c) When a hospital acting under IC 16-21-8 provides additional forensic services to an alleged sex crime victim who does not cooperate with law enforcement under IC 16-21-8-5(b), the hospital may, with the victim's consent, seek reimbursement directly from the victim or any third party payer for any additional forensic services rendered by the hospital.~~

~~(d)~~ **(c)** Costs incurred by a hospital or other emergency medical facility for the examination of the victim of a sex crime (under IC 35-42-4) not covered under IC 16-21-8 or incest (under IC 35-46-1-3), if the examination is performed for the purposes of gathering evidence for possible prosecution, may not be charged to the victim of the crime.

~~(e)~~ **(d)** When a licensed medical service provider not covered by subsection (a) or (b) elects to provide a forensic medical exam to an alleged victim of one (1) or more of the sex crimes listed in IC 16-21-8-1(b), the medical service provider shall furnish the exam without charge. The victim services division of the Indiana criminal justice institute shall reimburse a medical service provider for costs in providing forensic medical exams. A medical service provider may not charge the victim for a forensic medical exam required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

~~(f)~~ **(e)** When a licensed medical service provider not covered by subsection (a) or (b) elects to provide additional forensic services to an alleged sex crime victim, ~~who cooperates with law enforcement under IC 16-21-8-5(b),~~ the medical service provider shall furnish the services without charge. The victim services division of the Indiana criminal justice institute shall reimburse a medical service provider for costs in providing the additional forensic services. A medical service provider may not charge the victim for services required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

~~(g) When a medical service provider acting under IC 16-21-8 provides additional forensic services to an alleged sex crime victim who does not cooperate with law enforcement under IC 16-21-8-5(b), the medical service provider may, with the victim's consent, seek reimbursement directly from the victim or any third party payer for additional forensic services rendered by the medical service provider.~~

~~(h)~~ **(f)** The victim services division of the Indiana criminal justice institute is not required to reimburse a medical service provider for costs in providing additional forensic services unless the following conditions are met:

(1) The victim is at least eighteen (18) years of age.

(2) If the victim is less than eighteen (18) years of age, a report of the sex crime must be made to child protective services or a law enforcement officer.

(3) The sex crime occurred in Indiana.

If the division finds a compelling reason for failure to comply with the requirements of this section, the division may suspend the requirements of this section.

~~(i)~~ **(g)** Costs incurred by a licensed medical service provider for the examination of the victim of a sex crime (under IC 35-42-4) not covered under IC 16-21-8 or incest (under IC 35-46-1-3) may not be charged to the victim of the crime if the examination is performed for the purposes of gathering evidence for possible prosecution.

SECTION 8. IC 34-23-2-1, AS AMENDED BY P.L.3-2008, SECTION 242, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a) This section does not apply to an abortion performed in compliance with:**

(1) IC 16-34; or

(2) IC 35-1-58.5 (before its repeal).

~~(a)~~ **(b)** As used in this section, "child" means an unmarried individual without dependents who is:

(1) less than twenty (20) years of age; or

(2) less than twenty-three (23) years of age and is enrolled in a postsecondary educational institution or a career and technical education school or program that is not a postsecondary educational program.

The term includes a fetus that has attained viability (as defined in IC 16-18-2-365).

~~(b)~~ **(c)** An action may be maintained under this section against the person whose wrongful act or omission caused the injury or death of a child. The action may be maintained by:

(1) the father and mother jointly, or either of them by naming the other parent as a codefendant to answer as to his or her interest;

(2) in case of divorce or dissolution of marriage, the person to whom custody of the child was awarded; and

(3) a guardian, for the injury or death of a protected person.

~~(c)~~ **(d)** In case of death of the person to whom custody of a child was awarded, a personal representative shall be appointed to maintain the action for the injury or death of the child.

~~(d)~~ **(e)** In an action brought by a guardian for an injury to a protected person, the damages inure to the benefit of the protected person.

~~(e)~~ **(f)** In an action to recover for the death of a child, the plaintiff may recover damages:

(1) for the loss of the child's services;

(2) for the loss of the child's love and companionship; and

(3) to pay the expenses of:

(A) health care and hospitalization necessitated by the wrongful act or omission that caused the child's death;

(B) the child's funeral and burial;

(C) the reasonable expense of psychiatric and psychological counseling incurred by a surviving parent or minor sibling of the child that is required because of the death of the child;

(D) uninsured debts of the child, including debts for which a parent is obligated on behalf of the child; and

(E) the administration of the child's estate, including reasonable attorney's fees.

~~(f)~~ **(g)** Damages may be awarded under this section only with respect to the period of time from the death of the child until:

(1) the date that the child would have reached:

(A) twenty (20) years of age; or

(B) twenty-three (23) years of age, if the child was enrolled in a postsecondary educational institution or in a career and technical education school or program that is not a postsecondary educational program; or

(2) the date of the child's last surviving parent's death;

whichever first occurs.

~~(g)~~ **(h)** Damages may be awarded under subsection ~~(c)(2)~~ **(f)(2)** only with respect to the period of time from the death of the child until the date of the child's last surviving parent's death.

~~(h)~~ **(i)** Damages awarded under subsection ~~(c)(1), (c)(2), (c)(3)(C),~~ **(f)(1), (f)(2), (f)(3)(C),** and ~~(c)(3)(D)~~ **(f)(3)(D)** inure to the benefit of:

(1) the father and mother jointly if both parents had custody of the child;

(2) the custodial parent, or custodial grandparent, and the noncustodial parent of the deceased child as apportioned by the court according to their respective losses; or

(3) a custodial grandparent of the child if the child was not survived by a parent entitled to benefit under this section.

However, a parent or grandparent who abandoned a deceased child while the child was alive is not entitled to any recovery under this chapter.

(j) This section does not affect or supersede any other right, remedy, or defense provided by any other law.

SECTION 9. [EFFECTIVE JULY 1, 2009] **IC 34-23-2-1, as amended by this act, applies only to a cause of action that accrues after June 30, 2009.**

P.L.130-2009
[S.345. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 5-2-6-3, AS AMENDED BY P.L.107-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. The institute is established to do the following:

(1) Evaluate state and local programs associated with:

(A) the prevention, detection, and solution of criminal offenses;

(B) law enforcement; and

(C) the administration of criminal and juvenile justice.

(2) Improve and coordinate all aspects of law enforcement, juvenile justice, and criminal justice in this state.

(3) Stimulate criminal and juvenile justice research.

(4) Develop new methods for the prevention and reduction of crime.

(5) Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.

(6) Administer victim and witness assistance funds.

(7) Administer the traffic safety functions assigned to the institute under IC 9-27-2.

(8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.

(9) Serve as the criminal justice statistical analysis center for this state.

(10) Identify grants and other funds that can be used by the department of correction to carry out its responsibilities concerning sex or violent offender registration under IC 11-8-8.

(11) Administer the application and approval process for

designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.

(12) Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.

(13) Establish, maintain, and operate, subject to specific appropriation by the general assembly, a web site containing a list of properties (as defined in IC 5-2-6-19(b)) that have been used as the site of a methamphetamine laboratory.

(14) Develop and manage the gang crime witness protection program established by section 21 of this chapter.

(15) Identify grants and other funds that can be used to fund the gang crime witness protection program.

(16) After December 31, 2008, administer the licensing of:

(A) commercial driver training schools; and

(B) instructors at commercial driver training schools.

(17) Administer any sexual offense services.

(18) Administer domestic violence programs.

(19) Administer assistance to victims of human sexual trafficking offenses as provided in IC 35-42-3.5-4.

(20) Administer the domestic violence prevention and treatment fund under IC 5-2-6.7.

(21) Administer the family violence and victim assistance fund under IC 5-2-6.8.

SECTION 2. IC 5-2-6-14, AS AMENDED BY P.L.216-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) The victim and witness assistance fund is established. The institute shall administer the fund. Except as provided in subsection (e), expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

(b) The source of the victim and witness assistance fund is the family violence and victim assistance fund established by ~~IC 12-18-5-2.~~ **IC 5-2-6.8-3.**

(c) The institute may use money from the victim and witness assistance fund when awarding a grant or entering into a contract under this chapter, if the money is used for the support of a program in the office of a prosecuting attorney or in a state or local law enforcement agency designed to:

(1) help evaluate the physical, emotional, and personal needs of a victim resulting from a crime, and counsel or refer the victim to those agencies or persons in the community that can provide the services needed;

(2) provide transportation for victims and witnesses of crime to attend proceedings in the case when necessary; or

(3) provide other services to victims or witnesses of crime when necessary to enable them to participate in criminal proceedings without undue hardship or trauma.

(d) Money in the victim and witness assistance fund at the end of a particular fiscal year does not revert to the general fund.

(e) The institute may use money in the fund to:

(1) pay the costs of administering the fund, including expenditures for personnel and data;

(2) support the registration of sex or violent offenders under IC 11-8-8 and the Indiana sex and violent offender registry established under IC 36-2-13-5.5;

(3) provide training for persons to assist victims; and

(4) establish and maintain a victim notification system under IC 11-8-7 if the department of correction establishes the system.

SECTION 3. IC 5-2-6.6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 6.6. Domestic Violence Prevention and Treatment Council

Sec. 1. As used in this chapter, "council" refers to the domestic violence prevention and treatment council established by section 3 of this chapter.

Sec. 2. As used in this chapter, "division" refers to the victim services division of the Indiana criminal justice institute.

Sec. 3. (a) The domestic violence prevention and treatment council is established within the division.

(b) The division shall provide staff support to the council.

Sec. 4. The council consists of thirteen (13) members appointed by the governor. Each member must have experience and knowledge with regard to the problems of domestic violence. The members must include the following:

(1) A domestic violence services provider.

(2) A survivor of domestic violence.

(3) A member recommended by the Indiana Coalition Against Domestic Violence.

(4) A member recommended by the Indiana Coalition Against Sexual Assault.

(5) A law enforcement officer.

(6) A member recommended by the prosecuting attorneys council of Indiana.

(7) A mental health professional.

(8) A medical professional.

(9) A provider of services to children who are victims of abuse or neglect.

(10) A representative of a certified batterers intervention program.

(11) A faculty member of an accredited college or university.

(12) A member recommended by the Latino Coalition Against Domestic and Sexual Violence.

(13) A member recommended by the public defender council of Indiana.

Sec. 5. A member serves a term of three (3) years, with each term beginning July 1 and ending June 30.

Sec. 6. A member may be removed by the governor for cause.

Sec. 7. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the remainder of the unexpired term.

Sec. 8. Each member of the council is entitled to the following:

(1) The minimum salary per diem provided in IC 4-10-11-2.1(b).

(2) Reimbursement for traveling expenses and other expenses as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 9. The governor shall designate one (1) member to preside over the initial meeting of the council each year. At the first meeting of the council each year, members shall elect a chairperson for the subsequent twelve (12) month period.

Sec. 10. The council shall do the following:

(1) Coordinate and monitor programs for the domestic violence prevention and treatment fund under IC 5-2-6.7.

(2) Develop and implement a state plan to provide services for the prevention and treatment of domestic violence.

(3) Review and recommend to the division the approval or disapproval of grants or contracts in accordance with IC 5-2-6.7.

(4) Develop and recommend a plan to coordinate funding of domestic violence and sexual assault programs.

(5) Recommend to the division rules to be adopted by the division under IC 4-22-2 to carry out this chapter.

SECTION 4. IC 5-2-6.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 6.7. Domestic Violence Prevention and Treatment Fund

Sec. 1. As used in this chapter, "division" refers to the victim services division of the Indiana criminal justice institute.

Sec. 2. As used in this chapter, "domestic violence prevention and treatment center" means an organized entity:

(1) established by:

(A) a city, town, county, or township; or

(B) an entity exempted from the gross retail tax under IC 6-2.5-5-21(b)(1)(B); and

(2) created to provide services to prevent and treat domestic or family violence.

Sec. 3. As used in this chapter, "fund" refers to the domestic violence prevention and treatment fund established by this chapter.

Sec. 4. The domestic violence prevention and treatment fund is established.

Sec. 5. The division shall administer the fund.

Sec. 6. Sources of money for the fund consist of the following:

(1) Appropriations from the general assembly.

(2) Transfers from the family violence and victim assistance fund established by IC 5-2-6.8-3.

(3) Donations, gifts, and money received from any other source.

Sec. 7. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

Sec. 8. Money in the fund at the end of a state fiscal year does

not revert to the state general fund.

Sec. 9. A city, town, county, or township or an entity that is exempted from the gross retail tax under IC 6-2.5-5-21(b)(1)(B) that desires to receive a grant under this chapter or enter into a contract with the domestic violence prevention and treatment council established under IC 5-2-6.6 must apply in the manner prescribed by the rules of the division.

Sec. 10. The division may make grants to and enter into contracts with entities eligible under section 9 of this chapter. However, the division may not grant more than seventy-five percent (75%) of the money necessary for the establishment or maintenance of a domestic violence prevention and treatment center during a specified time. The amount granted by the division for use by a single domestic violence and prevention treatment center may not exceed one hundred thousand dollars ($100,000) each year.

Sec. 11. The division may use money from the fund when awarding a grant or entering into a contract under this chapter if the money is used for the support of a program designed to do any of the following:

(1) Establish or maintain a domestic violence prevention and treatment center offering the services listed in section 12 of this chapter.

(2) Develop and establish a training program for professional, paraprofessional, and volunteer personnel who are engaged in areas related to the problems of domestic violence.

(3) Conduct research necessary to develop and implement programs for the prevention and treatment of domestic violence.

(4) Develop and implement other means for the prevention and treatment of domestic violence.

Sec. 12. An entity eligible under section 9 of this chapter may not receive money under this chapter for purposes of establishing and maintaining a domestic violence prevention and treatment center unless the center furnishes, agrees to furnish, or arranges with a third party to furnish all of the following services:

(1) Emergency shelter, provided either at the center or by arrangement at temporary residential facilities available in the community, that is available to a person who fears

domestic or family violence.

(2) A twenty-four (24) hour telephone system to provide crisis assistance to a person threatened by domestic or family violence.

(3) Emergency transportation services if necessary to aid victims of domestic or family violence.

(4) Information, referral, and victim advocacy services in the areas of health care assistance, social and mental health services, family counseling, job training and employment opportunities, legal assistance, and counseling for dependent children.

Sec. 13. The division may use money from the fund to hire the staff necessary to carry out this chapter.

Sec. 14. The division may enter into an agreement with a person for the receipt of money consistent with this chapter.

SECTION 5. IC 5-2-6.8 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 6.8. Family Violence and Victim Assistance Fund

Sec. 1. As used in this chapter, "division" refers to the victim services division of the Indiana criminal justice institute.

Sec. 2. As used in this chapter, "fund" refers to the family violence and victim assistance fund established by this chapter.

Sec. 3. The family violence and victim assistance fund is established.

Sec. 4. The purpose of the fund is to provide funding for domestic violence prevention and treatment, child abuse prevention, and victim and witness assistance programs.

Sec. 5. The division shall administer the fund.

Sec. 6. The sources of the fund include the following:

(1) Amounts deposited under IC 33-37-7-9.

(2) Amounts distributed from the state user fee fund under IC 33-37-9-4(a)(7).

Sec. 7. On June 30 and December 31 of each year, the treasurer of state shall transfer money from the fund as follows:

(1) Fifty-five percent (55%) of the balance on deposit in the fund or two hundred forty-five thousand dollars ($245,000), whichever is greater, shall be deposited in the domestic violence prevention and treatment fund established under

IC 5-2-6.7.

(2) The balance in the fund after the transfer of money under subdivision (1) shall be deposited as follows:

(A) One-third (1/3) shall be deposited in the Indiana kids first trust fund established by IC 31-26-4-12.

(B) Two-thirds (2/3) shall be deposited in the victim and witness assistance fund established by IC 5-2-6-14.

SECTION 6. IC 5-2-9-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.2. As used in this chapter, "IDACS coordinator" means an administrative position within a law enforcement agency that has operational Indiana data and communication system (IDACS) terminals appointed by the director of the law enforcement agency.**

SECTION 7. IC 5-2-9-1.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.4. As used in this chapter, "Indiana protective order registry" or "registry" means an Internet based registry of protective orders established under section 5.5 of this chapter and developed and maintained by the division of state court administration.**

SECTION 8. IC 5-2-9-1.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.7. As used in this chapter, "protected person" means a person or an employer (as defined in IC 34-26-6-4) protected under a protective order. ~~a no contact order, or a workplace violence restraining order.~~

SECTION 9. IC 5-2-9-2.1, AS AMENDED BY P.L.52-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.1. (a) As used in this chapter, "protective order" means:

(1) a protective order issued under IC 34-26-5 (or, if the order involved a family or household member, IC 34-26-2-12(1)(A), IC 34-26-2-12(1)(B), IC 34-26-2-12(1)(C), IC 34-4-5.1-5(a)(1)(A), IC 34-4-5.1-5(a)(1)(B), or IC 34-4-5.1-5(a)(1)(C) before their repeal);

(2) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency protective order issued under IC 34-26-2-6(1), IC 34-26-2-6(2),

or IC 34-26-2-6(3) or IC 34-4-5.1-2.3(a)(1)(A), IC 34-4-5.1-2.3(a)(1)(B), or IC 34-4-5.1-2.3(a)(1)(C) before their repeal);

(3) a protective order issued under IC 31-15-4-1 (or IC 31-1-11.5-7(b)(2), IC 31-1-11.5-7(b)(3), IC 31-16-4-2(a)(2), or IC 31-16-4-2(a)(3) before their repeal);

(4) a dispositional decree containing a no contact order issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-19-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order containing a no contact order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal);

(5) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion;

(6) a no contact order issued as a condition of probation;

(7) a protective order issued under IC 31-15-5-1 (or IC 31-1-11.5-8.2 or IC 31-16-5 before their repeal);

(8) a protective order issued under IC 31-14-16-1 in a paternity action;

(9) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;

(10) a workplace violence restraining order issued under IC 34-26-6; ~~or~~

(11) a child protective order issued under IC 31-34-2.3; **or**

(12) a foreign protective order registered under IC 34-26-5-17.

(b) Whenever a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ is issued by an Indiana court, the Indiana court must caption the order in a manner that indicates the type of order issued and the section of the Indiana Code that authorizes the protective order. ~~no contact order, or workplace violence restraining order.~~ The Indiana court shall also place on the order the court's hours of operation and telephone number with area code.

SECTION 10. IC 5-2-9-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5.5. (a) The Indiana protective order registry is**

established.

(b) The registry is an electronic depository for protective orders. Copies of all protective orders shall be retained in the registry.

(c) The registry must contain confidential information about protected persons.

(d) The division of state court administration shall create, manage, and maintain the registry.

(e) A protective order retained under section 5 of this chapter may be entered in the registry.

(f) The division of state court administration shall make the protective order registry, established by IC 5-2-9-5.5, available so that county case management systems may interface with the protective order registry by not later than December 31, 2009.

(g) The division of state court administration shall submit information concerning a standard protocol for county case management systems to interface with the protective order registry to each:

(1) prosecuting attorney; and

(2) court.

SECTION 11. IC 5-2-9-6, AS AMENDED BY P.L.52-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The clerk of a court that issues a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ shall:

(1) provide a copy of the order to the ~~following:~~ **petitioner; and**

~~(1) Each party.~~

~~(2) A law enforcement agency of the municipality in which the protected person resides. If a person and an employer are:~~

~~(A) both protected by an order under this section; and~~

~~(B) domiciled in different municipalities;~~

~~the clerk shall send a copy of the order to the law enforcement agency of the municipality in which the person resides and the employer is located.~~

~~(3) If the protected person, including an employer, is not domiciled in a municipality, the sheriff of the county in which the protected person resides.~~

(2) provide a copy of the order and service of process to the respondent or defendant in accordance with the rules of trial

procedure.

(b) The clerk of a court that issues a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ or the clerk of a court in which a petition is filed shall

~~(1)~~ maintain a confidential file to secure any confidential information about a protected person designated on a uniform statewide form prescribed by the division of state court administration.

~~(2) provide a copy of the confidential form that accompanies the protective order no contact order, workplace violence restraining order, or child protective order to the following:~~

~~(A) The sheriff of the county in which the protective order no contact order, workplace violence restraining order, or child protective order was issued.~~

~~(B) The law enforcement agency of the municipality, if any, in which the protected person, including an employer, is domiciled.~~

~~(C) Any other sheriff or law enforcement agency designated in the protective order no contact order, workplace violence restraining order, or child protective order that has jurisdiction over the area in which a protected person, including an employer, may be located or protected; and~~

~~(3) after receiving the return of service information, transmit all return of service information to each sheriff and law enforcement agency required under subdivision (2).~~

(c) ~~A sheriff or law enforcement agency that receives~~ **This subsection applies to** a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ **that a sheriff or law enforcement agency received** under subsection (a) **before July 1, 2009,** and a confidential form under subsection (b) **that was not created in the registry. The sheriff or law enforcement agency** shall:

(1) maintain a copy of the protective order ~~no contact order, workplace violence restraining order, or child protective order~~ in the depository established under this chapter;

(2) enter:

(A) the date and time the sheriff or law enforcement agency receives the protective order; ~~no contact order, workplace~~

~~violence restraining order, or child protective order;~~

(B) the location of the person who is subject to the protective order, ~~no contact order, workplace violence restraining order, or child protective order,~~ if reasonably ascertainable from the information received;

(C) the name and identification number of the officer who serves the protective order; ~~no contact order, workplace violence restraining order, or child protective order;~~

(D) the manner in which the protective order ~~no contact order, workplace violence restraining order, or child protective order~~ is served;

(E) the name of the petitioner and any other protected parties;

(F) the name, Social Security number, date of birth, and physical description of the person who is the subject of the protective order, ~~no contact order, workplace violence restraining order, or child protective order,~~ if reasonably ascertainable from the information received;

(G) the date the protective order ~~no contact order, workplace violence restraining order, or child protective order~~ expires;

(H) a caution indicator stating whether a person who is the subject of the protective order ~~no contact order, r workplace violence restraining order, or child protective order~~ is believed to be armed and dangerous, if reasonably ascertainable from the information received; and

(I) if furnished, a Brady record indicator stating whether a person who is the subject of the protective order ~~no contact order, workplace violence restraining order, or child protective order~~ is prohibited from purchasing or possessing a firearm or ammunition under federal law, if reasonably ascertainable from the information received;

on the copy of the protective order ~~no contact order, workplace violence restraining order, or child protective order~~ or the confidential form; and

(3) **except for a protective order that is created in the registry,** establish a confidential file in which a confidential form that contains information concerning a protected person is kept.

(d) **Except for a protective order that is created in the registry,** a protective order ~~no contact order, workplace violence restraining~~

~~order, or child protective order~~ may be removed from the depository established under this chapter only if the sheriff or law enforcement agency that administers the depository receives:

(1) a notice of termination on a form prescribed or approved by the division of state court administration;

(2) an order of the court; or

(3) a notice of termination and an order of the court.

(e) If a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ in a depository established under this chapter is terminated, the person who obtained the order must file a notice of termination on a form prescribed or approved by the division of state court administration with the clerk of the court. The clerk of the court shall:

(1) enter the notice of termination into the registry; or

(2) provide a copy of the notice of termination of a protective order; ~~no contact order, workplace violence restraining order, or child protective order~~

to **the registry and to** each of the depositories to which the protective order ~~no contact order, workplace violence restraining order, or child protective order and a confidential form were~~ **was** sent. The clerk of the court shall maintain the notice of termination in the court's file.

(f) If a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ or form ~~in a depository established under this chapter~~ is extended or modified, the person who obtained the extension or modification must file a notice of extension or modification on a form prescribed or approved by the division of state court administration with the clerk of the court. **Except for a protective order created in the registry,** the clerk of the court shall provide a copy of the notice of extension or modification of a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ to each of the depositories to which the order and a confidential form were sent. The clerk of the court shall maintain the notice of extension or modification of a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ in the court's file.

(g) The clerk of a court that issued an order terminating a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ that is an ex parte order shall provide a copy of the

order to the following:

(1) Each party.

(2) **Except for a protective order created in the registry,** the law enforcement agency provided with a copy of a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ under subsection (a).

SECTION 12. IC 5-2-9-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6.5. (a) After a court issues a protective order and issues the order to the registry, an IDACS coordinator may provide additional information about the parties in an order, including:**

(1) dates of birth;

(2) Social Security numbers;

(3) driver license numbers; and

(4) physical descriptions of the parties;

to ensure the accuracy of the orders in the registry and information in IDACS.

(b) A law enforcement agency that perfects service of a protective order issued to the registry shall enter into the registry:

(1) the date and time the law enforcement agency received the protective order;

(2) the location of the person who is the subject of the protective order, if this information is available;

(3) the name and identification number of the law enforcement officer who serves the protective order; and

(4) the manner that the protective order is served.

SECTION 13. IC 5-2-9-7, AS AMENDED BY P.L.52-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Any information:

(1) in a uniform statewide confidential form or any part of a confidential form prescribed by the division of state court administration that must be filed with a protective order; ~~no contact order, workplace violence restraining order, or child protective order;~~ or

(2) otherwise acquired concerning a protected person;

is confidential and may not be divulged to any respondent or defendant.

(b) Information described in subsection (a) may only be used by:

(1) a court;

(2) a sheriff;

(3) another law enforcement agency;

(4) a prosecuting attorney; or

(5) a court clerk;

to comply with a law concerning the distribution of the information.

SECTION 14. IC 5-2-9-8, AS AMENDED BY P.L.52-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. **Except for a protective order that is created in the registry,** a law enforcement agency that receives a copy of a protective order ~~no contact order, workplace violence restraining order, or child protective order~~ shall enter the information received into the Indiana data and communication system (IDACS) computer under IC 10-13-3-35 upon receiving a copy of the order.

SECTION 15. IC 12-7-2-44, AS AMENDED BY P.L.93-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 44. "Council" means the following:

(1) For purposes of IC 12-9-4, the meaning set forth in IC 12-9-4-1.

(2) For purposes of IC 12-12-8, the meaning set forth in IC 12-12-8-2.5.

(3) For purposes of IC 12-13-4, the meaning set forth in IC 12-13-4-1.

(4) For purposes of IC 12-15-41 and IC 12-15-42, the Medicaid work incentives council established by IC 12-15-42-1.

(5) For purposes of IC 12-12.7-2, the meaning set forth in IC 12-12.7-2-2.

~~(6) For purposes of IC 12-18-3 and IC 12-18-4, the domestic violence prevention and treatment council established by IC 12-18-3-1.~~

~~(7)~~ **(6)** For purposes of IC 12-21-4, the meaning set forth in IC 12-21-4-1.

~~(8)~~ **(7)** For purposes of IC 12-28-5, the meaning set forth in IC 12-28-5-1.

SECTION 16. IC 12-7-2-91, AS AMENDED BY P.L.146-2008, SECTION 380, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 91. "Fund" means the following:

(1) For purposes of IC 12-12-1-9, the fund described in IC 12-12-1-9.

(2) For purposes of IC 12-15-20, the meaning set forth in IC 12-15-20-1.

(3) For purposes of IC 12-17-12, the meaning set forth in IC 12-17-12-4.

(4) For purposes of IC 12-17.6, the meaning set forth in IC 12-17.6-1-3.

~~(5) For purposes of IC 12-18-4, the meaning set forth in IC 12-18-4-1.~~

~~(6) For purposes of IC 12-18-5, the meaning set forth in IC 12-18-5-1.~~

~~(7)~~ **(5)** For purposes of IC 12-23-2, the meaning set forth in IC 12-23-2-1.

~~(8)~~ **(6)** For purposes of IC 12-23-18, the meaning set forth in IC 12-23-18-4.

~~(9)~~ **(7)** For purposes of IC 12-24-6, the meaning set forth in IC 12-24-6-1.

~~(10)~~ **(8)** For purposes of IC 12-24-14, the meaning set forth in IC 12-24-14-1.

~~(11)~~ **(9)** For purposes of IC 12-30-7, the meaning set forth in IC 12-30-7-3.

SECTION 17. IC 12-13-5-2, AS AMENDED BY P.L.1-2007, SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. The division shall administer the following:

~~(1) Any sexual offense services.~~

~~(2)~~ **(1)** A child development associate scholarship program.

~~(3)~~ **(2)** Any school age dependent care program.

~~(4)~~ **(3)** Migrant day care services.

~~(5)~~ **(4)** Prevention services to high risk youth.

~~(6)~~ **(5)** The migrant nutrition program.

~~(7)~~ **(6)** The home visitation and social services program.

~~(8)~~ **(7)** The educational consultants program.

~~(9)~~ **(8)** Community restitution or service programs.

~~(10)~~ **(9)** The crisis nursery program.

~~(11) Domestic violence programs.~~

~~(12)~~ **(10)** Social services programs.

~~(13)~~ **(11)** The step ahead comprehensive early childhood grant program.

~~(14) Assistance to victims of human and sexual trafficking offenses as provided in IC 35-42-3.5-4, as appropriate.~~

~~(15)~~ **(12)** Any other program:

(A) designated by the general assembly; or

(B) administered by the federal government under grants consistent with the duties of the division.

SECTION 18. IC 12-13-7-1, AS AMENDED BY P.L.181-2006, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. The division shall administer the following:

~~(1) The domestic violence prevention and treatment fund under IC 12-18-4.~~

~~(2)~~ **(1)** The Child Care and Development Block Grant under 42 U.S.C. 9858 et seq.

~~(3)~~ **(2)** The federal Food Stamp Program under 7 U.S.C. 2011 et seq.

~~(4)~~ **(3)** Title IV-A of the federal Social Security Act.

~~(5)~~ **(4)** Any other funding source:

(A) designated by the general assembly; or

(B) available from the federal government under grants that are consistent with the duties of the division.

SECTION 19. IC 33-24-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The division of state court administration shall do the following:

(1) Examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices related to and serving the courts and make recommendations for necessary improvement.

(2) Collect and compile statistical data and other information on the judicial work of the courts in Indiana. All justices of the supreme court, judges of the court of appeals, judges of all trial courts, and any city or town courts, whether having general or special jurisdiction, court clerks, court reporters, and other officers and employees of the courts shall, upon notice by the executive director and in compliance with procedures prescribed by the executive director, furnish the executive director the information as is requested concerning the nature and volume of judicial business. The information must include the following:

(A) The volume, condition, and type of business conducted by

the courts.

(B) The methods of procedure in the courts.

(C) The work accomplished by the courts.

(D) The receipt and expenditure of public money by and for the operation of the courts.

(E) The methods of disposition or termination of cases.

(3) Prepare and publish reports, not less than one (1) or more than two (2) times per year, on the nature and volume of judicial work performed by the courts as determined by the information required in subdivision (2).

(4) Serve the judicial nominating commission and the judicial qualifications commission in the performance by the commissions of their statutory and constitutional functions.

(5) Administer the civil legal aid fund as required by IC 33-24-12.

(6) Administer the judicial technology and automation project fund established by section 12 of this chapter.

(7) Develop a standard protocol for the exchange of information, by not later than December 31, 2009:

(A) between the protective order registry, established by IC 5-2-9-5.5, and county court case management systems;

(B) at the option of the county prosecuting attorney, for:

(1) a prosecuting attorney's case management system;

(2) a county court case management system; and

(3) a county court case management system developed and operated by the division of state court administration;

to interface with the electronic traffic tickets, as defined by IC 9-30-3-2.5; and

(C) between county court case management systems and the case management system developed and operated by the division of state court administration.

(b) All forms to be used in gathering data must be approved by the supreme court and shall be distributed to all judges and clerks before the start of each period for which reports are required.

SECTION 20. IC 33-37-7-9, AS AMENDED BY P.L.122-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state nine

million two hundred seventy-seven thousand twenty-three dollars ($9,277,023) for distribution under subsection (b).

(b) On June 30 and on December 31 of each year, the treasurer of state shall deposit into:

(1) the family violence and victim assistance fund established by ~~IC 12-18-5-2~~ **IC 5-2-6.8-3** an amount equal to eight and three-hundredths percent (8.03%);

(2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to thirty-eight and fifty-five hundredths percent (38.55%);

(3) the law enforcement academy building fund established by IC 5-2-1-13 an amount equal to two and fifty-six hundredths percent (2.56%);

(4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to ten and twenty-seven hundredths percent (10.27%);

(5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to eleven and ninety-three hundredths percent (11.93%);

(6) the motor vehicle highway account an amount equal to nineteen and forty-nine hundredths percent (19.49%);

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to twenty-five hundredths percent (0.25%);

(8) the Indiana judicial center drug and alcohol programs fund established by IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to one and sixty-three hundredths percent (1.63%); and

(9) the DNA sample processing fund established under IC 10-13-6-9.5 for the funding of the collection, shipment, analysis, and preservation of DNA samples and the conduct of a DNA data base program under IC 10-13-6 an amount equal to seven and twenty-nine hundredths percent (7.29%);

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state for deposit into the public defense fund established under IC 33-40-6-1:

(1) after June 30, 2004, and before July 1, 2005, one million

seven hundred thousand dollars ($1,700,000); and

(2) after June 30, 2005, two million seven hundred thousand dollars ($2,700,000).

SECTION 21. IC 33-37-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The treasurer of state shall distribute semiannually one million two hundred eighty-eight thousand dollars ($1,288,000) of the amounts transferred to the state fund under section 3 of this chapter as follows:

(1) Fourteen and ninety-eight hundredths percent (14.98%) shall be deposited into the alcohol and drug countermeasures fund established by IC 9-27-2-11.

(2) Eight and forty-two hundredths percent (8.42%) shall be deposited into the drug interdiction fund established by IC 10-11-7-1.

(3) Four and sixty-eight hundredths percent (4.68%) shall be deposited into the drug prosecution fund established by IC 33-39-8-6.

(4) Five and sixty-two hundredths percent (5.62%) shall be deposited into the corrections drug abuse fund established by IC 11-8-2-11.

(5) Twenty-two and forty-seven hundredths percent (22.47%) shall be deposited into the state drug free communities fund established by IC 5-2-10-2.

(6) Seven and ninety-eight hundredths percent (7.98%) shall be distributed to the Indiana department of transportation for use under IC 8-23-2-15.

(7) Twenty and thirty-two hundredths percent (20.32%) shall be deposited in the family violence and victim assistance fund established by ~~IC 12-18-5-2.~~ **IC 5-2-6.8-3.**

(8) Fifteen and fifty-three hundredths percent (15.53%) shall be deposited in the Indiana safe schools fund established by IC 5-2-10.1.

(b) The treasurer of state shall distribute semiannually the amount remaining after the distributions are made under subsection (a) to the judicial technology and automation project fund established by IC 33-24-6-12.

SECTION 22. IC 34-26-5-3, AS AMENDED BY P.L.3-2008, SECTION 243, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The division of state court administration shall:

(1) develop and adopt:

(A) a petition for an order for protection;

(B) an order for protection, including:

(i) orders issued under this chapter;

(ii) ex parte orders;

(iii) no contact orders under IC 31 and IC 35;

(iv) forms relating to workplace violence restraining orders under IC 34-26-6; and

(v) forms relating to a child protective order under IC 31-34-2.3;

(C) a confidential form;

(D) a notice of modification or extension for an order for protection, a no contact order, a workplace violence restraining order, or a child protective order;

(E) a notice of termination for an order for protection, a no contact order, a workplace violence restraining order, or a child protective order; and

(F) any other uniform statewide forms necessary to maintain an accurate registry of orders; and

(2) provide the forms under subdivision (1) to the clerk of each court authorized to issue the orders.

(b) In addition to any other required information, a petition for an order for protection must contain a statement listing each civil or criminal action involving:

(1) either party; or

(2) a child of either party.

(c) The following statements must be printed in boldface type or in capital letters on an order for protection, a no contact order, a workplace violence restraining order, or a child protective order:

VIOLATION OF THIS ORDER IS PUNISHABLE BY CONFINEMENT IN JAIL, PRISON, AND/OR A FINE.

IF SO ORDERED BY THE COURT, THE RESPONDENT IS FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S RESIDENCE OR RESIDENCE OF ANY CHILD WHO IS THE SUBJECT OF THE ORDER, EVEN IF INVITED TO DO SO BY THE PETITIONER OR ANY OTHER PERSON. IN NO EVENT

IS THE ORDER FOR PROTECTION VOIDED.

PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT STATE OR TRIBAL LAND. PURSUANT TO 18 U.S.C. 922(g), ONCE A RESPONDENT HAS RECEIVED NOTICE OF THIS ORDER AND AN OPPORTUNITY TO BE HEARD, IT IS A FEDERAL VIOLATION TO PURCHASE, RECEIVE, OR POSSESS A FIREARM WHILE SUBJECT TO THIS ORDER IF THE PROTECTED PERSON IS:

(A) THE RESPONDENT'S CURRENT OR FORMER SPOUSE;

(B) A CURRENT OR FORMER PERSON WITH WHOM THE RESPONDENT RESIDED WHILE IN AN INTIMATE RELATIONSHIP; OR

(C) A PERSON WITH WHOM THE RESPONDENT HAS A CHILD.

INTERSTATE VIOLATION OF THIS ORDER MAY SUBJECT THE RESPONDENT TO FEDERAL CRIMINAL PENALTIES UNDER 18 U.S.C. 2261 AND 18 U.S.C. 2262.

(d) The clerk of the circuit court, or a person or entity designated by the clerk of the circuit court, shall provide to a person requesting an order for protection:

(1) the forms adopted under subsection (a);

(2) all other forms required to petition for an order for protection, including forms:

(A) necessary for service; and

(B) required under IC 31-21 (or IC 31-17-3 before its repeal); and

(3) clerical assistance in reading or completing the forms and filing the petition.

Clerical assistance provided by the clerk or court personnel under this section does not constitute the practice of law. The clerk of the circuit court may enter into a contract with a person or another entity to provide this assistance. A person, other than a person or other entity with whom the clerk has entered into a contract to provide assistance, who in good faith performs the duties the person is required to perform

under this subsection is not liable for civil damages that might otherwise be imposed on the person as a result of the performance of those duties unless the person commits an act or omission that amounts to gross negligence or willful and wanton misconduct.

(e) A petition for an order for protection must be:

(1) verified or under oath under Trial Rule 11; and

(2) issued on the forms adopted under subsection (a).

(f) If an order for protection is issued under this chapter, the clerk shall comply with IC 5-2-9.

(g) After receiving a petition for an order for protection, the clerk of the circuit court shall immediately enter the case in the Indiana protective order registry established by IC 5-2-9-5.5.

SECTION 23. IC 34-26-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. If a petitioner seeks:

(1) an order for protection;

(2) an extension of an order for protection;

(3) a modification of an order for protection; ~~or~~

(4) the termination of an order for protection; **or**

(5) the registration of a foreign protective order;

the petitioner is responsible for completing the forms prescribed by the division of state court administration and for transmitting those forms to the clerk of the court.

SECTION 24. IC 34-26-5-9, AS AMENDED BY P.L.68-2005, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) If it appears from a petition for an order for protection or from a petition to modify an order for protection that domestic or family violence has occurred or that a modification of an order for protection is required, a court may:

(1) without notice or hearing, immediately issue an order for protection ex parte or modify an order for protection ex parte; or

(2) upon notice and after a hearing, whether or not a respondent appears, issue or modify an order for protection.

(b) A court may grant the following relief without notice and hearing in an ex parte order for protection or in an ex parte order for protection modification:

(1) Enjoin a respondent from threatening to commit or committing acts of domestic or family violence against a petitioner and each designated family or household member.

(2) Prohibit a respondent from harassing, annoying, telephoning, contacting, or directly or indirectly communicating with a petitioner.

(3) Remove and exclude a respondent from the residence of a petitioner, regardless of ownership of the residence.

(4) Order a respondent to stay away from the residence, school, or place of employment of a petitioner or a specified place frequented by a petitioner and each designated family or household member.

(5) Order possession and use of the residence, an automobile, and other essential personal effects, regardless of the ownership of the residence, automobile, and essential personal effects. If possession is ordered under this subdivision, the court may direct a law enforcement officer to accompany a petitioner to the residence of the parties to:

(A) ensure that a petitioner is safely restored to possession of the residence, automobile, and other essential personal effects; or

(B) supervise a petitioner's or respondent's removal of personal belongings.

(6) Order other relief necessary to provide for the safety and welfare of a petitioner and each designated family or household member.

(c) A court may grant the following relief after notice and a hearing, whether or not a respondent appears, in an order for protection or in a modification of an order for protection:

(1) Grant the relief under subsection (b).

(2) Specify arrangements for parenting time of a minor child by a respondent and:

(A) require supervision by a third party; or

(B) deny parenting time;

if necessary to protect the safety of a petitioner or child.

(3) Order a respondent to:

(A) pay attorney's fees;

(B) pay rent or make payment on a mortgage on a petitioner's residence;

(C) if the respondent is found to have a duty of support, pay for the support of a petitioner and each minor child;

(D) reimburse a petitioner or other person for expenses related to the domestic or family violence, including:

(i) medical expenses;

(ii) counseling;

(iii) shelter; and

(iv) repair or replacement of damaged property; or

(E) pay the costs and fees incurred by a petitioner in bringing the action.

(4) Prohibit a respondent from using or possessing a firearm, ammunition, or a deadly weapon specified by the court, and direct the respondent to surrender to a specified law enforcement agency the firearm, ammunition, or deadly weapon for the duration of the order for protection unless another date is ordered by the court.

An order issued under subdivision (4) does not apply to a person who is exempt under 18 U.S.C. 925.

(d) The court shall:

(1) cause the order for protection to be delivered to the county sheriff for service;

(2) make reasonable efforts to ensure that the order for protection is understood by a petitioner and a respondent if present;

~~(3) transmit, by the end of the same business day on which the order for protection is issued, a copy of the order for protection to each local law enforcement agency designated by a petitioner;~~

(3) electronically notify each law enforcement agency:

(A) required to receive notification under IC 5-2-9-6; or

(B) designated by the petitioner;

(4) transmit a copy of the order to the clerk for processing under IC 5-2-9; ~~and~~

(5) ~~notify the state police department of~~ **indicate in** the order if the order and the parties meet the criteria under 18 U.S.C. 922(g)(8); **and**

(6) require the clerk of court to enter or provide a copy of the order to the Indiana protective order registry established by IC 5-2-9-5.5.

(e) An order for protection issued ex parte or upon notice and a hearing, or a modification of an order for protection issued ex parte or upon notice and a hearing, is effective for two (2) years after the date of issuance unless another date is ordered by the court. The sheriff of

each county shall provide expedited service for an order for protection.

(f) A finding that domestic or family violence has occurred sufficient to justify the issuance of an order under this section means that a respondent represents a credible threat to the safety of a petitioner or a member of a petitioner's household. Upon a showing of domestic or family violence by a preponderance of the evidence, the court shall grant relief necessary to bring about a cessation of the violence or the threat of violence. The relief may include an order directing a respondent to surrender to a law enforcement officer or agency all firearms, ammunition, and deadly weapons:

(1) in the control, ownership, or possession of a respondent; or

(2) in the control or possession of another person on behalf of a respondent;

for the duration of the order for protection unless another date is ordered by the court.

(g) An order for custody, parenting time, or possession or control of property issued under this chapter is superseded by an order issued from a court exercising dissolution, legal separation, paternity, or guardianship jurisdiction over the parties.

(h) The fact that an order for protection is issued under this chapter does not raise an inference or presumption in a subsequent case or hearings between the parties.

SECTION 25. IC 34-26-5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) A foreign protection order is facially valid if it:

(1) identifies the protected person and the respondent;

(2) is currently in effect;

(3) was issued by a state or tribal court with jurisdiction over the:

(A) parties; and

(B) subject matter;

under the law of the issuing state or Indian tribe; and

(4) was issued after a respondent was given reasonable notice and an opportunity to be heard sufficient to protect the respondent's right to due process. In the case of an ex parte order, notice and opportunity to be heard must be provided within the time required by state or tribal law and within a reasonable time after the order is issued sufficient to protect the respondent's due process rights.

(b) A facially valid foreign protection order is prima facie evidence

of its validity. The protection order may be inscribed on a tangible medium or stored in an electronic or other medium if it is retrievable in perceivable form. Presentation of a certified copy of an order for protection is not required for enforcement.

(c) Except as provided in subsection (d), a protection order that is facially valid and issued by a court of a state (issuing state) or Indian tribe shall be accorded full faith and credit by Indiana courts.

(d) A mutual foreign protection order is not entitled to full faith and credit if the order is issued by a state or tribal court against a person who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against a family or household member, unless:

(1) a separate petition or motion was filed by a respondent;

(2) the issuing court has reviewed each motion separately and granted or denied each on its individual merits; and

(3) separate orders were issued and the issuing court made specific findings that each party was entitled to an order.

(e) Registration or filing of a foreign protection order is not a prerequisite to enforcement of the order in Indiana, and a protection order that is consistent with this section shall be accorded full faith and credit notwithstanding a failure to register or file the order in Indiana. However, if a petitioner wishes to register a foreign protection order in Indiana, all Indiana courts of record shall accommodate the request. The division of state court administration shall develop a form to be used by courts, clerks, and law enforcement agencies when a petitioner makes a request to register a foreign protection order. **Except for a protective order issued to the Indiana protective order registry established by IC 5-2-9-5.5,** the courts, clerks of the courts, and sheriffs or law enforcement agencies maintaining depositories shall employ the same procedures required under IC 5-2-9-6 for entering, modifying, extending, or terminating a foreign protection order as those used for a protection order and a no contact order originating in Indiana.

(f) A facially valid foreign protection order shall be enforced by a law enforcement officer and a state court as if it were an order originating in Indiana. The order must be enforced if the foreign protection order contains relief that the state courts lack the power to provide in an order for protection issued in Indiana.

(g) An Indiana law enforcement officer:

(1) may not require notification, registration, or filing of a facially valid foreign order for protection as a prerequisite to enforcement of an order;

(2) if a foreign protection order is not presented, may consider other information to determine under a totality of the circumstances whether there is probable cause to believe that a valid foreign order for protection exists; and

(3) who determines that an otherwise valid foreign protection order cannot be enforced because a respondent has not been notified or served with the order, shall:

(A) inform the respondent of the order;

(B) serve the order on the respondent;

(C) ensure that the order and service of the order are entered into the state depository;

(D) allow the respondent a reasonable opportunity to comply with the order before enforcing the order; and

(E) ensure the safety of the protected person while giving the respondent the opportunity to comply with the order.

(h) After a foreign protective order is registered, the clerk shall enter the order in the Indiana protective order registry established by IC 5-2-9-5.5.

SECTION 26. IC 34-26-5-18, AS AMENDED BY P.L.52-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. The following orders are required to be entered into the Indiana data and communication system (IDACS) by a county sheriff or local law enforcement agency:

(1) A no contact order issued under IC 31-32-13 in a juvenile case.

(2) A no contact order issued under IC 31-34-20 in a child in need of services (CHINS) case.

(3) A no contact order issued under IC 31-34-25 in a CHINS case.

(4) A no contact order issued under IC 31-37-19 in a delinquency case.

(5) A no contact order issued under IC 31-37-25 in a delinquency case.

(6) A no contact order issued under IC 33-39-1-8 in a criminal case.

(7) An order for protection issued under this chapter.

(8) A workplace violence restraining order issued under IC 34-26-6.

(9) A no contact order issued under IC 35-33-8-3.2 in a criminal case.

(10) A no contact order issued under IC 35-38-2-2.3 in a criminal case.

(11) A child protective order issued under IC 31-34-2.3.

(12) A foreign protective order registered under IC 34-26-5-17.

SECTION 27. IC 35-42-3.5-4, AS ADDED BY P.L.173-2006, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) An alleged victim of an offense under section 1 of this chapter:

(1) may not be detained in a facility that is inappropriate to the victim's status as a crime victim;

(2) may not be jailed, fined, or otherwise penalized due to having been the victim of the offense; and

(3) shall be provided protection if the victim's safety is at risk or if there is danger of additional harm by recapture of the victim by the person who allegedly committed the offense, including:

(A) taking measures to protect the alleged victim and the victim's family members from intimidation and threats of reprisals and reprisals from the person who allegedly committed the offense or the person's agent; and

(B) ensuring that the names and identifying information of the alleged victim and the victim's family members are not disclosed to the public.

This subsection shall be administered by law enforcement agencies and the ~~division of family resources,~~ **Indiana criminal justice institute** as appropriate.

(b) Not more than fifteen (15) days after the date a law enforcement agency first encounters an alleged victim of an offense under section 1 of this chapter, the law enforcement agency shall provide the alleged victim with a completed Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (LEA Declaration, Form I-914 Supplement B) in accordance with 8 CFR 214.11(f)(1). However, if the law enforcement agency finds that the grant of an LEA Declaration is not appropriate for the alleged victim, the law enforcement agency

shall, not more than fifteen (15) days after the date the agency makes the finding, provide the alleged victim with a letter explaining the grounds for the denial of the LEA Declaration. After receiving a denial letter, the alleged victim may submit additional evidence to the law enforcement agency. If the alleged victim submits additional evidence, the law enforcement agency shall reconsider the denial of the LEA Declaration not more than seven (7) days after the date the agency receives the additional evidence.

SECTION 28. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 12-7-2-70; IC 12-18-3; IC 12-18-4; IC 12-18-5.

SECTION 29. [EFFECTIVE JUNE 30, 2009] **(a) On June 30, 2009, the balance of the domestic violence prevention and treatment fund established under IC 12-18-4, before its repeal by this act, shall be transferred to the domestic violence prevention and treatment fund established by IC 5-2-6.7-4, as added by this act.**

(b) This SECTION expires January 1, 2010.

SECTION 30. [EFFECTIVE JUNE 30, 2009] **(a) On June 30, 2009, the balance of the family violence and victim assistance fund established under IC 12-18-5, before its repeal by this act, shall be transferred to the family violence and victim assistance fund established by IC 5-2-6.8-3, as added by this act.**

(b) This SECTION expires January 1, 2010.

SECTION 31. [EFFECTIVE JUNE 30, 2009] **(a) On June 30, 2009, two (2) positions are created in the Indiana criminal justice institute. Employees filling the two (2) positions shall have the responsibility of administering:**

(1) sexual offense services;

(2) domestic violence programs; and

(3) assistance to victims of human and sexual trafficking offenses as provided in IC 35-42-3.5-4, as amended by this act.

(b) If a position is filled by a current state employee, the employee is entitled to:

(1) have the employee's service before June 30, 2009, recognized for the purposes of computing retention points under IC 4-15-2-32 if a layoff occurs; and

(2) all other applicable employee benefits.

(c) This SECTION expires July 1, 2011.

P.L.131-2009
[S.365. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.90-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the executive board of the state department of health declares is

necessary to meet an emergency.

(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.

(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by or other date provided by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(16) An emergency rule adopted by the Indiana gaming commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3, IC 4-33-4-14, or IC 4-35-4-2.

(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-17-10-9.

(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 (repealed).

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 (repealed).

(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) (repealed) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(30) A rule adopted by the Indiana finance authority:

(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;

(B) under IC 8-15-2-17.2(a)(10):

(i) establishing enforcement procedures; and

(ii) making assessments for failure to pay required tolls;

(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or

(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(31) An emergency rule adopted by the board of the Indiana health informatics corporation under IC 5-31-5-8.

(32) An emergency rule adopted by the department of child services under IC 31-25-2-21, IC 31-27-2-4, IC 31-27-4-2, or IC 31-27-4-3.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the

assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the publisher for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the publisher shall:

(1) accept the rule for filing; and

(2) electronically record the date and time that the rule is accepted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j), (k), and (l), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective

after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

(m) A rule described in subsection (a)(5) or (a)(6) expires on the date the department is next required to issue a rule under the statute authorizing or requiring the rule.

SECTION 2. IC 12-24-13-6, AS AMENDED BY P.L.146-2008, SECTION 416, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. The department of child services is responsible for the cost of treatment or maintenance of a child under the department's custody or supervision who is placed ~~by or with the consent of the department of child services~~ in a state institution **only if the cost is reimbursable under the state Medicaid program under IC 12-15.**

SECTION 3. IC 20-26-11-9, AS AMENDED BY P.L.146-2008, SECTION 469, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) This section applies to each student:

(1) described in section 8(a) of this chapter;

(2) who is placed in a home or facility in Indiana that is outside the school corporation where the student has legal settlement; and

(3) for which the state is not obligated to pay transfer tuition.

(b) Not later than ten (10) days after the department of child

services **or a probation department** places or changes the placement of a student, the department of child services **or probation department** that placed the student shall notify the school corporation where the student has legal settlement and the school corporation where the student will attend school of the placement or change of placement. Before June 30 of each year, ~~a county~~ **the department of child services or a probation department** that places a student in a home or facility shall notify the school corporation where a student has legal settlement and the school corporation in which a student will attend school if a student's placement will continue for the ensuing school year. The notifications required under this subsection must be made by:

(1) the department of child services, if the ~~department of~~ child ~~services placed or consented to the placement of the student;~~ **is a child in need of services;** or

(2) if subdivision (1) does not apply, the court or other agency making the placement.

SECTION 4. IC 22-4.1-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) This section applies only to an employer who employs individuals within the state.

(b) As used in this section, "date of hire" is the first date that an employee provides labor or services to an employer.

(c) As used in this section, "employee":

(1) has the meaning set forth in Chapter 24 of the Internal Revenue Code of 1986; and

(2) includes any individual:

(A) required under Internal Revenue Service regulations to complete a federal form W-4; and

(B) who has provided services to an employer.

The term does not include an employee of a federal or state agency who performs intelligence or counter intelligence functions if the head of the agency determines that the reporting information required under this section could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(d) As used in this section, "employer" has the meaning set forth in Section 3401(d) of the Internal Revenue Code of 1986. The term includes:

(1) governmental agencies and labor organizations; and

(2) a person doing business in the state as identified by:

(A) the person's federal employer identification number; or

(B) if applicable, the common paymaster, as defined in Section 3121 of the Internal Revenue Code or the payroll reporting agent of the employer, as described in IRS Rev. Proc. 70-6, 1970-1, C.B. 420.

(e) As used in this section, "labor organization" has the meaning set forth in 42 U.S.C. 653A(a)(2)(B)(ii).

(f) The department shall maintain the Indiana directory of new hires as required under 42 U.S.C. 653A.

(g) The directory under subsection (f) must contain information that an employer must provide to the department for each newly hired employee as follows:

(1) The information must be transmitted within twenty (20) business days of the employee's date of hire.

(2) If an employer transmits reports under this section magnetically or electronically, the information must be transmitted in two (2) monthly transactions that are:

(A) not less than twelve (12) days apart; and

(B) not more than sixteen (16) days apart.

If mailed, the report is considered timely if it is postmarked on or before the due date. If the report is transmitted by facsimile machine or by using electronic or magnetic media, the report is considered timely if it is received on or before the due date.

(h) The employer shall provide the information required under this section on an employee's withholding allowance certificate (Internal Revenue Service form W-4) or, at the employer's option, an equivalent form. The report may be transmitted to the department by first class mail, by facsimile machine, electronically, or magnetically. The report must include at least the following:

(1) The name, address, and Social Security number of the employee.

(2) The name, address, and federal tax identification number of the employer.

(3) The date of hire of the employee.

(i) An employer that has employees in two (2) or more states and that transmits reports under this section electronically or magnetically may comply with this section by doing the following:

(1) Designating one (1) state to receive each report.

(2) Notifying the Secretary of the United States Department of Health and Human Services which state will receive the reports.

(3) Transmitting the reports to the agency in the designated state that is charged with receiving the reports.

(j) The department may impose a civil penalty of five hundred dollars ($500) on an employer that fails to comply with this section if the failure is a result of a conspiracy between the employer and the employee to:

(1) not provide the required report; or

(2) provide a false or an incomplete report.

(k) The information received from an employer regarding newly hired employees shall be:

(1) entered into the state's new hire directory within five (5) business days of receipt; and

(2) forwarded to the national directory of new hires within three

(3) business days after entry into the state's new hire directory.

The state shall use quality control standards established by the Administrators of the National Directory of New Hires.

(l) The information contained in the Indiana directory of new hires is available only for use by the department ~~and the office of the secretary of family and social services~~ for purposes required by 42 U.S.C. 653A, unless otherwise provided by law.

(m) The ~~office of the secretary of family and social services~~ **department of child services** shall reimburse the department for any costs incurred in carrying out this section.

(n) The ~~office of the secretary of family and social services~~ **department of child services** and the department shall enter into a purchase of service agreement that establishes procedures necessary to administer this section.

SECTION 5. IC 29-3-7-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. A court may not appoint a person to serve as the guardian or permit a person to continue to serve as a guardian if the person:**

(1) is a sexually violent predator (as described in IC 35-38-1-7.5);

(2) was at least eighteen (18) years of age at the time of the

offense and was convicted of child molesting (IC 35-42-4-3) or sexual misconduct with a minor (IC 35-42-4-9) against a child less than sixteen (16) years of age:

(A) by using or threatening the use of deadly force;

(B) while armed with a deadly weapon; or

(C) that resulted in serious bodily injury; or

(3) was less than eighteen (18) years of age at the time of the offense and was convicted as an adult of:

(A) an offense described in:

(i) IC 35-42-4-1;

(ii) IC 35-42-4-2;

(iii) IC 35-42-4-3 as a Class A or Class B felony;

(iv) IC 35-42-4-5(a)(1);

(v) IC 35-42-4-5(a)(2);

(vi) IC 35-42-4-5(a)(3);

(vii) IC 35-42-4-5(b)(1) as a Class A or Class B felony;

(viii) IC 35-42-4-5(b)(2); or

(ix) IC 35-42-4-5(b)(3) as a Class A or Class B felony;

(B) an attempt or conspiracy to commit a crime listed in clause (A); or

(C) a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) and (B).

SECTION 6. IC 31-9-2-9.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 9.6. "Assessment", for purposes of IC 31-25 and IC 31-33, means an initial and ongoing investigation or evaluation that includes:**

(1) a review and determination of the safety issues that affect a child and:

(A) a child's parents, guardians, or custodians; or

(B) another individual residing in the residence where the child resides or is likely to reside;

(2) an identification of the underlying causes of the safety issues described in subdivision (1);

(3) a determination whether child abuse, neglect, or maltreatment occurred; and

(4) a determination of the needs of a child's family in order for the child to:

(A) remain in the home safely;

(B) be returned to the home safely; or

(C) be placed in an alternative living arrangement.

SECTION 7. IC 31-9-2-42.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 42.3. "Drug or alcohol screen test" means a test used to determine the presence or use of alcohol, a controlled substance, or a drug in a person's bodily substance.**

SECTION 8. IC 31-9-2-107 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 107. **(a)** "Relative", for purposes of IC 31-19-18, means:

(1) an adoptive or whole blood related parent;

(2) a sibling; or

(3) a child.

(b) "Relative", for purposes of IC 31-34-3, means:

(1) a maternal or paternal grandparent;

(2) an adult aunt or uncle; or

(3) any other adult relative suggested by either parent of a child.

SECTION 9. IC 31-9-2-123, AS AMENDED BY P.L.146-2006, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 123. "Substantiated", when used in reference to a child abuse or neglect report made under IC 31-33, means a determination regarding the status of the report whenever facts obtained during an ~~investigation~~ **assessment** of the report provide a preponderance of evidence that child abuse or neglect has occurred.

SECTION 10. IC 31-9-2-132 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 132. "Unsubstantiated", for purposes of IC 31-33 and IC 31-39-8-4, means a determination regarding the status of a report made under IC 31-33 whenever facts obtained during an ~~investigation~~ **assessment** of the report provide credible evidence that child abuse or neglect has not occurred.

SECTION 11. IC 31-16-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) If the court finds that a party is delinquent as a result of an intentional violation of an order for support, the court may find the party in contempt of court. If an action or request to enforce payment of a child support arrearage is commenced not later than ten (10) years after:

(1) the child becomes eighteen (18) years of age; or

(2) the emancipation of the child;

whichever occurs first, the court may, upon a request by the person or agency entitled to receive child support arrearages, find a party in contempt of court.

(b) The court may order a party who is found in contempt of court under this section to:

(1) perform community restitution or service without compensation in a manner specified by the court; or

(2) seek employment.

(c) The court may order a party who is alleged to be in contempt of court under this section to show cause as to why the party should not be held in contempt for violating an order for support. The order to show cause must set forth:

(1) the contempt allegations;

(2) the failure to pay child support allegations;

(3) when the court issued the order for support;

(4) the party's history of child support payments;

(5) the specific:

(A) date and time when; and

(B) place where;

the party is required to show cause in the court; and

(6) the party's arrearage.

SECTION 12. IC 31-16-12-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6.5. (a) If a party fails to respond to an order to show cause issued under section 6(c) of this chapter by the date and time specified in the order to show cause, the court may issue a bench warrant for the party to be arrested and brought to the court to respond to the order to show cause.**

(b) The court must determine an escrow that a party ordered to show cause under section 6(c) of this chapter is required to deposit with the clerk of the circuit court before the hearing to show cause. If the child support arrearage amount is less than five hundred dollars ($500), the court shall set the required escrow at the amount of the arrearage. If the arrearage is more than five hundred dollars ($500), the court shall set the required escrow at not less than five hundred dollars ($500) and not more than one

hundred percent (100%) of the arrearage.

(c) All escrow received by a clerk of the circuit court under this section shall be deposited in a single account. The clerk shall:

(1) keep an accounting of all money deposited in the escrow account;

(2) issue a receipt to any person who pays money to the clerk under this section; and

(3) transfer money out of the escrow account only after receiving an order to transfer money issued by the court that issued the bench warrant.

(d) If a party is arrested under subsection (a), the party shall remain in custody until the hearing to show cause unless the party posts the escrow amount required in the bench warrant.

(e) If a party is arrested outside the business hours of the clerk of the circuit court, the party may post the escrow amount stated in the bench warrant with the arresting officer.

(f) The arresting officer or clerk receiving an escrow amount shall give the party a receipt for the escrow on a form substantially as follows:

"Date:_____

Escrow received from_____ (referred to in this receipt as respondent) to assure the performance of the respondent's child support arrearage. The respondent shall appear for a hearing to show cause at _____(time) on _____(date) at the following address:

_____

_____

(Address to be furnished by respondent for receipt of notice.)

The hearing is for the respondent to answer an order to show cause. If the respondent is found to be in contempt, further proceedings related to the respondent's contempt may occur.

If the respondent fails to appear at the time and date listed above, fails to submit to the jurisdiction of the court, or fails to abide by the court's orders, the Court may direct the Clerk of the Circuit Court to distribute the escrow deposited with the Clerk of the Circuit Court under state and federal child support distribution laws.

If the respondent appears at the time and location indicated above and the Court determines the respondent owes an arrearage under

the support order that is the basis of the order to show cause or owes any costs to the Court, the Court may direct the Clerk of the Circuit Court to distribute the escrow deposited with the Clerk of the Circuit Court under state and federal child support distribution laws.

By depositing the escrow amount and accepting this receipt, the recipient of this receipt waives a claim to the money following a Court order for distribution of child support.

Printed name and signature of person receiving escrow deposit: _____

Agency or department of person receiving escrow deposit: _____.".

(g) A law enforcement officer who receives escrow money under this section shall deposit the money with the clerk of the circuit court that issued the bench warrant within two (2) business days after receiving the escrow money.

(h) If a party is arrested under subsection (a) and cannot post the escrow amount required in the bench warrant, the party is entitled to a hearing within forty-eight (48) hours after the party's arrest, excluding weekends and holidays, if the court is able to hold the hearing within that period. If the court cannot hold a hearing within forty-eight (48) hours, the court shall review the escrow amount ordered in the bench warrant, may modify the escrow amount in the bench warrant to ensure that the party appears at future hearings, and shall set a date for a hearing. At the hearing, the party shall explain to the court why the party cannot post the required escrow deposit required by the bench warrant. The party shall also respond to the court's order to show cause.

(i) If a party fails to appear at a hearing to respond to an order to show cause issued under this section after the party deposited the escrow amount set in the bench warrant, the court shall order the clerk of the circuit court to distribute the escrow under state and federal child support distribution laws. The court may also issue an additional bench warrant under subsection (a) for the party to respond to additional contempt charges.

(j) If a party posts the escrow amount set in a bench warrant, at a hearing to respond to an order to show cause under this section, the court shall determine how the escrow amount deposited is to be distributed under state and federal child distribution laws. If the

escrow amount deposited exceeds the arrearage, the party is entitled to a refund.

(k) The court may set aside a finding of contempt under this section if the court finds, based on the hearing held under this section, that the party is in compliance with the court's orders.

(l) If a court finds a person to be in contempt of court under this section, the court may punish the person for contempt of court under IC 34-47.

SECTION 13. IC 31-19-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. A petition for adoption must specify the following:

(1) The:

(A) name if known;

(B) sex, race, and age if known, or if unknown, the approximate age; and

(C) place of birth;

of the child sought to be adopted.

(2) The new name to be given the child if a change of name is desired.

(3) Whether or not the child possesses real or personal property and, if so, the value and full description of the property.

(4) The:

(A) name, age, and place of residence of a petitioner for adoption; and

(B) if married, place and date of their marriage.

(5) The name and place of residence, if known to the petitioner for adoption, of:

(A) the parent or parents of the child;

(B) if the child is an orphan:

(i) the guardian; or

(ii) the nearest kin of the child if the child does not have a guardian;

(C) the court or agency of which the child is a ward if the child is a ward; or

(D) the agency sponsoring the adoption if there is a sponsor.

(6) The time, if any, during which the child lived in the home of the petitioner for adoption.

(7) Whether the petitioner for adoption has been convicted of:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children;

and, if so, the date and description of the conviction.

(8) Additional information consistent with the purpose and provisions of this article that is considered relevant to the proceedings. ~~including whether:~~

~~(A) a petitioner for adoption is seeking aid; and~~

~~(B) the willingness of the petitioner for adoption to proceed with the adoption is conditioned on obtaining aid.~~

SECTION 14. IC 31-19-2-12, AS AMENDED BY P.L.146-2006, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. As soon as a petition for adoption is found to be in proper form, the clerk of the court shall forward one (1) copy of the petition for adoption to:

(1) a licensed child placing agency as described in IC 31-19-7-1, with preference to be given to the agency, if any, sponsoring the adoption, as shown by the petition for adoption; and

(2) the ~~county office of family and children whenever a subsidy is requested in a petition for adoption sponsored by a licensed child placing agency.~~ **department.**

SECTION 15. IC 31-19-8-1, AS AMENDED BY P.L.138-2007, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. An adoption may be granted in Indiana only after:

(1) the court has heard the evidence; and

(2) except as provided in section 2(c) of this chapter, a period of supervision, as described in section 2 of this chapter, by:

(A) a licensed child placing agency **for a child who has not been adjudicated to be a child in need of services;** or

(B) if the **child is the subject of an open child in need of services action, the** county office of family and children approved for that purpose by the department.

SECTION 16. IC 31-19-8-3, AS AMENDED BY P.L.145-2006, SECTION 249, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The department shall annually compile a list of:

(1) licensed child placing agencies; and

(2) county offices of family and children;

that conduct the inspection and supervision required for adoption of a child by IC 31-19-7-1 and section 1 of this chapter.

(b) The list of licensed child placing agencies and county offices of family and children must include a description of the following:

(1) Fees charged by each agency and county office of family and children.

(2) Geographic area served by each agency and county office of family and children.

(3) Approximate waiting period for the inspection or supervision by each **licensed child placing** agency and county office of family and children.

(4) Other relevant information regarding the inspection and supervision provided by ~~an~~ **a licensed child placing** agency or a county office of family and children under IC 31-19-7-1 and section 1 of this chapter.

(c) The department shall do the following:

(1) Maintain in its office ~~sufficient~~ **or on its web site** copies of the list compiled under this section for distribution to individuals who request a copy.

(2) Provide ~~the following persons~~ **each county office of family and children** with sufficient copies of the list prepared under this section for distribution to individuals who request a copy.

~~(A) Each clerk of a court having probate jurisdiction in a county.~~

~~(B) each county office of family and children.~~

(3) Provide a copy of the list to each public library organized under IC 36-12.

(d) The department and each:

(1) county office of family and children; **and**

~~(2) clerk of a court having probate jurisdiction in a county; and~~

~~(3)~~ **(2)** public library organized under IC 36-12;

shall make the list compiled under this section available for public inspection.

SECTION 17. IC 31-19-8-4, AS AMENDED BY P.L.145-2006, SECTION 250, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. To facilitate adoption proceedings, the department shall:

(1) publish;

(2) post on its web site; or

(3) furnish to ~~clerks of Indiana courts having probate jurisdiction;~~ **each public library organized under IC 36-12;**

a list of approved supervising agencies.

SECTION 18. IC 31-19-8-5, AS AMENDED BY P.L.138-2007, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Except as provided in subsection (c), not more than sixty (60) days from the date of reference of a petition for adoption to each appropriate agency:

(1) each ~~agency or the county office of family and children~~ **licensed child placing agency, for a child who is not adjudicated to be a child in need of services; or**

(2) if the child is the subject of an open child in need of services action, each county office of family and children;

shall submit to the court a written report of the investigation and recommendation as to the advisability of the adoption.

(b) The ~~agency's or county office of family and children's~~ report and recommendation:

(1) shall be filed with the adoption proceedings; and

(2) become a part of the proceedings.

(c) A court hearing a petition for adoption of a child

~~(1)~~ may waive the report required under subsection (a) if one (1) of the petitioners is a stepparent or grandparent of the child and the court waives the period of supervision. ~~under section 2(c) of this chapter; and~~

~~(2) may require the county office of family and children or a child placing agency to:~~

~~(A) investigate any matter related to an adoption; and~~

~~(B) report to the court the results of the investigation.~~

(d) If the court waives the reports required under subsection (a), the court shall require the ~~county office of family and children or a child placing agency~~ **licensed child placing agency for a child who is not adjudicated to be a child in need of services or, if the child is the subject of an open child in need of services action, each county office of family and children** to:

(1) ~~conduct~~ **ensure** a criminal history check **is conducted** under IC 31-19-2-7.5; and

(2) report to the court the results of the criminal history check.

SECTION 19. IC 31-19-8-6, AS AMENDED BY P.L.138-2007, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The ~~agency's or county office of family and children's~~ report **required by section 5 of this chapter** must, to the extent possible, include the following:

(1) The former environment and antecedents of the child.

(2) The fitness of the child for adoption.

~~(3) Whether the child is classified as hard to place,~~

~~(A) because of the child's ethnic background, race, color, language, physical, mental, or medical disability, or age, or~~

~~(B) because the child is a member of a sibling group that should be placed in the same home.~~

~~(4)~~ **(3)** The suitability of the proposed home for the child.

(b) The report may not contain any of the following:

(1) Information concerning the financial condition of the **adoptive** parents.

(2) A recommendation that a request for a subsidy be denied in whole or in part due to the financial condition of the **adoptive** parents.

(c) The criminal history information required under IC 31-19-2-7.5 must accompany the report.

SECTION 20. IC 31-19-8-7, AS AMENDED BY P.L.138-2007, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. The court shall summarily consider the ~~agency's or county office of family and children's~~ report **submitted under section 5 of this chapter.** If the court finds that further investigation or further supervision is necessary, the court shall continue the case to a later date that the court considers advisable for final determination. At that time the court shall determine the case.

SECTION 21. IC 31-19-8-8, AS AMENDED BY P.L.138-2007, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. The report and recommendation of the **licensed child placing** agency or county office ~~of family and children~~ are not binding on the court but are advisory only.

SECTION 22. IC 31-19-11-3, AS AMENDED BY P.L.146-2008, SECTION 561, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) If the petition for adoption

contained a request for financial assistance, the court shall refer the ~~petition~~ **petitioner** to the department **to complete and submit to the department the Indiana Adoption Program application** for a determination of eligibility for:

(1) adoption assistance under 42 U.S.C. 673, including applicable federal and state regulations; or

(2) an adoption subsidy under IC 31-19-26.5.

(b) The department shall determine the eligibility of the adoptive child for financial assistance and the amount of assistance, if any, that will be provided.

(c) The court may not order payment of:

(1) adoption assistance under 42 U.S.C. 673; or

(2) any adoption subsidy under IC 31-19-26.5.

SECTION 23. IC 31-19-17-3, AS AMENDED BY P.L.1-2006, SECTION 497, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. The person, licensed child placing agency, or county office ~~of family and children~~ shall:

(1) exclude information that would identify the birth parents; and

(2) release all available social, medical, psychological, and educational records concerning the child to:

(A) the adoptive parent; and

(B) upon request, an adoptee who:

(i) is at least twenty-one (21) years of age; and

(ii) provides proof of identification.

SECTION 24. IC 31-19-17-4, AS AMENDED BY P.L.1-2006, SECTION 498, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. The person, licensed child placing agency, or county office ~~of family and children~~ shall provide:

(1) the adoptive parent; and

(2) upon request, an adoptee who:

(A) is at least twenty-one (21) years of age; and

(B) provides proof of identification;

with a summary of other existing social, medical, psychological, and educational records concerning the child of which the person, agency, or county office has knowledge but does not have possession. If requested by an adoptive parent or an adoptee, the person, agency, or county office shall attempt to provide the adoptive parent or the adoptee with a copy of any social, medical, psychological, or

educational record that is not in the possession of the person, agency, or county office, after identifying information has been excluded.

SECTION 25. IC 31-19-17-5, AS AMENDED BY P.L.1-2006, SECTION 499, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) This section applies to an adoption that is granted before July 1, 1993.

(b) Upon the request of an adoptee who:

(1) is at least twenty-one (21) years of age; and

(2) provides proof of identification;

a person, a licensed child placing agency, or a county office ~~of family and children~~ shall provide to the adoptee available information of social, medical, psychological, and educational records and reports concerning the adoptee. The person, licensed child placing agency, or county office ~~of family and children~~ shall exclude from the records information that would identify the birth parents.

SECTION 26. IC 31-25-2-4, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. One (1) time every ~~three (3)~~ **twelve (12)** months, the department shall submit a report to the budget committee and to the legislative council that provides data and statistical information regarding caseloads of ~~child protection caseworkers.~~ **family case managers.** The report made to the legislative council must be in an electronic format under IC 5-14-6.

SECTION 27. IC 31-25-2-6, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. The report required under section 4 of this chapter must do the following:

(1) Indicate the department's progress in recruiting, training, and retaining ~~caseworkers.~~ **family case managers.**

(2) Describe the methodology used to compute caseloads for each ~~child protection caseworker.~~ **family case manager.**

(3) Indicate whether the statewide average caseloads for ~~child protection caseworkers~~ **family case managers** exceed the caseload standards established by the department.

(4) If the report indicates that average caseloads exceed caseload standards, include a written plan that indicates the steps that are being taken to reduce caseloads.

(5) Identify, describe, and, if appropriate, recommend best

management practices and resources required to achieve effective and efficient delivery of child protection services.

SECTION 28. IC 31-25-2-8, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. **(a)** The department is the single state agency responsible for administering the following:

(1) Title IV-B of the federal Social Security Act under 42 U.S.C. 620 et seq.

(2) Title IV-E of the federal Social Security Act under 42 U.S.C. 670 et seq.

(3) The federal Child Abuse Prevention and Treatment Act under 42 U.S.C. 5106 et seq.

(4) The federal Social Services Block Grant under 42 U.S.C. 1397 et seq.

(5) Any other federal program that provides funds to states for services related to the prevention of child abuse and neglect, child welfare services, foster care, independent living, or adoption services.

(b) This subsection applies beginning October 1, 2009. Under 42 U.S.C. 671(a)(32), the department shall negotiate in good faith with any Indian tribe, tribal organization, or tribal consortium in the state that requests to develop an agreement with the state to administer all or part of Title IV-E of the federal Social Security Act under 42 U.S.C. 670 et seq., on behalf of Indian children who are under the authority of the tribe, tribal organization, or tribal consortium.

SECTION 29. IC 31-25-2-9, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The department:

(1) must have sufficient qualified and trained staff to fulfill the purpose of this article;

(2) must be organized to maximize the continuity of responsibility, care, and service of individual caseworkers toward individual children and families;

(3) must provide training to representatives of the department regarding the legal duties of the representatives in carrying out the responsibility of the department under section 7 of this chapter, which may consist of various methods of informing the

representatives of their duties, in order to protect the legal rights and safety of children and families from the initial time of contact during the investigation through treatment; and

(4) must provide training to representatives of the child protection services system regarding the constitutional rights of the child's family, including a child's guardian or custodian, that is the subject of an ~~investigation~~ **assessment** of child abuse or neglect consistent with the Fourth Amendment to the United States Constitution and Article ~~1,~~ **1,** Section 11 of the Constitution of the State of Indiana.

(b) This section expires June 30, 2008.

SECTION 30. IC 31-25-2-10, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) This section applies after June 30, 2008.

(b) The department of child services:

(1) must have sufficient qualified and trained staff to:

(A) fulfill the purpose of this article;

(B) comply with the maximum caseload ratios for:

(i) ~~child protection caseworkers;~~ **family case managers;** and

(ii) child welfare caseworkers;

as set forth in IC 31-25-2-5;

(2) must be organized to maximize the continuity of responsibility, care, and service of individual ~~caseworkers~~ **family case managers** toward individual children and families;

(3) must provide training to representatives of the department regarding the legal duties of the representatives in carrying out the responsibility of the department under section 7 of this chapter, which may consist of various methods of informing the representatives of their duties, in order to protect the legal rights and safety of children and families from the initial time of contact during the investigation through treatment; and

(4) must provide training to representatives of the child protection services system regarding the constitutional rights of the child's family, including a child's guardian or custodian, that is the subject of an ~~investigation~~ **assessment** of child abuse or neglect consistent with the Fourth Amendment to the United States

Constitution and Article ~~I,~~ **1,** Section 11 of the Constitution of the State of Indiana.

SECTION 31. IC 31-25-2-11, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) Except in cases involving a child who may be a victim of institutional abuse or cases in which police investigation also appears appropriate, the department is the primary public agency responsible for:

(1) receiving;

(2) ~~investigating~~ **assessing** or arranging for ~~investigation,~~ **assessment of;** and

(3) coordinating **the assessment of;**

~~the investigation of~~ all reports of a child who may be a victim of known or suspected child abuse or neglect.

(b) In accordance with a local plan for child protection services, the department shall, by juvenile court order:

(1) provide protection services to prevent cases where a child may be a victim of further child abuse or neglect; and

(2) provide for or arrange for and coordinate and monitor the provision of the services necessary to ensure the safety of children.

(c) Reasonable efforts must be made to provide family services designed to prevent a child's removal from the child's parent, guardian, or custodian.

SECTION 32. IC 31-25-2-20.4, AS ADDED BY P.L.138-2007, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20.4. (a) The department shall establish at least three (3) citizen review panels in accordance with the requirements of the federal Child Abuse Prevention and Treatment Act under 42 U.S.C. 5106a.

(b) A citizen review panel consists of volunteer members who broadly represent the community in which the panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect.

(c) The department shall appoint the citizen review panels in the following manner:

(1) One (1) panel must be a community child protection team established in a county under IC 31-33-3-1, selected by the

director of the department with the consent of the team.

(2) One (1) panel must be either:

(A) the statewide child fatality review committee established under IC 31-33-25-6; or

(B) a local child fatality review team established under IC 31-33-24-6;

selected by the director of the department with the consent of the committee or team.

(3) One (1) panel must be a foster care advisory panel consisting of at least five (5) and not more than eleven (11) members, selected to the extent feasible from the membership of any foster care advisory group previously established or recognized by the department. If the panel consists of seven (7) or fewer members, the panel must include at least one (1) foster parent licensed by the department through a county office and one (1) foster parent licensed by the department through a child placing agency licensed under IC 31-27-6. If the panel consists of more than seven (7) members, the panel must include two (2) foster parents licensed by the department through a county office and two (2) foster parents licensed by the department through a child placing agency licensed under IC 31-27-6. Additional members of the panel must include one (1) or more individuals who are employed by a child placing agency licensed under IC 31-27-6 and who provide services to foster families and children placed by the department in out-of-home placements, and may include other representatives of child welfare service providers or persons who provide training to current or prospective foster parents. All members of this panel must be individuals who are not employees of the department.

(4) The membership of any additional citizen review panels established under this section shall be determined by the director of the department, consistent with the guidelines for panel membership stated in subsection (b) and the purposes and functions of the panels as described in this section.

(5) Each citizen review panel shall be appointed for a term of three (3) years beginning July 1, 2007. Upon expiration of the term of the panel described in subdivision (1), the director of the department shall select a community child protection team

established in a different county for the succeeding term. Upon expiration of the term of the panel described in subdivision (2), the director of the department shall select a different fatality review team, or committee, if available, for the succeeding term. Panels appointed under subdivision (3) or (4) may be reappointed for successive terms, in the discretion of the director of the department. The director may appoint individuals as needed to fill vacancies that occur during the term of any panel appointed under subdivision (3) or (4).

(d) A citizen review panel shall evaluate the extent to which a child welfare agency is effectively discharging the agency's child protection responsibilities by examining:

(1) the policies and procedures of child welfare agencies;

(2) if appropriate, specific child protective services cases; and

(3) other criteria the citizen review panel considers important to ensure the protection of children.

(e) Each citizen review panel shall:

(1) meet at least one (1) time every three (3) months; and

(2) prepare and make available to the department and the public an annual report that contains a summary of the activities of the citizen review panel.

(f) The department shall, not more than six (6) months after the date the department receives a report from a citizen review panel under subsection (e), submit to the citizen review panel a written response indicating whether and how the department will incorporate the recommendations of the citizen review panel. The department shall at the same time provide appropriate child welfare agencies with copies of the department's written response.

(g) A child welfare agency shall make all reports and other materials in the child welfare agency's possession available to a citizen review panel established under this section, including any reports and materials that the child welfare agency has received from other agencies.

(h) A member of a citizen review panel may not disclose to a person or government official any identifying information that is provided to the citizen review panel about:

(1) a specific child protective services case or child welfare agency case;

(2) a child or member of the child's family who is the subject of a child protective services ~~investigation,~~ **assessment;** or

(3) any other individuals identified in confidential reports, documents, or other materials.

(i) If a member of a citizen review panel violates subsection (h), the department may remove the member from the citizen review panel.

(j) A child welfare agency shall cooperate and work with each citizen review panel established under this section.

SECTION 33. IC 31-25-2-21, AS ADDED BY P.L.143-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) As used in this section, "transitional services plan" means a plan that provides information concerning the following to an individual described in subsection (b):

(1) Education.

(2) Employment.

(3) Housing.

(4) Health care.

(5) Development of problem solving skills.

(6) Available local, state, and federal financial assistance.

(b) The department shall implement a program that provides a transitional services plan to the following:

(1) An individual who has become or will become:

(A) eighteen (18) years of age; or

(B) emancipated;

while receiving foster care.

(2) An individual who:

(A) is at least eighteen (18) but less than twenty-one (21) years of age; and

(B) is receiving foster care for older youth under IC 31-28-5.7.

(c) The department shall adopt rules under IC 4-22-2, **including emergency rules under IC 4-22-2-37.1,** necessary to implement the program described in this section.

SECTION 34. IC 31-25-4-32, AS AMENDED BY P.L.103-2007, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 32. (a) When the Title IV-D agency finds that an obligor is delinquent, ~~and can demonstrate that all previous enforcement actions have been unsuccessful,~~ the Title IV-D agency shall send, to a verified address, a notice to the obligor that does the

following:

(1) Specifies that the obligor is delinquent.

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

(3) States that unless the obligor:

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

(B) establishes a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order; or

(C) requests a hearing under section 33 of this chapter;

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

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

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

(B) Establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

(C) Request a hearing under section 33 of this chapter.

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

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

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

(C) the department of education established by IC 20-19-3-1 if the obligor is a licensed teacher;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) Explains the procedures to:

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

(B) establish a payment plan with the Title IV-D agency to pay the arrearage, which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

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

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

(2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or

(3) request a hearing under section 33 of this chapter within twenty (20) days after the date the notice described in subsection (a) is mailed;

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

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

(1) If the obligor who is the subject of the order holds a driving license or permit on the date the order is issued, that the driving

privileges of the obligor be suspended until further order of the Title IV-D agency.

(2) If the obligor who is the subject of the order does not hold a driving license or permit on the date the order is issued, that the bureau of motor vehicles may not issue a driving license or permit to the obligor until the bureau of motor vehicles receives a further order from the Title IV-D agency.

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

(1) full name;

(2) date of birth;

(3) verified address; and

(4) Social Security number or driving license number;

of the obligor to the bureau of motor vehicles.

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

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

(2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or

(3) request a hearing under section 33 of this chapter;

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

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

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

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

(2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or

(3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall notify the supreme court disciplinary commission if the obligor is an attorney, or the department of education

if the obligor is a licensed teacher, that the obligor is delinquent.

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

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

(2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or

(3) request a hearing under section 33 of this chapter;

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

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

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

(2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or

(3) request a hearing under section 33 of this chapter;

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

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

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

(2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or

(3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the director of the department of natural resources stating that the obligor is delinquent and directing the director to suspend or revoke a license issued to the

obligor by the department of natural resources as provided in IC 14-11-3.

SECTION 35. IC 31-27-2-4, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The department shall adopt rules under IC 4-22-2, **including emergency rules under IC 4-22-2-37.1,** concerning the licensing and inspection of child caring institutions, foster family homes, group homes, and child placing agencies after consultation with the following:

(1) State department of health.

(2) Fire prevention and building safety commission.

(b) The rules adopted under subsection (a) shall be applied by the department and state fire marshal in the licensing and inspection of applicants for a license and licensees under this article.

(c) The rules adopted under IC 4-22-2 must establish minimum standards for the care and treatment of children in a secure private facility.

(d) The rules described in subsection (c) must include standards governing the following:

(1) Admission criteria.

(2) General physical and environmental conditions.

(3) Services and programs to be provided to confined children.

(4) Procedures for ongoing monitoring and discharge planning.

(5) Procedures for the care and control of confined persons that are necessary to ensure the health, safety, and treatment of confined children.

(e) The department shall license a facility as a private secure facility if the facility:

(1) meets the minimum standards required under subsection (c);

(2) provides a continuum of care and services; and

(3) is:

(A) licensed under IC 12-25, IC 16-21-2, or IC 31-27-3; or

(B) a unit of a facility licensed under IC 12-25 or IC 16-21-2;

regardless of the facility's duration of or previous licensure as a child caring institution.

(f) A waiver of the rules may not be granted for treatment and reporting requirements.

SECTION 36. IC 31-27-4-2, AS AMENDED BY P.L.143-2008,

SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A person may not operate a therapeutic foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a therapeutic foster family home without a license issued under this article.

(c) The department may issue a license only for a therapeutic foster family home that meets:

(1) all the licensing requirements of a foster family home; and

(2) the additional requirements described in this section.

(d) An applicant for a therapeutic foster family home license must do the following:

(1) Be licensed as a foster parent under 465 IAC 2-1-1 et seq.

(2) Participate in preservice training that includes:

(A) preservice training to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and

(B) additional preservice training in therapeutic foster care.

(e) A person who is issued a license to operate a therapeutic foster family home shall, within one (1) year after meeting the training requirements of subsection (d)(2) and, annually thereafter, participate in training that includes:

(1) training as required in order to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and

(2) additional training in order to be licensed as a therapeutic foster parent under this chapter.

(f) An operator of a therapeutic foster family home may not provide supervision and care in a therapeutic foster family home to more than two (2) foster children at the same time, not including the children for whom the applicant or operator is a parent, stepparent, guardian, custodian, or other relative. The department may grant an exception to this subsection whenever the placement of siblings in the same therapeutic foster family home is desirable or in the best interests of the foster children residing in the home.

(g) A therapeutic foster family home may provide care for an individual receiving foster care for older youth under IC 31-28-5.7-1 if the individual is no longer under the care and supervision of a juvenile court.

(h) An individual who receives foster care for older youth under

IC 31-28-5.7-1 in a therapeutic foster family home shall not be considered in determining whether the therapeutic foster family home meets or exceeds the limit set forth in subsection (f).

(i) The department shall adopt rules under IC 4-22-2, **including emergency rules under IC 4-22-2-37.1,** necessary to carry out this section, including rules governing the number of hours of training required under subsections (d) and (e).

SECTION 37. IC 31-27-4-3, AS AMENDED BY P.L.143-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A person may not operate a special needs foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a special needs foster family home without a license issued under this article.

(c) The department may only issue a license for a special needs foster family home that meets:

(1) all the licensing requirements of a foster family home; and

(2) the additional requirements described in this section.

(d) An applicant for a special needs foster family home license must be licensed as a foster parent under 465 IAC 2-1-1 et seq. that includes participating in preservice training.

(e) A person who is issued a license to operate a special needs foster family home shall, within one (1) year after meeting the training requirements of subsection (d) and, annually thereafter, participate in training that includes:

(1) training as required in order to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and

(2) additional training that includes specialized training to meet the child's or individual's specific needs.

(f) An operator of a special needs foster family home may not provide supervision and care as a special needs foster family home if more than:

(1) eight (8) individuals, each of whom:

(A) is less than eighteen (18) years of age; or

(B) is at least eighteen (18) years of age and is receiving care and supervision under an order of a juvenile court; or

(2) four (4) individuals less than six (6) years of age;

including the children or individuals for whom the provider is a parent,

stepparent, guardian, custodian, or other relative, receive care and supervision in the home at the same time. Not more than four (4) of the eight (8) individuals described in subdivision (1) may be less than six (6) years of age. The department may grant an exception to this section whenever the department determines that the placement of siblings in the same special needs foster home is desirable.

(g) An individual who receives foster care for older youth under IC 31-28-5.7-1 in a special needs foster family home shall not be considered in determining whether the special needs foster family home meets or exceeds the limit set forth in subsection (f)(1).

(h) The department shall consider the specific needs of each special needs foster child or individual whenever the department determines the appropriate number of children or individuals to place in the special needs foster home under subsection (f). The department may require a special needs foster family home to provide care and supervision to less than the maximum number of children or individuals allowed under subsection (f) upon consideration of the specific needs of a special needs foster child or individual.

(i) A special needs foster family home may provide care for an individual receiving foster care for older youth under IC 31-28-5.7-1 if the individual is no longer under the care and supervision of a juvenile court.

(j) The department shall adopt rules under IC 4-22-2, **including emergency rules under IC 4-22-2-37.1,** necessary to carry out this section, including rules governing the number of hours of training required under subsection (e).

SECTION 38. IC 31-30-1-2.5, AS ADDED BY P.L.173-2006, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. A juvenile court may not appoint a person to serve as the guardian or custodian of a child **or permit a person to continue to serve as a guardian or custodian of a child** if the person: ~~is:~~

(1) **is** a sexually violent predator (as described in IC 35-38-1-7.5); ~~or~~

(2) ~~a person who~~ was at least eighteen (18) years of age at the time of the offense and ~~who~~ committed child molesting (IC 35-42-4-3) or sexual misconduct with a minor (IC 35-42-4-9) against a child less than sixteen (16) years of age:

(A) by using or threatening the use of deadly force;

(B) while armed with a deadly weapon; or

(C) that resulted in serious bodily injury; **or**

(3) was less than eighteen (18) years of age at the time of the offense but was tried and convicted as an adult of:

(A) an offense described in:

(i) IC 35-42-4-1;

(ii) IC 35-42-4-2;

(iii) IC 35-42-4-3 as a Class A or Class B felony;

(iv) IC 35-42-4-5(a)(1);

(v) IC 35-42-4-5(a)(2);

(vi) IC 35-42-4-5(a)(3);

(vii) IC 35-42-4-5(b)(1) as a Class A or Class B felony;

(viii) IC 35-42-4-5(b)(2); or

(ix) IC 35-42-4-5(b)(3) as a Class A or Class B felony;

(B) an attempt or conspiracy to commit a crime listed in clause (A); or

(C) a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) and (B).

SECTION 39. IC 31-33-3-7, AS AMENDED BY P.L.146-2008, SECTION 575, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) The community child protection team shall prepare a periodic report regarding the child abuse and neglect reports and complaints that the team reviews under this chapter.

(b) The periodic report may include the following information:

(1) The number of complaints under section 6 of this chapter that the team receives and reviews each month.

(2) A description of the child abuse and neglect reports that the team reviews each month, including the following information:

(A) The scope and manner of the interviewing process during the child abuse or neglect ~~investigation.~~ **assessment.**

(B) The timeliness of the ~~investigation.~~ **assessment.**

(C) The number of children removed from the home.

(D) The types of services offered.

(E) The number of child abuse and neglect cases filed with a court.

(F) The reasons that certain child abuse and neglect cases are not filed with a court.

SECTION 40. IC 31-33-7-6.5, AS AMENDED BY P.L.234-2005, SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.5. Child abuse or neglect information may be expunged under IC 31-39-8 if the probative value of the information is so doubtful as to outweigh its validity. Child abuse or neglect information shall be expunged if it is determined to be unsubstantiated after:

(1) an ~~investigation~~ **assessment** by the department of a report of a child who may be a victim of child abuse or neglect; or

(2) a court proceeding.

SECTION 41. IC 31-33-7-7, AS AMENDED BY P.L.234-2005, SECTION 115, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) When a law enforcement agency receives an initial report under IC 31-33-5-4 that a child may be a victim of child abuse or neglect, the law enforcement agency shall:

(1) immediately communicate the report to the department, whether or not the law enforcement agency has reason to believe there exists an imminent danger to the child's health or welfare; and

(2) conduct an immediate, onsite ~~investigation~~ **assessment** of the report along with the department whenever the law enforcement agency has reason to believe that an offense has been committed.

(b) In all cases, the law enforcement agency shall forward any information, including copies of ~~investigation~~ **assessment** reports, on incidents of cases in which a child may be a victim of child abuse or neglect, whether or not obtained under this article, to:

(1) the department; and

(2) the juvenile court under IC 31-34-7.

SECTION 42. IC 31-33-7-8, AS AMENDED BY P.L.234-2005, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) This section applies if the department receives a report of suspected child abuse or neglect from:

(1) a hospital;

(2) a community mental health center;

(3) a managed care provider (as defined in IC 12-7-2-127(b));

(4) a referring physician;

(5) a dentist;

(6) a licensed psychologist; or

(7) a school.

(b) Not later than thirty (30) days after the date the department receives a report of suspected child abuse or neglect from a person described in subsection (a), the department shall send a report to:

(1) the administrator of the hospital;

(2) the community mental health center;

(3) the managed care provider;

(4) the referring physician;

(5) the dentist; or

(6) the principal of the school.

The report must contain the items listed in subsection (e) that are known at the time the report is sent.

(c) Not later than ninety (90) days after the date the department receives a report of suspected child abuse or neglect, the department shall send a report that contains any additional items listed in subsection (e) that were not covered in the prior report if available.

(d) The administrator, director, referring physician, dentist, licensed psychologist, or principal may appoint a designee to receive the report.

(e) A report made by the department under this section must contain the following information:

(1) The name of the alleged victim of child abuse or neglect.

(2) The name of the alleged perpetrator and the alleged perpetrator's relationship to the alleged victim.

(3) Whether the case is closed.

(4) Whether information concerning the case has been expunged.

(5) The name of any agency to which the alleged victim has been referred.

(6) Whether the department has made an ~~investigation~~ **assessment** of the case and has not taken any further action.

(7) Whether a substantiated case of child abuse or neglect was informally adjusted.

(8) Whether the alleged victim was referred to the juvenile court as a child in need of services.

(9) Whether the alleged victim was returned to the victim's home.

(10) Whether the alleged victim was placed in residential care outside the victim's home.

(11) Whether a wardship was established for the alleged victim.

(12) Whether criminal action is pending or has been brought against the alleged perpetrator.

(13) A brief description of any casework plan that has been developed by the department.

(14) The caseworker's name and telephone number.

(15) The date the report is prepared.

(16) Other information that the department may prescribe.

(f) A report made under this section:

(1) is confidential; and

(2) may be made available only to:

(A) the agencies named in this section; and

(B) the persons and agencies listed in IC 31-33-18-2.

SECTION 43. IC 31-33-8-1, AS AMENDED BY P.L.124-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The department shall initiate an ~~immediate and~~ appropriately thorough child protection ~~investigation~~ **assessment** of every report of known or suspected child abuse or neglect the department receives, whether in accordance with this article or otherwise.

(b) If the department believes that a child is in imminent danger of serious bodily harm, the department shall initiate an onsite assessment immediately, but not later than one (1) hour, after receiving the report.

~~(b) Subject to subsections (d) and (e),~~ **(c)** If the report alleges a child may be a victim of child abuse, the ~~investigation~~ **assessment** shall be initiated immediately, but not later than twenty-four (24) hours after receipt of the report.

~~(c) Subject to subsections (d) and (e),~~ **(d)** If reports of child neglect are received, the ~~investigation~~ **assessment** shall be initiated within a reasonably prompt time, but not later than five (5) days, with the primary consideration being the well-being of the child who is the subject of the report.

(e) If the report alleges that a child lives with a parent, guardian, or custodian who is married to or lives with a person who:

(1) has been convicted of:

(A) neglect of a dependent under IC 35-46-1-4; or

(B) a battery offense under IC 35-42-4; or

(2) is required to register as a sex or violent offender under IC 11-8-8;

the department shall initiate an assessment within a reasonably prompt time, but not later than five (5) days after the department receives the report, with the primary consideration being the well-being of the child who is the subject of the report.

~~(d)~~ **(f)** If the ~~immediate~~ safety or well-being of a child appears to be endangered or the facts otherwise warrant, the ~~investigation~~ **assessment** shall be initiated regardless of the time of day.

~~(e) If the department has reason to believe that the child is in imminent danger of serious bodily harm, the department shall initiate within one (1) hour an immediate, onsite investigation.~~

~~(f)~~ **(g)** If a report alleges abuse or neglect and involves a child care ministry that is exempt from licensure under IC 12-17.2-6, the department and the appropriate law enforcement agency shall jointly conduct an investigation. The investigation shall be conducted under the requirements of this section and section 2(b) of this chapter.

SECTION 44. IC 31-33-8-3, AS AMENDED BY P.L.234-2005, SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) Except as provided in subsection (b), the department shall:

(1) cause color photographs to be taken of the areas of trauma visible on a child who is subject to a report; and

(2) if medically indicated, cause a radiological examination of the child to be performed.

(b) If the law enforcement agency participates in the ~~investigation,~~ **assessment,** the law enforcement agency shall cause the color photographs to be taken as provided by this section.

(c) The department shall reimburse the expenses of the photographs and x-rays.

SECTION 45. IC 31-33-8-6, AS AMENDED BY P.L.234-2005, SECTION 121, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. The department shall promptly make a thorough ~~investigation~~ **assessment** upon either the oral or written report. The primary purpose of the ~~investigation~~ **assessment** is the protection of the child.

SECTION 46. IC 31-33-8-7, AS AMENDED BY P.L.234-2005,

SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) The department's ~~investigation,~~ **assessment,** to the extent that is reasonably possible, must include the following:

(1) The nature, extent, and cause of the known or suspected child abuse or neglect.

(2) The identity of the person allegedly responsible for the child abuse or neglect.

(3) The names and conditions of other children in the home.

(4) An evaluation of the parent, guardian, custodian or person responsible for the care of the child.

(5) The home environment and the relationship of the child to the parent, guardian, or custodian or other persons responsible for the child's care.

(6) All other data considered pertinent.

(b) The ~~investigation~~ **assessment** may include the following:

(1) A visit to the child's home.

(2) An interview with the subject child.

(3) A physical, psychological, or psychiatric examination of any child in the home.

(c) If:

(1) admission to the home, the school, or any other place that the child may be; or

(2) permission of the parent, guardian, custodian, or other persons responsible for the child for the physical, psychological, or psychiatric examination;

under subsection (b) cannot be obtained, the juvenile court, upon good cause shown, shall follow the procedures under IC 31-32-12.

SECTION 47. IC 31-33-8-8, AS AMENDED BY P.L.234-2005, SECTION 123, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) If, before the ~~investigation~~ **assessment** is complete, the opinion of the law enforcement agency or the department is that immediate removal is necessary to protect the child from further abuse or neglect, the juvenile court may issue an order under IC 31-32-13.

(b) The department shall make a complete written report of the ~~investigation.~~ **assessment.**

(c) If a law enforcement agency participates in the ~~investigation,~~

assessment, the law enforcement agency shall also make a complete written report of the ~~investigation.~~ **assessment.**

SECTION 48. IC 31-33-8-9, AS AMENDED BY P.L.234-2005, SECTION 124, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The department's report under section 8 of this chapter shall be made available to:

(1) the appropriate court;

(2) the prosecuting attorney; or

(3) the appropriate law enforcement agency;

upon request.

(b) If child abuse or neglect is substantiated after an ~~investigation~~ **assessment** is conducted under section 7 of this chapter, the department shall forward its report to the office of the prosecuting attorney having jurisdiction in the county in which the alleged child abuse or neglect occurred.

(c) If the ~~investigation~~ **assessment** substantiates a finding of child abuse or neglect as determined by the department, a report shall be sent to the coordinator of the community child protection team under IC 31-33-3.

SECTION 49. IC 31-33-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. If the law enforcement agency participates in the child abuse or neglect ~~investigation,~~ **assessment,** the law enforcement agency shall forward all information, including copies of an ~~investigation~~ **assessment** report under section 7 of this chapter, on an incident in which a child may be a victim of alleged child abuse or neglect, whether obtained under this article or not, to the office of the prosecuting attorney.

SECTION 50. IC 31-33-8-12, AS AMENDED BY P.L.234-2005, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. ~~(a)~~ Upon completion of an ~~investigation,~~ **assessment,** the department shall classify reports as substantiated ~~indicated,~~ or unsubstantiated.

~~(b) Except as provided in subsection (c), the department shall expunge investigation records one (1) year after a report has been classified as indicated under subsection (a).~~

~~(c) If the department has:~~

~~(1) classified a report under subsection (a) as indicated; and~~

~~(2) not expunged the report under subsection (b);~~

~~and the subject of the report is the subject of a subsequent report, the one (1) year period in subsection (b) is tolled for one (1) year after the date of the subsequent report.~~

SECTION 51. IC 31-33-11-1, AS AMENDED BY P.L.234-2005, SECTION 133, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Whenever:

(1) a child is subject to ~~investigation~~ **assessment** by the department for reported child abuse or neglect;

(2) the child is a patient in a hospital; and

(3) the hospital has reported or has been informed of the report and ~~investigation,~~ **assessment;**

the hospital may not release the child to the child's parent, guardian, custodian, or to a court approved placement until the hospital receives authorization or a copy of a court order from the department indicating that the child may be released to the child's parent, guardian, custodian, or court approved placement.

(b) If the authorization that is granted under this section is verbal, the department shall send a letter to the hospital confirming that the department has granted authorization for the child's release.

(c) The individual or third party payor responsible financially for the hospital stay of the child remains responsible for any extended stay under this section. If no party is responsible for the extended stay, the department shall pay the expenses of the extended hospital stay.

SECTION 52. IC 31-33-18-1.5, AS AMENDED BY P.L.145-2006, SECTION 284, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) This section applies to records held by:

(1) the division of family resources;

(2) a county office;

(3) the department;

(4) a local child fatality review team established under IC 31-33-24; or

(5) the statewide child fatality review committee established under IC 31-33-25;

regarding a child whose death or near fatality may have been the result of abuse, abandonment, or neglect.

(b) For purposes of subsection (a), a child's death or near fatality may have been the result of abuse, abandonment, or neglect if:

(1) an entity described in subsection (a) determines that the child's death or near fatality is the result of abuse, abandonment, or neglect; or

(2) a prosecuting attorney files:

(A) an indictment or information; or

(B) a complaint alleging the commission of a delinquent act;

that, if proven, would cause a reasonable person to believe that the child's death or near fatality may have been the result of abuse, abandonment, or neglect.

Upon the request of any person, or upon its own motion, the court exercising juvenile jurisdiction in the county in which the child's death or near fatality occurred shall determine whether the allegations contained in the indictment, information, or complaint described in subdivision (2), if proven, would cause a reasonable person to believe that the child's death or near fatality may have been the result of abuse, abandonment, or neglect.

(c) As used in this section:

(1) "identifying information" means information that identifies an individual, including an individual's:

(A) name, address, date of birth, occupation, place of employment, and telephone number;

(B) employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental entity;

(C) unique biometric data, including the individual's fingerprint, voice print, or retina or iris image;

(D) unique electronic identification number, address, or routing code;

(E) telecommunication identifying information; or

(F) telecommunication access device, including a card, a plate, a code, an account number, a personal identification number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access; and

(2) "near fatality" has the meaning set forth in 42 U.S.C. 5106a.

(d) Unless information in a record is otherwise confidential under state or federal law, a record described in subsection (a) that has been redacted in accordance with this section is not confidential and may be

disclosed to any person who requests the record. The person requesting the record may be required to pay the reasonable expenses of copying the record.

(e) When a person requests a record described in subsection (a), the entity having control of the record shall immediately transmit a copy of the record to the court exercising juvenile jurisdiction in the county in which the death or near fatality of the child occurred. However, if the court requests that the entity having control of a record transmit the original record, the entity shall transmit the original record.

(f) Upon receipt of the record described in subsection (a), the court shall, within thirty (30) days, redact the record to exclude:

(1) identifying information described in subsection (c)(1)(B) through (c)(1)(F) of a person; and

(2) all identifying information of a child less than eighteen (18) years of age.

(g) The court shall disclose the record redacted in accordance with subsection (f) to any person who requests the record, if the person has paid:

(1) to the entity having control of the record, the reasonable expenses of copying under IC 5-14-3-8; and

(2) to the court, the reasonable expenses of copying the record.

(h) The data and information in a record disclosed under this section must include the following:

(1) A summary of the report of abuse or neglect and a factual description of the contents of the report.

(2) The date of birth and gender of the child.

(3) The cause of the fatality or near fatality, if the cause has been determined.

(4) Whether the department or the office of the secretary of family and social services had any contact with the child or a member of the child's family or household before the fatality or near fatality, and, if the department or the office of the secretary of family and social services had contact, the following:

(A) The frequency of the contact or communication with the child or a member of the child's family or household before the fatality or near fatality and the date on which the last contact or communication occurred before the

fatality or near fatality.

(B) A summary of the status of the child's case at the time of the fatality or near fatality, including:

(i) whether the child's case was closed by the department or the office of the secretary of family and social services before the fatality or near fatality; and

(ii) if the child's case was closed as described under item (i), the reasons that the case was closed.

~~(h)~~ **(i)** The court's determination under subsection (f) that certain identifying information or other information is not relevant to establishing the facts and circumstances leading to the death or near fatality of a child is not admissible in a criminal proceeding or civil action.

SECTION 53. IC 31-33-18-4, AS AMENDED BY P.L.234-2005, SECTION 157, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Whenever a child abuse or neglect ~~investigation~~ **assessment** is conducted under this article, the department shall give verbal and written notice to each parent, guardian, or custodian of the child that:

(1) the reports and information described under section 1 of this chapter relating to the child abuse or neglect ~~investigation,~~ **assessment;** and

(2) if the child abuse or neglect allegations are pursued in juvenile court, the juvenile court's records described under IC 31-39;

are available upon the request of the parent, guardian, or custodian except as prohibited by federal law.

(b) A parent, guardian, or custodian requesting information under this section may be required to sign a written release form that delineates the information that is requested before the information is made available. However, no other prerequisites for obtaining the information may be placed on the parent, guardian, or custodian except for reasonable copying costs.

SECTION 54. IC 31-33-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) An individual who knowingly requests, obtains, or seeks to obtain child abuse or neglect information under false pretenses commits a Class B misdemeanor.

(b) A person who knowingly or intentionally:

(1) falsifies child abuse or neglect information or records; or

(2) obstructs or interferes with a child abuse ~~investigation,~~ **assessment,** including an ~~investigation~~ **assessment** conducted by a local child fatality review team or the statewide child fatality review committee;

commits obstruction of a child abuse ~~investigation,~~ **assessment,** a Class A misdemeanor.

SECTION 55. IC 31-33-22-3, AS AMENDED BY P.L.234-2005, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A person who intentionally communicates to:

(1) a law enforcement agency; or

(2) the department;

a report of child abuse or neglect knowing the report to be false commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a previous unrelated conviction for making a report of child abuse or neglect knowing the report to be false.

(b) A person who intentionally communicates to:

(1) a law enforcement agency; or

(2) the department;

a report of child abuse or neglect knowing the report to be false is liable to the person accused of child abuse or neglect for actual damages. The finder of fact may award punitive damages and attorney's fees in an amount determined by the finder of fact against the person.

(c) The director or the director's designee shall, after review by the department's attorney, notify the prosecuting attorney whenever the director or the director's designee and the department's attorney have reason to believe that a person has violated this section.

(d) A person who:

(1) has reason to believe that the person is a victim of a false report of child abuse or neglect under this section; and

(2) is not named in a pending criminal charge or under ~~investigation~~ **assessment** relating to the report;

may file a complaint with the prosecuting attorney. The prosecuting attorney shall review the relevant child abuse or neglect records of the department and any other relevant evidence.

SECTION 56. IC 31-33-26-3, AS ADDED BY P.L.138-2007, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]: Sec. 3. In addition to the equipment needed to establish, operate, and maintain the index, the index must include the following components:

(1) One (1) computer to be purchased for every two (2) ~~child welfare caseworkers.~~ **family case managers.**

(2) Automated risk assessment in which a ~~child welfare caseworker~~ **family case manager** or supervisor is able to review a substantiated child abuse or neglect case to determine prior case history during the intake, ~~investigation,~~ assessment, and case management processes.

(3) The capability to allow supervisors to monitor child abuse and neglect cases and reports relating to the cases.

(4) The automated production of standard reports to enable the automated compilation of information gathered on forms used by ~~child welfare caseworkers~~ **family case managers** to report the information and results of child abuse and neglect cases. The index must also provide for the automation of other data for planning and evaluation as determined by the department.

(5) The capability of same day notification and transfer of statistical information to the department regarding new and closed child abuse and neglect cases.

(6) The enabling of child welfare supervisors to review a child abuse or neglect determination at any point after the ~~investigation~~ **assessment** is initially classified as substantiated abuse or neglect, to confirm the status of the case, and to allow for the consolidated management of cases.

(7) The capability for adjusting the index's programming at a later date if additional reporting requirements occur.

(8) A word processing capability to allow case notes to be recorded with each substantiated child abuse and neglect case.

SECTION 57. IC 31-33-26-15, AS ADDED BY P.L.138-2007, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) The department shall expunge a substantiated report contained within the index as follows:

(1) Not later than ten (10) working days after any of the following occurs:

(A) A court having jurisdiction over a child in need of services proceeding determines that child abuse or neglect has not

occurred.

(B) An administrative hearing officer under this chapter finds that the child abuse or neglect report is unsubstantiated.

(C) A court having juvenile jurisdiction enters an order for expungement of the report under IC 31-33-7-6.5.

(2) Not later than twenty (20) years after a court determines that a child is a child in need of services based upon the report.

(b) The department shall amend a substantiated report contained in the index by deleting the name of an alleged perpetrator if:

(1) a court having jurisdiction over a child in need of services proceeding; or

(2) an administrative hearing officer under this chapter;

finds that the person was not a perpetrator of the child abuse or neglect that occurred.

(c) If subsection (a) does not apply, the department shall expunge the substantiated report not later than the date on which any child who is named in the report as a victim of child abuse or neglect becomes twenty-four (24) years of age.

~~(d) The department shall expunge an indicated report contained in the index at the time specified in IC 31-33-8-12.~~

~~(e)~~ **(d)** The department shall expunge an unsubstantiated report contained in the index not later than six (6) months after the date the report was entered into the index.

SECTION 58. IC 31-34-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. A child in need of services under section 1, 2, 3, 4, 5, 6, 7, or 8 of this chapter includes a child with a disability who:

(1) is deprived of nutrition that is necessary to sustain life; or

(2) is deprived of medical or surgical intervention that is necessary to remedy or ameliorate a life threatening medical condition;

if the nutrition or medical or surgical intervention is generally provided to similarly situated children with or without disabilities.

SECTION 59. IC 31-34-3-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4.5. (a) If a child is removed from the child's parents under this chapter, within thirty (30) days after the removal of the child from the parents the department shall**

exercise due diligence to identify and provide notice of the removal to:

(1) all adult relatives (as defined in IC 31-9-2-107) of the child, including relatives suggested by either parent as required under 42 U.S.C. 671(a)(29); and

(2) all the child's siblings who are at least eighteen (18) years of age.

(b) The department may not provide notice to a person under subsection (a) if the department knows or suspects that the person has caused family or domestic violence.

(c) A notice under subsection (a) must:

(1) state that the child has been removed from the parents by the department;

(2) set forth the options the relative may have under federal, state, or local laws, including the care and placement of the child and other options that may be lost if the relative fails to respond to the notice;

(3) describe the requirements for the relative to become a foster parent; and

(4) describe additional services available to the child placed in foster care.

SECTION 60. IC 31-34-5-1, AS AMENDED BY P.L.138-2007, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) If a child taken into custody under IC 31-34-2 is not released, a detention hearing shall be held not later than forty-eight (48) hours, excluding Saturdays, Sundays, and any day on which a legal holiday is observed for state employees as provided under IC 1-1-9, after the child is taken into custody. If the detention hearing is not held, the child shall be released. Notice of the time, place, and purpose of the detention hearing shall be given to the following:

(1) The child.

(2) The child's parent, guardian, or custodian if the person can be located.

(3) Each foster parent or other caretaker with whom the child has been placed for temporary care under IC 31-34-4.

(b) The court shall:

(1) provide a person who is required to be notified under

subsection (a)(2) or (a)(3) an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make recommendations to the court;

at the detention hearing.

(c) A petition alleging that a child described in subsection (a) is a child in need of services shall be filed before a detention hearing is held for the child.

SECTION 61. IC 31-34-5-1.5, AS AMENDED BY P.L.138-2007, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) This section applies to a child taken into custody under IC 31-34-2.5.

(b) The juvenile court shall hold a detention hearing after an emergency medical services provider takes custody of a child under IC 31-34-2.5. The court shall hold the detention hearing not later than forty-eight (48) hours after the emergency medical services provider takes the child into custody, excluding Saturdays, Sundays, and any day on which a legal holiday is observed for state employees as provided under IC 1-1-9. **A petition alleging that a child described in subsection (a) is a child in need of services shall be filed before the detention hearing is held for the child.**

(c) The department may notify the emergency medical services provider that has taken emergency custody of a child under IC 31-34-2.5 of the detention hearing. The emergency medical services provider may be heard at the detention hearing.

(d) The department shall notify each foster parent or other caretaker with whom the child has been temporarily placed under IC 31-34-2.5 of the detention hearing. The court shall:

(1) provide a person who is required to be notified under this subsection an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make recommendations to the court;

at the detention hearing.

SECTION 62. IC 31-34-10-2, AS AMENDED BY P.L.138-2007, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The juvenile court shall hold an initial hearing on each petition.

(b) The juvenile court shall set a time for the initial hearing. A summons shall be issued for the following:

(1) The child.

(2) The child's parent, guardian, custodian, guardian ad litem, or court appointed special advocate.

(3) Any other person necessary for the proceedings.

(c) A copy of the petition must accompany each summons. The clerk shall issue the summons under Rule 4 of the Indiana Rules of Trial Procedure.

~~(d) If the child has been detained following a detention hearing under IC 31-34-5, an initial hearing shall be scheduled and held not later than seven (7) days after the date of the detention order, excluding Saturdays, Sundays, and any day on which a legal holiday is observed for state employees as provided under IC 1-1-9.~~

~~(e)~~ **(d)** If the initial hearing is not scheduled and held within the specified time as described in this section, the child shall be released to the child's parent, guardian, or custodian.

~~(f)~~ **(e)** The court may schedule an additional initial hearing on the child in need of services petition if necessary to comply with the procedures and requirements of this chapter with respect to any person to whom a summons has been issued under this section.

~~(g)~~ **(f)** An additional initial hearing on the child in need of services petition shall be held not more than thirty (30) calendar days after the date of the first initial hearing on the child in need of services petition, unless the court has:

(1) granted an extension of time for extraordinary circumstances; and

(2) stated the extraordinary circumstance in a written court order.

~~(h)~~ **(g)** The department shall provide notice of the date, time, place, and purpose of the initial hearing and any additional initial hearing scheduled under this section to each foster parent or other caretaker with whom the child has been temporarily placed under IC 31-34-2.5, IC 31-34-4, or IC 31-34-5. The court shall:

(1) provide a:

(A) person for whom a summons is required to be issued under subsection (b); and

(B) person who is required to be notified under this subsection;

an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make

recommendations to the court;

at the initial hearing.

(h) A petition alleging that a child is a child in need of services shall be filed before a detention hearing concerning the child is held.

(i) If a detention hearing is held under IC 31-34-5, the initial hearing on the child in need of services petition shall be held at the same time as the detention hearing.

(j) The court may schedule an additional initial hearing on a child in need of services petition if necessary to comply with the procedures and requirements of this chapter with respect to any person to whom a summons has been issued under this section.

(k) An additional initial hearing under subsection (j) shall be held not more than thirty (30) calendar days after the date of the first initial hearing on the child in need of services petition unless the court:

(1) grants an extension of time for extraordinary circumstances; and

(2) states the extraordinary circumstance in a written court order.

SECTION 63. IC 31-34-12-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 7. (a) For purposes of an assessment by the department, if:**

(1) a parent, guardian, or custodian had care, custody, and control of the child immediately before the child died;

(2) a law enforcement officer or an employee of the department had probable cause to believe the parent, guardian, or custodian was impaired, intoxicated, or under the influence of drugs or alcohol immediately before or at the time of the child's death;

(3) a law enforcement officer or an employee of the department requests, not later than three (3) hours after the death of the child, the parent, guardian, or custodian to submit to a drug or alcohol screen test; and

(4) the parent, guardian, or custodian did not submit to a drug or alcohol screen test within three (3) hours after the request by a law enforcement officer or an employee of the department;

the failure to submit to the drug or alcohol test may be used to determine that the parent, guardian, or custodian was intoxicated or under the influence of alcohol or drugs at the time of the child's death for the purpose of the determination required under IC 31-33-8-12.

(b) Evidence from a drug or alcohol screen test administered under this section is not admissible as evidence in a criminal proceeding.

SECTION 64. IC 31-34-15-4, AS AMENDED BY P.L.145-2006, SECTION 303, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. A child's case plan must be set out in a form prescribed by the department that meets the specifications set by 45 CFR 1356.21. The case plan must include a description and discussion of the following:

(1) A permanent plan for the child and an estimated date for achieving the goal of the plan.

(2) The appropriate placement for the child based on the child's special needs and best interests.

(3) The least restrictive family-like setting that is close to the home of the child's parent, custodian, or guardian if out-of-home placement is recommended. If an out-of-home placement is appropriate, the county office or department shall consider whether a child in need of services should be placed with the child's suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering other out-of-home placements for the child.

(4) Family services recommended for the child, parent, guardian, or custodian.

(5) Efforts already made to provide family services to the child, parent, guardian, or custodian.

(6) Efforts that will be made to provide family services that are ordered by the court.

(7) A plan for ensuring the educational stability of the child while in foster care that includes assurances that the:

(A) placement of the child in foster care considers the appropriateness of the current educational setting of the child and the proximity to the school where the child is presently enrolled; and

(B) department has coordinated with local educational agencies to ensure:

(i) the child remains in the school where the child is enrolled at the time of removal; or

(ii) immediate, appropriate enrollment of the child in a different school, including arrangements for the transfer of the child's school records to the new school, if remaining in the same school is not in the best interests of the child.

SECTION 65. IC 31-35-2-4, AS AMENDED BY P.L.146-2008, SECTION 615, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A petition to terminate the parent-child relationship involving a delinquent child or a child in need of services may be signed and filed with the juvenile or probate court by any of the following:

(1) The attorney for the department.

(2) The child's court appointed special advocate.

(3) The child's guardian ad litem.

(b) The petition must:

(1) be entitled "In the Matter of the Termination of the Parent-Child Relationship of _____, a child, and _____, the child's parent (or parents)"; and

(2) allege that:

(A) one (1) of the following exists:

(i) the child has been removed from the parent for at least six (6) months under a dispositional decree;

(ii) a court has entered a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification are not required, including a description of the court's finding, the date of the finding, and the manner in which the finding was made; or

(iii) the child has been removed from the parent and has been under the supervision of a county office of family and children **or probation department** for at least fifteen (15) months of the most recent twenty-two (22) months, **beginning with the date the child is removed from the home as a result of the child being alleged to be a child in need of services or a delinquent child;**

(B) there is a reasonable probability that:

(i) the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied; or

(ii) the continuation of the parent-child relationship poses a threat to the well-being of the child;

(C) termination is in the best interests of the child; and

(D) there is a satisfactory plan for the care and treatment of the child.

(3) Indicate whether at least one (1) of the factors listed in section 4.5(d)(1) through 4.5(d)(3) of this chapter applies and specify each factor that would apply as the basis for filing a motion to dismiss the petition.

SECTION 66. IC 31-35-2-4.5, AS AMENDED BY P.L.146-2008, SECTION 616, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.5. (a) This section applies if:

(1) a court has made a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification with respect to a child in need of services are not required; or

(2) a child in need of services **or a delinquent child:**

(A) has been placed in:

(i) a foster family home, child caring institution, or group home licensed under IC 31-27; or

(ii) the home of a person related (as defined in IC 31-9-2-106.5) to the child;

as directed by a court in a child in need of services proceeding under IC 31-34 **or a delinquency action under IC 31-37;** and

(B) has been removed from a parent and has been under the supervision of the department **or county probation department** for not less than fifteen (15) months of the most recent twenty-two (22) months, ~~excluding any period not exceeding sixty (60) days before the court has entered a finding and judgment under IC 31-34 that the child is a child in need of services.~~ **beginning with the date the child is removed from the home as a result of the child being alleged to be a child in need of services or a delinquent child.**

(b) A person described in section 4(a) of this chapter shall:

(1) file a petition to terminate the parent-child relationship under section 4 of this chapter; and

(2) request that the petition be set for hearing.

(c) If a petition under subsection (b) is filed by the child's court appointed special advocate or guardian ad litem, the department shall be joined as a party to the petition.

(d) A party shall file a motion to dismiss the petition to terminate the parent-child relationship if any of the following circumstances apply:

(1) That the current case plan prepared by or under the supervision of the department **or the probation department** under IC 31-34-15, **IC 31-37-19-1.5, or IC 31-37-22-4** has documented a compelling reason, based on facts and circumstances stated in the petition or motion, for concluding that filing, or proceeding to a final determination of, a petition to terminate the parent-child relationship is not in the best interests of the child. A compelling reason may include the fact that the child is being cared for by a custodian who is a parent, stepparent, grandparent, or responsible adult who is the child's sibling, aunt, or uncle or a person related (as defined in IC 31-9-2-106.5) to the child who is caring for the child as a legal guardian.

(2) That:

(A) IC 31-34-21-5.6 is not applicable to the child;

(B) the department **or the probation department** has not provided family services to the child, parent, or family of the child in accordance with a currently effective case plan prepared under IC 31-34-15 **or IC 31-37-19-1.5** or a permanency plan or dispositional decree approved under IC 31-34 **or IC 31-37,** for the purpose of permitting and facilitating safe return of the child to the child's home; and

(C) the period for completion of the program of family services, as specified in the current case plan, permanency plan, or decree, has not expired.

(3) That:

(A) IC 31-34-21-5.6 is not applicable to the child;

(B) the department has not provided family services to the child, parent, or family of the child, in accordance with applicable provisions of a currently effective case plan

prepared under IC 31-34-15 **or IC 31-37-19-1.5,** or a permanency plan or dispositional decree approved under IC 31-34 **or IC 31-37;** and

(C) the services that the department has not provided are substantial and material in relation to implementation of a plan to permit safe return of the child to the child's home.

The motion to dismiss shall specify which of the allegations described in subdivisions (1) through (3) apply to the motion. If the court finds that any of the allegations described in subdivisions (1) through (3) are true, as established by a preponderance of the evidence, the court shall dismiss the petition to terminate the parent-child relationship.

SECTION 67. IC 31-37-5-8, AS ADDED BY P.L.146-2008, SECTION 623, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) This section applies to services and programs provided to or on behalf of a child alleged to be a delinquent child at any time before:

(1) entry of a dispositional decree under IC 31-37-19; or

(2) approval of a program of informal adjustment under IC 31-37-9.

(b) Except as provided in subsection (c), before a juvenile court orders or approves a service, a program, or an out-of-home placement for a child:

(1) that is recommended by a probation officer or proposed by the juvenile court;

(2) for which the costs would be payable by the department under IC 31-40-1-2; and

(3) that has not been approved by the department;

the juvenile court shall submit the proposed service, program, or placement to the department for consideration. The department shall, not later than three (3) business days after receipt of the recommendation or proposal, submit to the court a report stating whether the department approves or disapproves the proposed service, program, or placement.

(c) If the juvenile court makes written findings and concludes that an emergency exists requiring an immediate out-of-home placement to protect the health and welfare of the child, the juvenile court may order or authorize implementation of the placement without first complying with the procedure specified in this section. After entry of an order

under this subsection, the juvenile court shall submit a copy of the order to the department for consideration under this section of possible modification or alternatives to the placement and any related services or programs included in the order.

(d) If the department approves the service, program, or placement recommended by the probation officer or juvenile court, the juvenile court may enter an appropriate order to implement the approved proposal. If the department does not approve a service, program, or placement recommended by the probation officer or proposed by the juvenile court, the department may recommend an alternative service, program, or placement for the child.

(e) The juvenile court shall accept the recommendations of the department regarding any predispositional services, programs, or placement for the child unless the juvenile court finds a recommendation is:

(1) unreasonable, based on the facts and circumstances of the case; or

(2) contrary to the welfare and best interests of the child.

(f) If the juvenile court does not accept the recommendations of the department in the report submitted under subsection (b), the court:

(1) may enter an order that:

~~(1)~~ **(A)** requires the department to provide a specified service, program, or placement, until entry of a dispositional decree or until the order is otherwise modified or terminated; and

~~(2)~~ **(B)** specifically states the reasons why the juvenile court is not accepting the recommendations of the department, including the juvenile court's findings under subsection (e); **and**

(2) must incorporate all documents referenced in the report submitted to the probation officer or to the court by the department into the order so that the documents are part of the record for any appeal the department may pursue under subsection (g).

(g) If the juvenile court enters its findings and order under subsections (e) and (f), the department may appeal the juvenile court's order under any available procedure provided by the Indiana Rules of Trial Procedure or the Indiana Rules of Appellate Procedure to allow any disputes arising under this section to be decided in an expeditious

manner.

(h) If the department prevails on an appeal initiated under subsection (g), the department shall pay the following costs and expenses incurred by or on behalf of the child before the date of the final decision:

(1) Any programs or services implemented during the appeal, other than the cost of an out-of-home placement ordered by the juvenile court.

(2) Any out-of-home placement ordered by the juvenile court and implemented after entry of the court order of placement, if the court has made written findings that the placement is an emergency required to protect the health and welfare of the child.

If the court has not made written findings that the placement is an emergency, the county in which the juvenile court is located is responsible for payment of all costs of the placement, including the cost of services and programs provided by the home or facility where the child was placed.

SECTION 68. IC 31-37-17-1, AS AMENDED BY P.L.146-2008, SECTION 637, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Upon finding that a child is a delinquent child, the juvenile court shall order a probation officer to prepare a predispositional report that contains:

(1) a statement of the needs of the child for care, treatment, rehabilitation, or placement;

(2) a recommendation for the care, treatment, rehabilitation, or placement of the child;

(3) if the recommendation includes

~~(A)~~ an out-of-home placement other than a secure detention facility, ~~or~~

~~(B) services payable by the department under IC 31-40-1-2;~~

information that the department requires to determine whether the child is eligible for assistance under Title IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.); and

(4) a statement of the department's concurrence with or its alternative proposal to the probation officer's predispositional report, as provided in section 1.4 of this chapter.

(b) Any of the following may prepare an alternative report for consideration by the court:

(1) The child.
(2) The child's:
(A) parent;
(B) guardian;
(C) guardian ad litem;
(D) court appointed special advocate; or
(E) custodian.

SECTION 69. IC 31-37-17-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8. Unless prohibited by federal law, a probation department and:**

(1) the division of family resources;
(2) a county office; and
(3) the department of child services;

may exchange information for use in preparing a report under this chapter.

SECTION 70. IC 31-37-18-9, AS AMENDED BY P.L.146-2008, SECTION 646, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The juvenile court shall accompany the court's dispositional decree with written findings and conclusions upon the record concerning approval, modification, or rejection of the dispositional recommendations submitted in the predispositional report, including the following specific findings:

(1) The needs of the child for care, treatment, rehabilitation, or placement.
(2) The need for participation by the parent, guardian, or custodian in the plan of care for the child.
(3) Efforts made, if the child is removed from the child's parent, guardian, or custodian, to:
(A) prevent the child's removal from; or
(B) reunite the child with;
the child's parent, guardian, or custodian.
(4) Family services that were offered and provided to:
(A) the child; or
(B) the child's parent, guardian, or custodian.
(5) The court's reasons for the disposition.

(b) If the department does not concur with the probation officer's recommendations in the predispositional report and the juvenile court

does not follow the department's alternative recommendations, the juvenile court shall:

(1) accompany the court's dispositional decree with written findings that the department's recommendations contained in the predispositional report are:

~~(1)~~ **(A)** unreasonable based on the facts and circumstances of the case; or

~~(2)~~ **(B)** contrary to the welfare and best interests of the child; **and**

(2) incorporate all documents referenced in the report submitted to the probation officer or to the court by the department into the order so that the documents are part of the record for any appeal the department may pursue under subsection (d).

(c) The juvenile court may incorporate a finding or conclusion from a predispositional report as a written finding or conclusion upon the record in the court's dispositional decree.

(d) If the juvenile court enters findings and a decree under subsection (b), the department may appeal the juvenile court's decree under any available procedure provided by the Indiana Rules of Trial Procedure or Indiana Rules of Appellate Procedure to allow any disputes arising under this section to be decided in an expeditious manner.

(e) If the department prevails on appeal, the department shall pay the following costs and expenses incurred by or on behalf of the child before the date of the final decision:

(1) any programs or services implemented during the appeal initiated under subsection (d), other than the cost of an out-of-home placement ordered by the juvenile court; and

(2) any out-of-home placement ordered by the juvenile court and implemented after entry of the dispositional decree or modification order, if the juvenile court has made written findings that the placement is an emergency required to protect the health and welfare of the child.

If the court has not made written findings that the placement is an emergency, the county in which the juvenile court is located is responsible for payment of all costs of the placement, including the cost of services and programs provided by the home or facility where

the child was placed.

SECTION 71. IC 31-37-19-1.5, AS ADDED BY P.L.146-2008, SECTION 648, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) This section applies to a delinquent child if the child is placed in an out-of-home residence or facility that is not a secure detention facility.

(b) The probation department, after negotiating with the child's parent, guardian, or custodian, shall complete the child's case plan not later than sixty (60) days after ~~the earlier of:~~

~~(1)~~ the date of the child's first placement ~~or~~

~~(2) the date of a dispositional decree.~~

that the probation department requests to be paid for by the department.

(c) A copy of the completed case plan shall be sent to the department, to the child's parent, guardian, or custodian, and to an agency having the legal responsibility or authorization to care for, treat, or supervise the child not later than ten (10) days after the plan's completion.

(d) A child's case plan must be in a form prescribed by the department that meets the specifications set by 45 CFR 1356.21, as amended. The case plan must include a description and discussion of the following:

(1) A permanency plan for the child and an estimated date for achieving the goal of the plan.

(2) The appropriate placement for the child based on the child's special needs and best interests.

(3) The least restrictive family-like setting that is close to the home of the child's parent, custodian, or guardian if out-of-home placement is implemented or recommended, including consideration of possible placement with any suitable and willing relative caretaker, before considering other out-of-home placements for the child.

(4) Family services recommended for the child, parent, guardian, or custodian.

(5) Efforts already made to provide family services to the child, parent, guardian, or custodian.

(6) Efforts that will be made to provide family services that are ordered by the court.

(7) A plan for ensuring the educational stability of the child while in foster care that includes assurances that the:

(A) placement of the child in foster care considers the appropriateness of the current educational setting of the child and the proximity to the school where the child is presently enrolled; and

(B) department has coordinated with local educational agencies to ensure:

(i) the child remains in the school where the child is enrolled at the time of removal; or

(ii) immediate, appropriate enrollment of the child in a different school if remaining in the same school is not in the best interests of the child.

(e) Each caretaker of a child and the probation department shall cooperate in the development of the case plan for the child. The probation department shall discuss with at least one (1) foster parent or other caretaker of a child the role of the substitute caretaker or facility regarding the following:

(1) Rehabilitation of the child and the child's parents, guardians, and custodians.

(2) Visitation arrangements.

(3) Services required to meet the special needs of the child.

(f) The case plan must be reviewed and updated by the probation department at least once every one hundred eighty (180) days.

SECTION 72. IC 31-37-22-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4.5. (a) This section applies to a delinquent child if the child is placed in an out-of-home residence or facility that is not a secure detention facility.**

(b) The probation department, after negotiating with the child's parent, guardian, or custodian, shall complete the child's case plan not later than sixty (60) days after the date of the child's first placement that the probation department requests to be paid for by the department.

(c) A copy of the completed case plan shall be sent to the department, to the child's parent, guardian, or custodian, and to an agency having the legal responsibility or authorization to care for, treat, or supervise the child not later than ten (10) days after the

plan's completion.

(d) A child's case plan must be in a form prescribed by the department that meets the specifications set by 45 CFR 1356.21, as amended. The case plan must include a description and discussion of the following:

(1) A permanency plan for the child and an estimated date for achieving the goal of the plan.

(2) The appropriate placement for the child based on the child's special needs and best interests.

(3) The least restrictive family like setting that is close to the home of the child's parent, custodian, or guardian if out-of-home placement is implemented or recommended, including consideration of possible placement with any suitable and willing relative caretaker, before considering other out-of-home placements for the child.

(4) Family services recommended for the child, parent, guardian, or custodian.

(5) Efforts already made to provide family services to the child, parent, guardian, or custodian.

(6) Efforts that will be made to provide family services that are ordered by the court.

(7) A plan for ensuring the educational stability of the child while in foster care that includes assurances that the:

(A) placement of the child in foster care considers the appropriateness of the current educational setting of the child and the proximity to the school where the child presently is enrolled; and

(B) department has coordinated with local educational agencies to ensure:

(i) the child remains in the school where the child is enrolled at the time of removal; or

(ii) immediate and appropriate enrollment of the child in a different school, including arrangements for the transfer of the child's school records to the new school, if remaining in the same school is not in the best interests of the child.

(e) The probation department and each caretaker of a child shall cooperate in the development of the case plan for the child. The probation department shall discuss with at least one (1) foster

parent or other caretaker of a child the role of the substitute caretaker or facility regarding the following:

(1) Rehabilitation of the child and the child's parents, guardians, and custodians.

(2) Visitation arrangements.

(3) Services required to meet the special needs of the child.

(f) The case plan must be reviewed and updated by the probation department at least once every one hundred eighty (180) days.

SECTION 73. IC 35-42-2-1, AS AMENDED BY P.L.120-2008, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A person who knowingly or intentionally touches another person in a rude, insolent, or angry manner commits battery, a Class B misdemeanor. However, the offense is:

(1) a Class A misdemeanor if:

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

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

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

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

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

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

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

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

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

(A) a law enforcement officer or a person summoned and directed by a law enforcement officer while the officer is

engaged in the execution of the officer's official duty;
(B) a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;
(C) a person of any age who has a mental or physical disability and is committed by a person having the care of the person with a mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation;
(D) the other person and the person who commits the battery was previously convicted of a battery in which the victim was the other person;
(E) an endangered adult (as defined in IC 12-10-3-2);
(F) an employee of the department of correction while the employee is engaged in the execution of the employee's official duty;
(G) an employee of a school corporation while the employee is engaged in the execution of the employee's official duty;
(H) a correctional professional while the correctional professional is engaged in the execution of the correctional professional's official duty;
(I) a person who is a health care provider (as defined in IC 16-18-2-163) while the health care provider is engaged in the execution of the health care provider's official duty;
(J) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;
(K) a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty;
(L) a community policing volunteer:
(i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or
(ii) because the person is a community policing volunteer; ~~or~~
(M) a family or household member (as defined in IC 35-41-1-10.6) if the person who committed the offense:
(i) is at least eighteen (18) years of age; and
(ii) committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child

was present and might be able to see or hear the offense; **or (N) a department of child services employee while the employee is engaged in the execution of the employee's official duty;**

(3) a Class C felony if it results in serious bodily injury to any other person or if it is committed by means of a deadly weapon;

(4) a Class B felony if it results in serious bodily injury to a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(5) a Class A felony if it results in the death of a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(6) a Class C felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2);

(7) a Class B felony if it results in the death of an endangered adult (as defined in IC 12-10-3-2); and

(8) a Class C felony if it results in bodily injury to a pregnant woman and the person knew the woman was pregnant.

(b) For purposes of this section:

(1) "law enforcement officer" includes an alcoholic beverage enforcement officer; and

(2) "correctional professional" means a:

(A) probation officer;

(B) parole officer;

(C) community corrections worker; or

(D) home detention officer.

SECTION 74. IC 35-42-2-6, AS AMENDED BY P.L.178-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) As used in this section, "corrections officer" includes a person employed by:

(1) the department of correction;

(2) a law enforcement agency;

(3) a probation department;

(4) a county jail; or

(5) a circuit, superior, county, probate, city, or town court.

(b) As used in this section, "firefighter" means a person who is a:

(1) full-time, salaried firefighter;

(2) part-time, paid firefighter; or

(3) volunteer firefighter (as defined in IC 36-8-12-2).

(c) As used in this section, "first responder" means a person who:

(1) is certified under IC 16-31 and who meets the Indiana emergency medical services commission's standards for first responder certification; and

(2) responds to an incident requiring emergency medical services.

(d) As used in this section, "human immunodeficiency virus (HIV)" includes acquired immune deficiency syndrome (AIDS) and AIDS related complex.

(e) A person who knowingly or intentionally in a rude, insolent, or angry manner places blood or another body fluid or waste on a law enforcement officer, firefighter, first responder, ~~or~~ corrections officer, **or department of child services employee,** identified as such and while engaged in the performance of official duties, or coerces another person to place blood or another body fluid or waste on the law enforcement officer, firefighter, first responder, ~~or~~ corrections officer, **or department of child services employee,** commits battery by body waste, a Class D felony. However, the offense is:

(1) a Class C felony if the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with:

(A) hepatitis B or hepatitis C;

(B) HIV; or

(C) tuberculosis;

(2) a Class B felony if:

(A) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with hepatitis B or hepatitis C and the offense results in the transmission of hepatitis B or hepatitis C to the other person; or

(B) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with tuberculosis and the offense results in the transmission of tuberculosis to the other person; and

(3) a Class A felony if:

(A) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with HIV; and

(B) the offense results in the transmission of HIV to the other person.

(f) A person who knowingly or intentionally in a rude, an insolent,

or an angry manner places human blood, semen, urine, or fecal waste on another person commits battery by body waste, a Class A misdemeanor. However, the offense is:

(1) a Class D felony if the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with:

(A) hepatitis B or hepatitis C;

(B) HIV; or

(C) tuberculosis;

(2) a Class C felony if:

(A) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with hepatitis B or hepatitis C and the offense results in the transmission of hepatitis B or hepatitis C to the other person; or

(B) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with tuberculosis and the offense results in the transmission of tuberculosis to the other person; and

(3) a Class B felony if:

(A) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with HIV; and

(B) the offense results in the transmission of HIV to the other person.

SECTION 75. IC 36-2-14-6.3, AS ADDED BY P.L.225-2007, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.3. (a) A coroner shall **immediately** notify:

(1) the county office of the department of child services by using the statewide hotline for the department; and

(2) either:

~~(1)~~ **(A)** the local child fatality review team; or

~~(2)~~ **(B)** if the county does not have a local child fatality review team, the statewide child fatality review committee;

of each death of a person who is less than eighteen (18) years of age, or appears to be less than eighteen (18) years of age and who has died in an apparently suspicious, ~~unusual, or unnatural,~~ **unexpected, or unexplained** manner.

(b) If a child less than eighteen (18) years of age dies in an apparently suspicious, ~~unusual, or unnatural~~ **unexpected, or**

unexplained manner, the coroner shall consult with a child death pathologist to determine whether an autopsy is necessary. If the coroner and the child death pathologist disagree over the need for an autopsy, the county prosecutor shall determine whether an autopsy is necessary. If the autopsy is considered necessary, a child death pathologist or a pathology resident acting under the direct supervision of a child death pathologist shall conduct the autopsy within twenty-four (24) hours. If the autopsy is not considered necessary, the autopsy shall not be conducted.

(c) If a child death pathologist and coroner agree under subsection (b) that an autopsy is necessary, the child death pathologist or a pathology resident acting under the direct supervision of a child death pathologist shall conduct the autopsy of the child.

SECTION 76. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 31-9-2-21; IC 31-9-2-58.5; IC 31-9-2-80; IC 31-9-2-103; IC 31-9-2-113; IC 31-38.

SECTION 77. [EFFECTIVE JULY 1, 2009] **(a) The department of child services, in cooperation with the department of education, shall develop and coordinate the education advocates for children in foster care plan. The plan must:**

(1) specify the best approach to coordinate the transfer of a child in foster care between schools and between school districts, including the transfer of a child's school records and any individual education plans;

(2) address specific educational issues encountered by children in foster care;

(3) specify with whom the department may partner to assist with the educational needs of a child in foster care;

(4) specify how school corporation liaisons, under IC 20-50-1, and the programs for tutoring and mentoring for homeless children and foster care children, under IC 20-5-2, could assist the department with foster care children; and

(5) recommend legislation to fulfill the plan.

(b) The department shall submit a report to the governor and the legislative council before July 1, 2010. The report must include details of the plan described in subsection (a). The report submitted to the legislative council must be in an electronic format under IC 5-14-6.

(c) This SECTION expires December 31, 2010.

SECTION 78. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "commission" refers to the commission on childhood poverty in Indiana established by subsection (b).**

(b) The commission on childhood poverty in Indiana is established. The commission shall evaluate the costs and effects of childhood poverty and provide a plan to reduce childhood poverty by fifty percent (50%) in Indiana by the year 2020.

(c) The commission consists of the following members:

(1) The dean of the Indiana University School of Social Work, or the dean's designee, who shall serve as chairperson of the commission.

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

(3) The director of the division of family resources, or the director's designee.

(4) The director of the Indiana housing and community development authority, or the director's designee.

(5) The director of the department of workforce development, or the director's designee.

(6) The commissioner of the state department of health, or the commissioner's designee.

(7) The director of the office of faith based and community initiatives.

(8) One (1) representative from the National Association of Social Workers - Indiana Chapter.

(9) One (1) representative from the Indiana Community Action Association.

(10) One (1) representative from the Children's Coalition of Indiana.

(11) One (1) representative from the Indiana Youth Services Association.

(12) One (1) representative from the Indianapolis Urban League.

(13) One (1) representative from the Coalition for Homelessness, Intervention, and Prevention.

(14) One (1) representative from the Indiana Association of United Ways.

(15) One (1) representative from Indiana Legal Services.

(16) One (1) representative from the Purdue University Department of Early Childhood and Family Development.

(17) One (1) representative from the University of Notre Dame, Institute for Latino Studies.

(18) One (1) representative from an Indiana branch of the National Association for the Advancement of Colored People.

(19) One (1) representative from the Riley Hospital for Children, Department of Pediatrics.

(20) Two (2) members of the senate appointed by the president pro tempore of the senate. The members appointed under this subdivision may not be members of the same political party.

(21) Two (2) members of the house of representatives appointed by the speaker of the house of representatives. The members appointed under this subdivision may not be members of the same political party.

The speaker of the house of representatives shall appoint the members described in subdivisions (8), (10), (12), (14), (16), (18), and (21). The president pro tempore of the senate shall appoint the members described in subdivisions (9), (11), (13), (15), (17), (19), and (20). Vacancies shall be filled by the appointing authority for the remainder of the unexpired term. The initial appointments shall be made not later than August 15, 2009.

(d) Each member appointed under subsection (c) must have knowledge concerning childhood poverty in Indiana.

(e) A majority of the voting members of the commission constitutes a quorum.

(f) The Indiana University School of Social Work shall staff the commission.

(g) The commission shall meet:

(1) at the call of the chairperson; and

(2) as often as necessary to carry out the purposes of this SECTION.

However, the commission shall meet at least quarterly.

(h) The commission has the following responsibilities:

(1) Identifying and analyzing the occurrence and root causes of urban and rural poverty in Indiana.

(2) Analyzing the long term effects of poverty on a child, the child's family, and the child's community.

(3) Analyzing the costs of child poverty to municipalities and Indiana.

(4) Providing information on statewide public and private programs that address the reduction of child poverty.

(5) Examining the percentage of the target population served by programs described in subdivision (4) and the current state funding levels for the programs.

(6) Preparing reports consisting of the commission's findings and recommendations.

(7) Presenting an implementation plan that includes procedures and priorities for implementing strategies and biannual benchmarks to achieve the reduction of childhood poverty by fifty percent (50%) in Indiana by 2020. The plan must include, but is not limited to, provisions for improving the following for parents and children living in poverty:

(A) Workforce training and placement to promote career progression.

(B) Education opportunities, including higher education opportunities and literacy programs.

(C) Affordable housing.

(D) Child care and early education programs.

(E) After school programs and mentoring programs.

(F) Access to affordable health care, including access to mental health services and substance abuse programs.

(G) Streamlining of services through public and private agencies providing human services to low income children and families.

(i) In carrying out its duties, the commission shall consider pertinent studies concerning childhood poverty and take testimony from experts and advocates in the human services field.

(j) The affirmative votes of a majority of the commission's members on the commission are required for the commission to take action on any measure, including making recommendations for the reports required by this SECTION.

(k) Each member of the commission who is not a member of the general assembly is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also not entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection

with the member's duties, as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

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

(m) The commission shall submit the reports required in subsection (h)(6) and the plan required in subsection (h)(7) to the governor and the legislative council by the following dates:

(1) Not later than December 31, 2010, the commission shall submit an interim report that contains interim findings and recommendations by the commission under subsection (h)(6).

(2) Not later than December 31, 2011, the commission shall submit the commission's final report that contains:

(A) the findings and recommendations of the commission under subsection (h)(6); and

(B) the implementation plan under subsection (h)(7).

The report to the legislative council must be in an electronic format under IC 5-14-6.

(n) The commission shall make the final report available to the public upon request not later than December 31, 2011.

(o) This SECTION expires January 1, 2012.

SECTION 79. [EFFECTIVE UPON PASSAGE] **IC 31-30-1-2.5, as amended by this act, applies to proceedings pending on or initiated on or after the effective date of this SECTION.**

SECTION 80. **An emergency is declared for this act**.

P.L.132-2009
[S.440. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-41-37.5-2, AS AMENDED BY P.L.79-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The state department ~~may~~ **shall before July 1, 2010:**

(1) adopt rules under IC 4-22-2 to establish an indoor air quality inspection, ~~and~~ evaluation, **and employee notification** program to assist ~~schools and~~ state agencies in ~~developing plans to improve~~ **improving** indoor air quality; **and**

(2) amend 410 IAC 6-5.1 or adopt new rules under IC 4-22-2 to do the following:

(A) Establish an indoor air quality inspection, evaluation, and parent and employee notification program to assist schools in improving indoor air quality.

(B) Establish best practices to assure healthful indoor air quality in schools.

(b) **Subject to subsection (c),** the state department shall:

(1) inspect a school or state agency if the state department receives a complaint about the quality of air in the school or state agency;

(2) prepare a report, which may be in letter form, that:

(A) describes the state department's inspection findings;

(B) identifies any conditions that are contributing or could contribute to poor indoor air quality at the school or state agency, including:

(i) carbon dioxide levels;

(ii) humidity;

(iii) evidence of mold or water damage; and

(iv) excess dust;

(C) provides guidance on steps the school or state agency should take to address any issues; and

(D) requests a response from the school or state agency not later than sixty (60) days after the date of the report;

~~(2)~~ **(3)** report the results of the inspection to:

(A) the person who complained about the quality of air;

(B) the school's principal or the state agency head;

(C) the superintendent of the school corporation, if the school is part of a school corporation;

(D) the Indiana state board of education, if the school is a public school or an accredited nonpublic school;

(E) the Indiana department of administration, if the inspected entity is a state agency; and

(F) the appropriate local or county board of health; and

~~(3)~~ **(4)** assist the school or state agency in developing a reasonable plan to improve air quality conditions found in the inspection.

(c) A complaint referred to in subsection (b)(1):

(1) must be in writing; and

(2) may be made by electronic mail.

(d) The state department may release the name of a person who files a complaint referred to in subsection (b)(1) only if the person has authorized the release in writing.

SECTION 2. IC 16-41-37.5-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.5. (a) Before July 1, 2010, the state department shall distribute a manual of best practices for managing indoor air quality at schools as described in this section. The state department may use a manual on indoor air quality in schools developed by a federal health or environmental agency or another state and make additions or revisions to the manual, with the input and advice of the air quality panel established by section 3 of this chapter, to make the manual most useful to Indiana schools. The state department shall provide the manual:**

(1) to:

(A) the legislative council; and

(B) the department of education;

in an electronic format under IC 5-14-6; and

(2) to the facilities manager and superintendent of each school corporation.

(b) The department shall review and revise the manual developed under subsection (a) at least once every three (3) years to assure that the manual continues to represent best practices available to schools.

SECTION 3. IC 16-41-37.5-3, AS AMENDED BY P.L.79-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The air quality panel is established to assist the state department in carrying out this chapter.

(b) The panel consists of the following members:

(1) A representative of the state department, appointed by the commissioner of the state department.

(2) A representative of the department of education, appointed by the state superintendent of public instruction.

(3) A representative of the Indiana department of administration, appointed by the commissioner of the Indiana department of administration.

(4) A member of the governing body of a school corporation, appointed by the state superintendent of public instruction.

(5) A teacher licensed under IC 20-28-4 or IC 20-28-5, appointed by the governor.

(6) A representative of a statewide parent organization, appointed by the state superintendent of public instruction.

(7) A physician who has experience in indoor air quality issues, appointed by the commissioner of the state department.

(8) An individual with training and experience in occupational safety and health, appointed by the commissioner of the department of labor.

(9) A mechanical engineer with experience in building ventilation system design, appointed by the governor.

(10) A building contractor with experience in air flow systems who is a member of a national association that specializes in air flow systems, appointed by the governor.

(11) A member of a labor organization whose members install, service, evaluate, and balance heating, ventilation, and air conditioning equipment, appointed by the governor.

(12) An individual with experience in the cleaning and

maintenance of commercial facilities, appointed by the governor.

(c) The chairperson of the panel shall be the representative of the state department.

(d) The panel shall convene **at least twice annually** at the discretion of the chairperson.

(e) The state department shall post minutes of each meeting of the panel on the state department's web site not later than forty-five (45) days after the meeting.

~~(e)~~ **(f)** The state department shall provide administrative support for the panel.

~~(f)~~ **(g)** The panel shall:

(1) identify and make available to schools and state agencies best operating practices for indoor air quality; ~~and~~

(2) assist the state department in developing plans to improve air quality conditions found in inspections under section 2 of this chapter; **and**

(3) assist the state department in adopting rules under section 2 of this chapter.

~~(g)~~ **(h)** The state department shall prepare and make available to the public an annual report describing the panel's actions.

SECTION 4. IC 16-41-37.5-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5. After June 30, 2009, if the department amends 410 IAC 6-5.1 concerning school buildings and school sites, the department shall consider the effects of outdoor air quality when establishing criteria for school siting.**

P.L.133-2009
[S.450. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning business and other associations.

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

SECTION 1. IC 23-1-17-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6. Unless limited or prohibited by the articles of incorporation or bylaws, IC 26-2-8 applies to this article.**

SECTION 2. IC 23-1-18-1, AS AMENDED BY P.L.130-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A document must satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing by the secretary of state.

(b) This article must require or permit filing the document in the office of the secretary of state.

(c) The document must contain the information required by this article. It may contain other information as well.

(d) The document must be **legible,** typewritten or printed ~~legible,~~ **or, if electronically transmitted, in a format that can be retrieved in a reproduced or typewritten form,** and otherwise suitable for processing.

(e) The document must be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

(f) The document must be ~~executed.~~ **signed:**

(1) by the chairman of the board of directors of the domestic or foreign corporation or by any of its officers;

(2) if directors have not been selected or the corporation has not

been formed, by an incorporator;

(3) if the corporation is in the hands of a receiver, trustee, or other court appointed fiduciary, by that fiduciary; or

(4) for purpose of annual or biennial reports, by:

(A) a registered agent;

(B) a certified public accountant; or

(C) an attorney;

employed by the business entity.

(g) Except as provided in subsection (m), the person ~~executing~~ **signing** the document shall sign it and state beneath or opposite the signature the person's name and the capacity in which the ~~person signs.~~ **document is signed.** A signature on a document authorized to be filed under this article may be:

(1) a facsimile; or

(2) made by an attorney in fact.

(h) A power of attorney relating to the signing of a document authorized to be filed under this article by an attorney in fact may but is not required to be:

(1) sworn to, verified, or acknowledged;

(2) signed in the presence of a notary public;

(3) filed with the secretary of state; or

(4) included in another written agreement.

However, the power of attorney must be retained in the records of the corporation.

(i) A document authorized to be filed under this article may but is not required to contain:

(1) the corporate seal;

(2) an attestation by the secretary or an assistant secretary; and

(3) an acknowledgment, verification, or proof.

(j) If the secretary of state has prescribed a mandatory form for the document under section 2 of this chapter, the document must be in or on the prescribed form.

(k) The document must be delivered to the office of the secretary of state for filing as described in section 1.1 of this chapter and the correct filing fee must be paid in the manner and form required by the secretary of state.

(l) The secretary of state may accept payment of the correct filing fee by credit card, debit card, charge card, or similar method. However,

if the filing fee is paid by credit card, debit card, charge card, or similar method, the liability is not finally discharged until the secretary of state receives payment or credit from the institution responsible for making the payment or credit. The secretary of state may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the secretary of state or charged directly to the secretary of state's account, the secretary of state or the credit card vendor may collect from the person using the bank or credit card a fee that may not exceed the highest transaction charge or discount fee charged to the secretary of state by the bank or credit card vendor during the most recent collection period. This fee may be collected regardless of any agreement between the bank and a credit card vendor or regardless of any internal policy of the credit card vendor that may prohibit this type of fee. The fee is a permitted additional charge under IC 24-4.5-3-202.

(m) A signature on a document that is transmitted and filed electronically is sufficient if the person transmitting and filing the document:

(1) has the intent to file the document as evidenced by a symbol executed or adopted by a party with present intention to authenticate the filing; and

(2) enters the filing party's name on the electronic form in a signature box or other place indicated by the secretary of state.

(n) As used in this subsection, "filed document" means a document filed with the secretary of state under any provision of this title except for IC 23-1-49 or IC 23-1-53-3. As used in this subsection, "plan" means a plan of domestication, nonprofit conversion, entity conversion, merger, or share exchange. Whenever a provision under this article permits any of the terms of a plan or a filed document to be dependent on facts objectively ascertainable outside the plan or filed document, the following apply:

(1) The manner in which the facts will operate upon the terms of the plan or filed document:

(A) shall be set forth in the plan or filed document; and

(B) shall state the manner in which the facts shall become operative.

(2) The facts may include, but are not limited to:

(A) any of the following that is available in a nationally recognized news or information medium either in print or electronically:

(i) Statistical or market indices.

(ii) Market prices of any security or group of securities.

(iii) Interest rates.

(iv) Currency exchange rates.

(v) Similar economic or financial data;

(B) a determination or action by any person or body, including the corporation or any other party to a plan or filed document; or

(C) the terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document.

(3) The following provisions of a plan or filed document may not be made dependent on facts outside the plan or filed document:

(A) The name and address of any person required in a filed document.

(B) The registered office of any entity required in a filed document.

(C) The registered agent of any entity required in a filed document.

(D) The number of authorized shares and designation of each class or series of shares.

(E) The effective date of a filed document.

(F) Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given.

(4) If a provision of a plan or filed document is made dependent on a fact ascertainable outside the plan or filed document, and that fact is not ascertainable by reference to a source described in subdivision (2)(A) or a document that is a matter of public record, or the affected shareholders have not received notice of the fact from the corporation, the corporation shall file with the secretary of state articles of amendment setting forth the fact promptly after the time the fact referred to is first ascertainable or changes. Articles of amendment under this subdivision:

(A) are considered to be authorized by the authorization of the original plan or filed document or plan to which the articles of amendment relate; and

(B) may be filed by the corporation without further action by the board of directors or the shareholders.

SECTION 3. IC 23-1-18-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Except as provided in subsection (b) and section 5(c) of this chapter, a document accepted for filing is effective:

(1) at the time of filing on the date it is filed, as evidenced by **means** the secretary of ~~state's date and time endorsement~~ **state uses for endorsing the date and time of filing** on the original document; or

(2) at such later time on the date it is filed as is specified in the document as its effective time on the date it is filed.

(b) A document may specify a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at 12:01 a.m. on that date. A delayed effective date for a document may not be later than the ninetieth day after the date it is filed.

SECTION 4. IC 23-1-18-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) A domestic or foreign corporation may correct a document filed by the secretary of state if: ~~the document:~~

(1) **the document** contains an incorrect statement or **an inaccuracy;**

(2) **the document** was defectively ~~executed,~~ **signed,** attested, sealed, verified, or acknowledged; **or**

(3) the electronic transmission of the document was defective.

(b) A document is corrected:

(1) by preparing articles of correction that:

(A) describe the document (including its filing date) or attach a copy of it to the articles;

(B) specify the incorrect statement **or inaccuracy** and the reason it is incorrect or the manner in which the execution was defective; and

(C) correct the incorrect statement, **inaccuracy,** or defective

execution; and

(2) by delivering the articles to the secretary of state for filing.

(c) Articles of correction are effective on the effective date of the document they correct except as to persons reasonably relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed or when the reliance ceased to be reasonable, whichever first occurs.

SECTION 5. IC 23-1-18-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) If the secretary of state refuses to file a document delivered to the secretary of state's office for filing, the domestic or foreign corporation may appeal the refusal to the circuit or superior court of the county where the corporation's principal office (or, if none in Indiana, its registered office) is or will be located **not later than sixty (60) days after the receipt of the document from the secretary of state.** The appeal is commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the secretary of state's explanation of the refusal to file.

(b) The court may order the secretary of state to file the document or take other action the court considers appropriate.

(c) The court's final decision may be appealed as in other civil proceedings.

SECTION 6. IC 23-1-20-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. "Articles of incorporation" ~~includes amended and restated articles of incorporation and articles of merger.~~ **means the original articles of incorporation and all amendments and restatements of the articles of incorporation. If an amendment of the articles of incorporation or any other document filed under this article restates the articles of incorporation in their entirety, the articles of incorporation may not include any prior documents.**

SECTION 7. IC 23-1-20-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.5. "Beneficial owner", for purposes of IC 23-1-22-4, IC 23-1-30-4, and IC 23-1-43, means a person that:**

(1) individually or with or through any of its affiliates or associates beneficially owns the shares, directly or indirectly;

(2) individually or with or through any of its affiliates or

associates, has:

(A) the right to acquire the shares at any time, under any agreement, arrangement, or understanding, or upon the exercise of conversion rights, exchange rights, warrants, options, or otherwise; or

(B) the right to vote the shares under any agreement, arrangement, or understanding.

However, a person is not a beneficial owner of shares tendered under a tender or exchange offer made by the person or any of the person's affiliates or associates until the tendered shares are accepted for purchase or exchange, and a person is not a beneficial owner of shares under clause (B) if the agreement, arrangement, or understanding to vote the shares arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation made in accordance with the applicable regulations under the Securities Exchange Act of 1934 and is not then reportable on a Schedule 13D under the Securities Exchange Act of 1934 or any comparable or successor report;

(3) has any agreement, arrangement, or understanding for the purpose of acquiring, holding, voting (except as provided in subdivision (2)), or disposing of the shares with any other person that beneficially owns or whose affiliates or associates beneficially own the shares, directly or indirectly; or

(4) has any derivative instrument that includes the opportunity, directly or indirectly, to profit or share in any profit derived from any increase in the value of the subject shares.

SECTION 8. IC 23-1-20-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. "Deliver" ~~includes mail.~~ **or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission.**

SECTION 9. IC 23-1-20-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6.5. "Derivative instrument" means any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to an equity security or**

similar instrument with a value derived in whole or in part from the value of an equity security, whether or not the instrument or right is subject to settlement in the underlying security or otherwise.

SECTION 10. IC 23-1-20-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8.5. "Electronic transmission" or "electronically transmitted" means the transmission of an electronic record (as defined in IC 26-2-8-102(9)). The time and place of sending and of delivery by electronic means is governed by IC 26-2-8-114.**

SECTION 11. IC 23-1-20-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. "Entity" includes the following:

(1) Domestic corporation and foreign corporation.

(2) Not-for-profit corporation.

(3) Corporation incorporated under any other statute.

(4) Profit and not-for-profit unincorporated association.

(5) Business trust, estate, partnership, trust, and two (2) or more persons having a joint or common economic interest.

(6) Other entity (as defined in IC 23-1-20-17.5).

~~(6)~~ **(7)** State, United States, and foreign government.

SECTION 12. IC 23-1-20-17.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 17.5. "Other entity" means:**

(1) a limited liability company;

(2) a limited liability partnership;

(3) a limited partnership;

(4) a general partnership;

(5) a business trust;

(6) a real estate investment trust; or

(7) any entity that:

(A) is formed under the requirements of applicable law; and

(B) is not a corporation.

SECTION 13. IC 23-1-20-24.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 24.5. "Sign" or "signature"**

includes any manual, facsimile, or conformed signature, or an electronic signature (as defined in IC 26-2-8-102(10)).

SECTION 14. IC 23-1-20-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 29. (a) Notice under this article shall be in writing **(including electronic transmission)** unless oral notice is authorized by a corporation's articles of incorporation or bylaws.

(b) Notice, if otherwise in proper form under this article, may be communicated:

(1) in person;

(2) by telephone, telegraph, teletype, or other form of wire or wireless communication; ~~or~~

(3) by mail; **or**

(4) electronically.

If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published or by radio, television, or other form of public broadcast **or electronic** communication.

(c) Written notice by a domestic or foreign corporation to a shareholder is effective when mailed, if correctly addressed to the shareholder's address shown in the corporation's current record of shareholders.

(d) Written notice to a domestic or foreign corporation (authorized to transact business in Indiana) may be addressed to its registered agent at its registered office or to the secretary of the corporation at its principal office shown in the most recent filing of the corporation under this article.

(e) Except as provided in subsection (c), written notice is effective at the earliest of the following:

(1) When received.

(2) Five (5) days after its mailing, as evidenced by the postmark or private carrier receipt, if correctly addressed to the address listed in the most current records of the corporation.

(3) On the date shown on the return receipt, if sent by registered or certified United States mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

(f) Oral notice is effective when communicated.

(g) If this article prescribes notice requirements for particular

circumstances, those requirements govern. If articles of incorporation or bylaws prescribe notice requirements not inconsistent with this section or other provisions of this article, those requirements govern.

(h) Written notice, including reports or statements from the corporation, to shareholders who share a common address is effective if:

(1) the corporation delivers one (1) copy of a notice, report, or statement to the common address;

(2) the corporation addresses the notice, report, or statement to the:

(A) shareholders either as a group or to each of the shareholders individually; or

(B) shareholders in a form in which each of the shareholders has consented; and

(3) each of the shareholders consents to delivery of a single copy of the notice, report, or statement to the common address of the shareholders.

Consent given under subdivision (3) is revocable by a shareholder who delivers written notice of revocation to the corporation. If a shareholder delivers written notice of revocation to a corporation, the corporation shall begin providing individual notices, reports, or other statements to the shareholder not later than thirty (30) days after delivery of the written notice of revocation.

(i) A shareholder who fails to object to the receipt of the notice, report, or statement at a common address by written notice to the corporation within sixty (60) days after written notice by the corporation of the corporation's intention to send single copies of notices to shareholders who share a common address as permitted by subsection (h) is considered to have consented to receiving a single copy at the common address.

SECTION 15. IC 23-1-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A corporate name:

(1) must contain the word "corporation", "incorporated", "company", or "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", or words or abbreviations of like import in another language; and

(2) except as provided in subsection (e), may not contain language

stating or implying that the corporation is organized for a purpose other than that permitted by IC 23-1-22-1 and its articles of incorporation.

(b) Except as authorized by subsections (c) and (d), a corporate name must be distinguishable upon the records of the secretary of state from:

(1) the corporate name of a corporation or other business entity incorporated or authorized to transact business in Indiana;

(2) a corporate name reserved or registered under section 2 or 3 of this chapter; ~~and~~

(3) a fictitious name adopted by a foreign corporation authorized to transact business in Indiana because the foreign corporation's true name was unavailable; and

~~(3)~~ **(4)** the corporate name of a not-for-profit corporation incorporated or authorized to transact business in Indiana.

(c) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon the secretary of state's records from one (1) or more of the names described in subsection (b). The secretary of state shall authorize use of the name applied for if:

(1) the other corporation files its written consent to the use, signed by any current officer of the corporation; or

(2) the applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in Indiana.

(d) A corporation may use the name, including the fictitious name, of another domestic or foreign corporation that is used in Indiana if the other corporation is incorporated or authorized to transact business in Indiana and the proposed user corporation:

(1) has merged with the other corporation;

(2) has been formed by reorganization of the other corporation; or

(3) has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

(e) A bank holding company (as defined in 12 U.S.C. 1841) may use the word "bank" or "banks" as a part of its name. However, this subsection does not permit a bank holding company to advertise or represent itself to the public as affording the services or performing the

duties that a bank or trust company only is entitled to afford and perform.

(f) Except as provided in IC 23-1-49-6, this article does not control the use of fictitious names.

SECTION 16. IC 23-1-26-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The powers granted in this section to the board of directors may be reserved to the shareholders by the articles of incorporation.

(b) The board of directors may authorize shares to be issued for consideration consisting of any tangible or intangible property or benefit to the corporation, including cash, promissory notes, services performed, contracts for services to be performed, or other securities of the corporation. ~~If shares are authorized to be issued for promissory notes or for promises to render services in the future, the corporation must comply with IC 23-1-53-2(b).~~

(c) The corporation may issue shares for such consideration received or to be received as the board of directors determines to be adequate. That determination by the board of directors is conclusive insofar as the adequacy of consideration for the issuance of shares relates to whether the shares are validly issued, fully paid, and nonassessable.

(d) When the corporation receives the consideration for which the board of directors authorized the issuance of shares, the shares issued therefor are fully paid and nonassessable.

(e) The corporation may (but is not required to) place in escrow shares issued for a contract for future services or benefits or a promissory note, or make other arrangements to restrict the transfer of the shares, and may (but is not required to) credit distributions in respect of the shares against their purchase price, until the services are performed, the note is paid, or the benefits received. If the services are not performed, the note is not paid, or the benefits are not received, the shares escrowed or restricted and the distributions credited may be cancelled in whole or in part.

SECTION 17. IC 23-1-26-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. **(a)** A corporation, acting through its board of directors, may create or issue rights, options, or warrants for the purchase of shares or other securities of the corporation or any successor in interest of the corporation. The board

of directors shall determine the terms upon which the rights, options, or warrants are issued, their form and content, and the consideration for which the shares or other securities are to be issued. The rights, options, or warrants may be issued with or without consideration, and may (but need not) be issued pro rata.

(b) The terms and conditions of the rights, options, or warrants, including the rights, options, or warrants outstanding on July 1, 2009, may include, without limitation, restrictions or conditions that:

(1) preclude or limit the exercise, transfer, or receipt of the rights, options, or warrants by:

(A) a person owning or offering to acquire a specified number or percentage of the outstanding shares or other securities of the corporation; or

(B) a transferee of the person described in clause (A); or

(2) invalidate or void the rights, options, or warrants held by the person described in subdivision (1)(A) or a transferee described in subdivision (1)(B).

SECTION 18. IC 23-1-26-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) The articles of incorporation, bylaws, an agreement among shareholders, or an agreement between shareholders and the corporation may impose restrictions on the transfer or registration of transfer of shares of any class or series of shares of the corporation. A restriction does not affect shares issued before the restriction was adopted unless the holders of the shares are parties to the restriction agreement or voted in favor of the restriction.

(b) A restriction on the transfer or registration of transfer of shares is valid and enforceable against the holder or a transferee of the holder if the restriction is authorized by this section and its existence is noted conspicuously on the front or back of the certificate or is contained in the information statement required by section 7(b) of this chapter. Unless so noted **or contained,** a restriction is not enforceable against a person without knowledge of the restriction.

(c) A restriction on the transfer or registration of transfer of shares is authorized:

(1) to maintain the corporation's status when it is dependent on the number or identity of its shareholders;

(2) to preserve exemptions under federal or state securities law; or

(3) for any other reasonable purpose.

(d) A restriction on the transfer or registration of transfer of shares may, among other things:

(1) obligate the shareholder first to offer the corporation or other persons (separately, consecutively, or simultaneously) an opportunity to acquire the restricted shares;

(2) obligate the corporation or other persons (separately, consecutively, or simultaneously) to acquire the restricted shares;

(3) require the corporation, the holders of any class of its shares, or another person to approve the transfer of the restricted shares, if the requirement is not manifestly unreasonable; or

(4) prohibit the transfer of the restricted shares to designated persons or classes of persons, if the prohibition is not manifestly unreasonable.

(e) For purposes of this section, "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

SECTION 19. IC 23-1-29-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) **Unless directors are elected by written consent instead of at an annual meeting as permitted by section 4 of this chapter,** a corporation ~~must~~ **shall** hold a meeting of the shareholders annually at a time stated in or fixed in accordance with the bylaws. **However, if a corporation's articles of incorporation authorize shareholders to cumulate the shareholder's votes when electing directors as provided under IC 23-1-30-9, directors may not be elected by less than unanimous consent.**

(b) Annual shareholders' meetings may be held in or out of Indiana at the place stated in or fixed in accordance with the bylaws. If no place is stated in or fixed in accordance with the bylaws, annual meetings shall be held at the corporation's principal office.

(c) The failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation's bylaws does not affect the validity of any corporate action.

(d) If the articles of incorporation or bylaws so provide, any or all shareholders may participate in an annual shareholders' meeting by, or through the use of, any means of communication by which all

shareholders participating may simultaneously hear each other during the meeting. A shareholder participating in a meeting by this means is deemed to be present in person at the meeting.

SECTION 20. IC 23-1-29-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A corporation with more than fifty **(50)** shareholders must hold a special meeting of shareholders on call of its board of directors or the person or persons (including, but not limited to, shareholders or officers) specifically authorized to do so by the articles of incorporation or bylaws. If such corporation's articles of incorporation require the holding of a special meeting on the demand of its shareholders, but do not specify the percentage of votes entitled to be cast on an issue necessary to demand such special meeting, the board of directors may establish such percentage in the corporation's bylaws. Absent adoption of such a bylaw provision, the demand for a special meeting must be made by the holders of all of the votes entitled to be cast on an issue.

(b) A corporation with fifty (50) or fewer shareholders must hold a special meeting of shareholders:

(1) on call of its board of directors or the person or persons (including, but not limited to, shareholders or officers) specifically authorized to do so by the articles of incorporation or bylaws; or

(2) if the holders of at least twenty-five percent (25%) of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date, and deliver to such corporation's secretary one (1) or more written demands for the meeting describing the purpose or purposes for which it is to be held.

(c) Special shareholders' meetings may be held in or out of Indiana at the place stated in or fixed in accordance with the bylaws. If no place is stated or fixed in accordance with the bylaws, special meetings shall be held at the corporation's principal office.

(d) If not otherwise fixed under section 3 or 7 of this chapter, the record date for determining shareholders entitled to demand a special meeting is the date the first shareholder signs the demand.

~~(d)~~ **(e)** Only business within the purpose or purposes described in the meeting notice required by section 5(c) of this chapter may be conducted at a special shareholders' meeting.

~~(e)~~ **(f)** If the articles of incorporation or bylaws so provide, any or all shareholders may participate in a special meeting of shareholders by, or through the use of, any means of communication by which all shareholders participating may simultaneously hear each other during the meeting. A shareholder participating in a meeting by this means is deemed to be present in person at the meeting.

SECTION 21. IC 23-1-29-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Action required or permitted by this article to be taken at a shareholders' meeting may be taken without a meeting if the action is taken by all the shareholders entitled to vote on the action. The action must be evidenced by one (1) or more written consents describing the action taken, signed by all the shareholders entitled to vote on the action, **bearing the date of signature,** and delivered to the corporation for inclusion in the minutes or filing with the corporate records.

~~(b) If not otherwise determined under section 7 of this chapter, the record date for determining shareholders entitled to take action without a meeting is the date the first shareholder signs the consent under subsection (a).~~

~~(c) Action taken under this section is effective when the last shareholder signs the consent, unless the consent specifies a different prior or subsequent effective date.~~

~~(d) A consent signed under this section has the effect of a meeting vote and may be described as such in any document.~~

~~(e) If this article requires that notice of proposed action be given to nonvoting shareholders and the action is to be taken by unanimous consent of the voting shareholders, the corporation must give its nonvoting shareholders written notice of the proposed action at least ten (10) days before the action is taken. The notice must contain or be accompanied by the same material that, under this article, would have been required to be sent to nonvoting shareholders in a notice of meeting at which the proposed action would have been submitted to the shareholders for action.~~

(b) This subsection does not apply to a corporation that has a class of voting shares registered with the United States Securities and Exchange Commission under Section 12 of the Securities Exchange Act of 1934. Unless otherwise provided in the articles of incorporation, any action required or permitted by this article to

be taken at a shareholders' meeting may be taken without a meeting, and without prior notice, if consents in writing setting forth the action taken are signed by the holders of outstanding shares having at least the minimum number of votes that would be required to authorize or take the action at a meeting at which all shares entitled to vote on the action were present and voted. The written consent must bear the date of signature of the shareholder who signs the consent and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(c) If not otherwise fixed under section 7 of this chapter, and if prior board action is not required with respect to the action to be taken without a meeting, the record date for determining the shareholders entitled to take action without a meeting is the first date on which a signed written consent is delivered to the corporation. If not otherwise fixed under section 7 of this chapter, and if prior board action is required with respect to the action to be taken without a meeting, the record date is the close of business on the day the resolution of the board taking the prior action is adopted. A written consent to take a corporate action is not valid unless, not later than sixty (60) days after the earliest date on which a consent delivered to the corporation as required by this section was signed, written consents signed by sufficient shareholders to take the action have been delivered to the corporation. A written consent may be revoked by a writing to that effect delivered to the corporation before unrevoked written consents sufficient in number to take the corporate action are delivered to the corporation.

(d) A consent signed in accordance with this section has the effect of a vote taken at a meeting and may be described as a vote in any document. Unless the:

(1) consent specifies a different prior or subsequent effective date; or

(2) articles of incorporation, bylaws, or a resolution of the board of directors provides for a reasonable delay to permit tabulation of written consents;

the action taken by written consent is effective when written consents signed by sufficient shareholders to take the action are delivered to the corporation.

(e) If this article requires that notice of a proposed action be

given to nonvoting shareholders and the action is to be taken by written consent of the voting shareholders, the corporation must give its nonvoting shareholders written notice of the action not more than ten (10) days after:

(1) written consents sufficient to take the action have been delivered to the corporation; or

(2) the date that tabulation of the written consents has been completed under an authorization as described in subsection (d).

The notice must reasonably describe the action taken and contain or be accompanied by the same material that, under any provision of this article, would have been required to be sent to nonvoting shareholders in a notice of a meeting at which the proposed action would have been submitted to the shareholders for action.

(f) If action is taken by less than unanimous written consent of the voting shareholders, the corporation must give its nonconsenting voting shareholders written notice of the action not more than ten (10) days after:

(1) written consents sufficient to take the action have been delivered to the corporation; or

(2) the date that tabulation of the written consents has been completed under an authorization as described in subsection (d).

The notice must reasonably describe the action taken and contain or be accompanied by the same material that, under any provision of this article, would have been required to be sent to voting shareholders in a notice of a meeting at which the proposed action would have been submitted to the shareholders for action.

(g) The notice requirements of subsections (e) and (f) do not delay the effectiveness of actions taken by written consent, and a failure to comply with the notice requirements does not invalidate actions taken by written consent. However, this subsection does not limit the power of a court to fashion any appropriate remedy in favor of a shareholder adversely affected by a failure to give timely notice.

(h) An electronic transmission may be used to consent to an action if the electronic transmission contains or is accompanied by information from which the corporation can determine the date on which the electronic transmission was signed and that the

electronic transmission was authorized by the shareholder, the shareholder's agent, or the shareholder's attorney in fact.

(i) Unless otherwise determined by a resolution of the board, delivery of a written consent to the corporation under this section is delivery to the corporation's registered agent at its registered office or to the secretary of the corporation at its principal office.

SECTION 22. IC 23-1-29-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) A shareholder may waive any notice required by this article, the articles of incorporation, or bylaws before or after the date and time stated in the notice. The waiver **must be:**

(1) in writing;

(2) signed by the shareholder entitled to the notice; ~~must be in writing~~ and ~~be~~

(3) delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(b) A shareholder's attendance at a meeting:

(1) waives objection to lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting objects to holding the meeting or transacting business at the meeting; and

(2) waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the shareholder objects to considering the matter when it is presented.

SECTION 23. IC 23-1-33-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) The terms of the initial directors of a corporation expire at the first shareholders' meeting at which directors are elected.

(b) **Unless the bylaws of a corporation specify otherwise as provided under IC 23-1-39-4 or a shorter term is specified in the bylaws for a director nominee failing to receive a specified vote for election,** the terms of all other directors expire at:

(1) the next; **or**

(2) if the director's terms are staggered in accordance with section 6 of this chapter, the applicable second or third;

annual shareholders' meeting following their election. ~~unless their terms are staggered under section 6 of this chapter.~~

(c) A decrease in the number of directors does not shorten an incumbent director's term.

(d) The term of a director elected to fill a vacancy expires at the end of the term for which the director's predecessor was elected.

(e) **Unless the bylaws of a corporation specify otherwise as provided under IC 23-1-39-4,** despite the expiration of a director's term, the director continues to serve until a successor is elected and qualifies or until there is a decrease in the number of directors.

SECTION 24. IC 23-1-33-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The articles of incorporation or the bylaws may provide for staggering their terms by dividing the total number of directors into either:

(1) two (2) groups, with each group containing one-half (1/2) of the total, as near as may be; or

(2) if there are more than two (2) directors, three (3) groups, with each group containing one-third (1/3) of the total, as near as may be.

(b) In the event that terms are staggered under subsection (a), the terms of directors in the first group expire at the first annual shareholders' meeting after their election, the terms of the second group expire at the second annual shareholders' meeting after their election, and the terms of the third group, if any, expire at the third annual shareholders' meeting after their election. At each annual shareholders' meeting held thereafter, directors shall be chosen for a term of two (2) years or three (3) years, as the case may be, to succeed those whose terms expire.

(c) A corporation that has a class of voting shares registered with the Securities and Exchange Commission under Section 12 of the Securities Exchange Act of 1934 shall provide for staggering the terms of directors in accordance with this section unless, not later than thirty (30) days after the later of:

(1) July 1, 2009; or

(2) the time when the corporation's voting shares are registered with the Securities and Exchange Commission under Section 12 of the Securities Exchange Act of 1934;

the board of directors of the corporation adopts a bylaw expressly electing not to be governed by this subsection. However, an election not to be governed by this subsection may be rescinded by a

subsequent action of the board of directors unless the original articles of incorporation contain a provision expressly electing not to be governed by this subsection.

(d) If the board fails to provide for the staggering of the terms of directors as required by subsection (c), the board must be staggered as follows:

(1) The first group comprises one-third (1/3) of the directors or one-third (1/3) of the directors rounded to the nearest higher whole number if the number of directors is not divisible by three (3) without any remaining.

(2) The second group comprises one-third (1/3) of the directors or one-third (1/3) of the directors rounded to the nearest higher whole number if the number of directors is not divisible by three (3) without two (2) remaining.

(3) The third group comprises one-third (1/3) of the directors or one-third (1/3) of the directors rounded to the nearest lower whole number if the number of directors is not divisible by three (3) without any remaining.

The directors shall be placed into the groups established by this subsection alphabetically by last name.

SECTION 25. IC 23-1-33-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) A director may resign at any time by delivering written notice:

(1) to the board of directors, its chairman, or the secretary of the corporation; or

(2) if the articles of incorporation or bylaws so provide, to another designated officer.

~~(b) A resignation is effective when the notice is delivered unless the notice specifies a later effective date.~~

(b) A resignation is effective when the notice is delivered unless the notice specifies:

(1) a later effective date; or

(2) an effective date determined upon the happening of an event.

(c) A resignation that is conditioned upon failing to receive a specified vote for election as a director may provide that the resignation is irrevocable.

SECTION 26. IC 23-1-34-2 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) ~~Unless~~ **Except to the extent that** the articles of incorporation or bylaws ~~provide otherwise,~~ **require that action by the board of directors be taken at a meeting,** action required or permitted by this article to be taken at a board of directors' meeting may be taken without a meeting if the action is taken by all members of the board. The action must be:

(1) evidenced by one (1) or more written consents describing the action taken;

(2) signed by each director; ~~and~~

(3) included in the minutes or filed with the corporate records reflecting the action taken; **and**

(4) delivered to the secretary.

(b) Action taken under this section is effective when the last director signs the consent, unless:

(1) the consent specifies a different prior or subsequent effective date, **in which case the consent is effective on that date; or**

(2) no effective date contemplated by subdivision (1) is designated and the action taken under this section is taken electronically as contemplated by IC 26-2-8. If action is taken as contemplated by IC 26-2-8, the effective date is determined in accordance with IC 26-2-8.

A director's consent may be withdrawn by a revocation signed by the director and delivered to the corporation before the delivery to the corporation of unrevoked written consents signed by all the directors.

(c) A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

(d) Action taken without a meeting is an organic action (as defined in IC 26-2-8-102(15)).

SECTION 27. IC 23-1-35-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A director shall, based on facts then known to the director, discharge the duties as a director, including the director's duties as a member of a committee:

(1) in good faith;

(2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

(3) in a manner the director reasonably believes to be in the best interests of the corporation.

(b) In discharging the director's duties a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(1) one (1) or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;

(2) legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence; or

(3) a committee of the board of directors of which the director is not a member if the director reasonably believes the committee merits confidence.

(c) A director is not acting in good faith if the director has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (b) unwarranted.

(d) A director may, in considering the best interests of a corporation, consider the effects of any action on shareholders, employees, suppliers, and customers of the corporation, and communities in which offices or other facilities of the corporation are located, and any other factors the director considers pertinent.

(e) A director is not liable for any action taken as a director, or any failure to take any action, **regardless of the nature of the alleged breach of duty, including alleged breaches of the duty of care, the duty of loyalty, and the duty of good faith,** unless:

(1) the director has breached or failed to perform the duties of the director's office in compliance with this section; and

(2) the breach or failure to perform constitutes willful misconduct or recklessness.

(f) In enacting this article, the general assembly established corporate governance rules for Indiana corporations, including in this chapter, the standards of conduct applicable to directors of Indiana corporations, and the corporate constituent groups and interests that a director may take into account in exercising the director's business judgment. The general assembly intends to reaffirm certain of these corporate governance rules to ensure that the directors of Indiana corporations, in exercising their business judgment, are not required to approve a proposed corporate action if the directors in good faith determine, after considering and weighing as they deem appropriate the

effects of such action on the corporation's constituents, that such action is not in the best interests of the corporation. In making such determination, directors are not required to consider the effects of a proposed corporate action on any particular corporate constituent group or interest as a dominant or controlling factor. Without limiting the generality of the foregoing, directors are not required to render inapplicable any of the provisions of IC 23-1-43, to redeem any rights under or to render inapplicable a shareholder rights plan adopted pursuant to IC 23-1-26-5, or to take or decline to take any other action under this article, solely because of the effect such action might have on a proposed acquisition of control of the corporation or the amounts that might be paid to shareholders under such an acquisition. Certain judicial decisions in Delaware and other jurisdictions, which might otherwise be looked to for guidance in interpreting Indiana corporate law, including decisions relating to potential change of control transactions that impose a different or higher degree of scrutiny on actions taken by directors in response to a proposed acquisition of control of the corporation, are inconsistent with the proper application of the business judgment rule under this article. Therefore, the general assembly intends:

(1) to reaffirm that this section allows directors the full discretion to weigh the factors enumerated in subsection (d) as they deem appropriate; and

(2) to protect both directors and the validity of corporate action taken by them in the good faith exercise of their business judgment after reasonable investigation.

(g) In taking or declining to take any action, or in making or declining to make any recommendation to the shareholders of the corporation with respect to any matter, a board of directors may, in its discretion, consider both the short term and long term best interests of the corporation, taking into account, and weighing as the directors deem appropriate, the effects thereof on the corporation's shareholders and the other corporate constituent groups and interests listed or described in subsection (d), as well as any other factors deemed pertinent by the directors under subsection (d). If a determination is made with respect to the foregoing with the approval of a majority of the disinterested directors of the board of directors, that determination shall conclusively be presumed to be valid unless it can be

demonstrated that the determination was not made in good faith after reasonable investigation.

(h) For the purposes of subsection (g), a director is disinterested if:

(1) the director does not have a conflict of interest, within the meaning of section 2 of this chapter, in connection with the action or recommendation in question;

(2) in connection with matters described in IC 23-1-32 the director is disinterested (as defined in IC 23-1-32-4(d));

(3) in connection with any matter involving or otherwise affecting:

(A) a control share acquisition (as defined in IC 23-1-42-2) or any matter related to a control share acquisition under IC 23-1-42 or other provisions of this article;

(B) a business combination (as defined in IC 23-1-43-5) or any matter related to a business combination under IC 23-1-43 (including a person becoming an interested shareholder) or other provisions of this article; or

(C) any transaction that may result in a change of control (as defined in IC 23-1-22-4) of the corporation;

the director is not an employee of the corporation; and

(4) in connection with any matter involving or otherwise affecting:

(A) a control share acquisition (as defined in IC 23-1-42-2) or any matter related to a control share acquisition under IC 23-1-42 or other provisions of this article;

(B) a business combination (as defined in IC 23-1-43-5) or any matter related to a business combination under IC 23-1-43 (including a person becoming an interested shareholder) or other provisions of this article; or

(C) any transaction that may result in a change of control (as defined in IC 23-1-22-4) of the corporation;

the director is not an affiliate or associate of, or was not nominated or designated as a director by, a person proposing any of the transactions described in clause (A), (B), or (C).

(i) A person may be disinterested under this section even though the person is a director or shareholder of the corporation.

SECTION 28. IC 23-1-35-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2009]: **Sec. 5. (a) A director's taking advantage, directly or indirectly, of a business opportunity may not be the subject of equitable relief, or give rise to an award of damages or other sanctions against the director, in a proceeding by or in the right of the corporation on the ground that the opportunity should have first been offered to the corporation, if one (1) or more of the following applies:**

(1) The opportunity and all material facts concerning the opportunity then known to the director were disclosed to or known by the board of directors or a committee of the board of directors before the director became legally obligated regarding the opportunity, and the board of directors or committee of the board of directors disclaimed the corporation's interest in the opportunity.

(2) The opportunity and all material facts concerning the business opportunity then known to the director were disclosed to or known by the shareholders entitled to vote before the director became legally obligated regarding the opportunity, and the shareholders disclaimed the corporation's interest in the opportunity.

(b) For purposes of subsection (a)(1), a business opportunity is disclaimed if approved in the manner provided in IC 23-1-35-2(c) as if the business opportunity were a conflict of interest transaction.

(c) For purposes of subsection (a)(2), a business opportunity is disclaimed if approved in the manner provided in IC 23-1-35-2(d) as if the business opportunity were a conflict of interest transaction.

(d) In any proceeding seeking equitable relief or other remedies against a director for the director allegedly improperly taking advantage of a business opportunity, the fact that the director did not employ the procedure described in subsection (a) before taking advantage of the opportunity does not create an inference that the opportunity should have been first presented to the corporation or alter the burden of proof otherwise applicable to establish that the director breached a duty to the corporation under the circumstances.

SECTION 29. IC 23-1-38.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. **(a)** If a domestic or

foreign business corporation, a nonprofit corporation, or another entity may not be a party to a merger without the approval of the department of financial institutions or the department of insurance, the corporation or other entity may not be a party to a transaction under this chapter without the prior approval of the department of financial institutions or the department of insurance.

(b) Property held in trust or for a charitable purpose under the law of this state by a domestic or foreign other entity shall not, by any transaction under this chapter, be diverted from the objects for which it was donated, granted, or devised.

SECTION 30. IC 23-1-38.5-11, AS AMENDED BY P.L.130-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. **(a)** A plan of entity conversion must include:

(1) a statement of the type of other entity that the surviving entity will be and, if it will be a foreign other entity, its jurisdiction of organization;

(2) the terms and conditions of the conversion;

(3) the manner and basis of converting the shares or interests of the converting entity following its conversion into shares, interests, or other securities, obligations, rights to acquire interests or other securities of the surviving entity or cash, other property, or any combination of the types of assets referred to in this subdivision; and

(4) the full text, as in effect immediately after consummation of the conversion, of the organic documents of the surviving entity.

(b) The plan of entity conversion may also include a provision that the plan may be amended before filing articles of entity conversion, except that subsequent to approval of the plan by the shareholders or interest holders the plan may not be amended to change:

(1) the amount or kind of shares or other securities, interests, obligations, rights to acquire shares, other securities or interests, cash, or other property to be received under the plan by the shareholders or interest holders; or

(2) the organic documents that will be in effect immediately following the conversion, except for changes permitted by a provision of the organic law of the surviving entity comparable to IC 23-1-38-2.

SECTION 31. IC 23-1-39-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. Unless the articles of incorporation **or section 4 of this chapter** provide otherwise, only a corporation's board of directors may amend or repeal the corporation's bylaws.

SECTION 32. IC 23-1-39-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4. (a) This section does not apply to any corporation that has a class of voting shares registered with the Securities and Exchange Commission under Section 12 of the Securities Exchange Act of 1934.**

(b) Unless the articles of incorporation specifically prohibit the adoption of a bylaw under this section, alter the vote specified in IC 23-1-30-9(a), or provide for cumulative voting, a corporation may elect in the corporation's bylaws to be governed in the election of directors as follows:

(1) Each vote entitled to be cast may be voted for or against up to that number of candidates that is equal to the number of directors to be elected, or a shareholder may indicate an abstention, but without cumulating the votes.

(2) To be elected, a nominee must have received a plurality of the votes cast by holders of shares entitled to vote in the election at a meeting at which a quorum is present. However, a nominee who is elected but receives more votes against than for election shall serve as a director for a term that ends on the date that is the earlier of:

(A) ninety (90) days after the date on which the voting results are determined; or

(B) the date on which an individual is selected by the board of directors to fill the office held by the director, which selection constitutes the filling of a vacancy by the board to which IC 23-1-33-9 applies.

Subject to subdivision (3), a nominee who is elected but receives more votes against than for election shall not serve as a director beyond the ninety (90) day period described in clause (A).

(3) The board of directors may select a qualified individual to fill the office held by a director who received more votes

against than for election.

(c) Subsection (b) does not apply to an election of directors by a voting group if:

(1) at the expiration of the time fixed under a provision requiring advance notification of director candidates; or

(2) absent a provision described in subdivision (1), at a time fixed by the board of directors that is not more than fourteen (14) days before notice is given of the meeting at which the election is to occur;

there are more candidates for election by the voting group than the number of directors to be elected, one (1) or more of whom are properly proposed by shareholders. An individual is not considered a candidate for purposes of this subsection if the board of directors determines before the notice of meeting is given that the individual's candidacy does not create a bona fide election contest.

(d) A bylaw under which a corporation elects to be governed by this section may be repealed:

(1) if originally adopted by the shareholders, only by the shareholders, unless the bylaw otherwise provides; or

(2) if adopted by the board of directors, by the board of directors.

SECTION 33. IC 23-1-40-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) After a plan of merger or share exchange is approved by the shareholders, or adopted by the board of directors if shareholder approval is not required, the surviving or acquiring corporation shall deliver to the secretary of state for filing articles of merger or share exchange setting forth:

(1) the ~~plan of~~ **name of the surviving or acquiring corporation following the** merger or share exchange;

(2) if shareholder approval was not required, a statement to that effect;

(3) if approval of the shareholders of one (1) or more corporations party to the merger or share exchange was required:

(A) the designation, number of outstanding shares, and number of votes entitled to be cast by each voting group entitled to vote separately on the ~~plan~~ **merger or share exchange** as to each corporation; and

(B) either the total number of votes cast for and against the

~~plan~~ **merger or share exchange** by each voting group entitled to vote separately on the ~~plan~~ **merger or share exchange** or the total number of undisputed votes cast for the ~~plan~~ **merger or share exchange** separately by each voting group and a statement that the number cast for the ~~plan~~ **merger or share exchange** by each voting group was sufficient for approval by that voting group.

(b) Unless a delayed effective date is specified, a merger or share exchange takes effect when the articles of merger or share exchange are filed.

(c) The surviving corporation resulting from a merger may, after the merger has become effective, file for record with the county recorder of each county in Indiana in which the corporation has real property at the time of the merger, the title to which will be transferred by the merger, a file-stamped copy of the articles of merger. If the ~~plan~~ **articles** of merger ~~sets~~ **set** forth amendments to the articles of incorporation of the surviving corporation that change its corporate name, a file-stamped copy of the articles of merger may be filed for record with the county recorder of each county in Indiana in which the surviving **or acquiring** corporation has any real property at the time the merger becomes effective. A failure to record a copy of the articles of merger under this subsection does not affect the validity of the merger or the change in corporate name.

SECTION 34. IC 23-1-41-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. ~~(a) A corporation may, on the terms and conditions and for the consideration determined by the board of directors.~~ **The approval of the shareholders of a corporation is not required unless the articles of incorporation require the approval of the shareholders to:**

(1) sell, lease, exchange, or otherwise dispose of all, or substantially all, of ~~its~~ **the corporation's** property in the usual and regular course of business;

(2) mortgage, pledge, dedicate to the repayment of indebtedness (whether with or without recourse), or otherwise encumber any or all of ~~its~~ **the corporation's** property whether or not in the usual and regular course of business; or

(3) transfer any or all of ~~its~~ **the corporation's** property to a corporation all the shares of which are owned by the corporation.

~~(b) Unless the articles of incorporation require it, approval by the shareholders of a transaction described in subsection (a) is not required.~~

SECTION 35. IC 23-1-41-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. ~~(a) A corporation may sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property (with or without the good will), otherwise than in the usual and regular course of business, on the terms and conditions and for the consideration determined by the corporation's board of directors, if the board of directors proposes and its shareholders approve the proposed transaction.~~

~~(b) For a transaction to be authorized:~~

~~(1) the board of directors must recommend the proposed transaction to the shareholders unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the submission of the proposed transaction; and~~

~~(2) the shareholders entitled to vote must approve the transaction.~~

~~(c) The board of directors may condition its submission of the proposed transaction on any basis.~~

~~(d) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with IC 23-1-29-5. The notice must also state that the purpose, or one (1) of the purposes, of the meeting is to consider the sale, lease, exchange, or other disposition of all, or substantially all, the property of the corporation and must contain or be accompanied by a description of the transaction.~~

(a) A sale, lease, exchange, or other disposition of assets, other than a disposition described in section 1 of this chapter, requires approval of the corporation's shareholders if the disposition would leave the corporation without a significant continuing business activity. If a corporation retains a business activity that represented at least twenty-five percent (25%) of total assets at the end of the most recently completed fiscal year, and twenty-five percent (25%) of either income from continuing operations before taxes or revenues from continuing operations for the fiscal year, in each case of the corporation and the corporation's subsidiaries on

a consolidated basis, the corporation is conclusively considered to have retained a significant continuing business activity.

(b) A disposition that requires approval of the shareholders under subsection (a) shall be initiated by a resolution by the board of directors authorizing the disposition. After adoption of the resolution, the board of directors shall submit the proposed disposition to the shareholders for the shareholder's approval. The board of directors shall transmit to the shareholders a recommendation that the shareholders approve the proposed disposition, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances the board of directors should not make the recommendation, in which case the board of directors shall transmit to the shareholders the basis for that determination.

(c) The board of directors may condition the board of directors' submission of a disposition to the shareholders under subsection (b) on any basis.

(d) If:

(1) a disposition is required to be approved by the shareholders under subsection (a); and

(2) the approval is to be given at a meeting;

the corporation shall notify each shareholder, whether the shareholder is entitled to vote, of the meeting of shareholders at which the disposition is to be submitted for approval in accordance with IC 23-1-29-5. The notice must state that the purpose or one (1) of the purposes of the meeting is to consider the disposition and must contain a description of the disposition, including the terms and conditions of the disposition and the consideration to be received by the corporation.

(e) Unless the articles of incorporation or the board of directors (acting under subsection (c)) ~~require a greater vote or a vote by voting groups, the transaction to be authorized must be approved by a majority of all~~ **requires a greater vote, or a greater number of votes to be present, the approval of a disposition by the shareholders requires the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of** the votes entitled to be cast on the ~~transaction.~~ **disposition exists.**

~~(f) After a sale, lease, exchange, or other disposition of property is~~

~~authorized, the transaction may be abandoned (subject to any contractual rights) without further shareholder action.~~

(f) After a disposition has been approved by the shareholders under subsection (b), and at any time before the disposition has been consummated, the disposition may be abandoned by the corporation without action by the shareholders, subject to any contractual rights of other parties to the disposition.

(g) A ~~transaction~~ **disposition** that constitutes a distribution is governed by IC 23-1-28 and not by this section.

(h) A disposition of assets in the course of dissolution under IC 23-1-45, IC 23-1-46, IC 23-1-47, or IC 23-1-48 is not governed by this section.

(i) The assets of a direct or indirect consolidated subsidiary shall be considered the assets of the parent corporation for the purposes of this section.

SECTION 36. IC 23-1-42-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) As used in this chapter, "issuing public corporation" means a corporation that has:

(1) one hundred (100) or more shareholders;

(2) its principal place of business **or** its principal office **in Indiana,** or ~~substantial~~ **that owns or controls** assets within Indiana **having a fair market value of more than one million dollars ($1,000,000);** and

(3) either:

(A) more than ten percent (10%) of its shareholders resident in Indiana;

(B) more than ten percent (10%) of its shares owned **of record or owned beneficially** by Indiana residents; or

(C) ~~ten~~ **one** thousand ~~(10,000)~~ **(1,000)** shareholders resident in Indiana.

(b) The residence of a **record** shareholder is presumed to be the address appearing in the records of the corporation.

~~(c) Shares held by banks (except as trustee or guardian), brokers or nominees shall be disregarded for purposes of calculating the percentages or numbers described in this section.~~

SECTION 37. IC 23-1-43-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. As used in this chapter, "beneficial owner", when used with respect to any shares,

~~means a person that:~~

~~(1) individually or with or through any of its affiliates or associates, beneficially owns the shares (directly or indirectly);~~

~~(2) individually or with or through any of its affiliates or associates, has:~~

~~(A) the right to acquire the shares (whether the right is exercisable immediately or only after the passage of time) under any agreement, arrangement, or understanding (whether or not in writing), or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise (however, a person is not considered the beneficial owner of shares tendered under a tender or exchange offer made by the person or any of the person's affiliates or associates until the tendered shares are accepted for purchase or exchange); or~~

~~(B) the right to vote the shares under any agreement, arrangement, or understanding (whether or not in writing) (however, a person is not considered the beneficial owner of any shares under this clause if the agreement, arrangement, or understanding to vote the shares arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation made in accordance with the applicable regulations under the Exchange Act and is not then reportable on a Schedule 13D under the Exchange Act, or any comparable or successor report); or~~

~~(3) has any agreement, arrangement, or understanding (whether or not in writing) for the purpose of acquiring, holding, voting (except voting under a revocable proxy or consent as described in subdivision (2)(B)), or disposing of the shares with any other person that beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, the shares.~~

has the meaning set forth in IC 23-1-20-3.5.

SECTION 38. IC 23-1-44-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4.5. As used in this chapter, "preferred shares" means a class or series of shares in which the holders of the shares have preference over any other class or series with respect to distributions.**

SECTION 39. IC 23-1-44-8 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) A shareholder is entitled to dissent from, and obtain payment of the fair value of the shareholder's shares in the event of, any of the following corporate actions:

(1) Consummation of a plan of merger to which the corporation is a party if:

(A) shareholder approval is required for the merger by IC 23-1-40-3 or the articles of incorporation; and

(B) the shareholder is entitled to vote on the merger.

(2) Consummation of a plan of share exchange to which the corporation is a party as the corporation whose shares will be acquired, if the shareholder is entitled to vote on the plan.

(3) Consummation of a sale or exchange of all, or substantially all, of the property of the corporation other than in the usual and regular course of business, if the shareholder is entitled to vote on the sale or exchange, including a sale in dissolution, but not including a sale pursuant to court order or a sale for cash pursuant to a plan by which all or substantially all of the net proceeds of the sale will be distributed to the shareholders within one (1) year after the date of sale.

(4) The approval of a control share acquisition under IC 23-1-42.

(5) Any corporate action taken pursuant to a shareholder vote to the extent the articles of incorporation, bylaws, or a resolution of the board of directors provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares.

(b) This section does not apply to the holders of shares of any class or series if, on the date fixed to determine the shareholders entitled to receive notice of and vote at the meeting of shareholders at which the merger, plan of share exchange, or sale or exchange of property is to be acted on, the shares of that class or series were

~~(1) registered on a United States securities exchange registered under the Exchange Act (as defined in IC 23-1-43-9); or~~

~~(2) traded on the National Association of Securities Dealers, Inc. Automated Quotations System Over-the-Counter Markets — National Market Issues or a similar market.~~

a covered security under Section 18(b)(1)(A) or 18(b)(1)(B) of the Securities Act of 1933, as amended.

(c) The articles of incorporation as originally filed or any amendment to the articles of incorporation may limit or eliminate the right to dissent and obtain payment for any class or series of preferred shares. However, any limitation or elimination contained in an amendment to the articles of incorporation that limits or eliminates the right to dissent and obtain payment for any shares:

(1) that are outstanding immediately before the effective date of the amendment; or

(2) that the corporation is or may be required to issue or sell after the effective date of the amendment under any exchange or other right existing immediately before the effective date of the amendment;

does not apply to any corporate action that becomes effective within one (1) year of the effective date of the amendment if the action would otherwise afford the right to dissent and obtain payment.

~~(c)~~ **(d)** A shareholder:

(1) who is entitled to dissent and obtain payment for the shareholder's shares under this chapter; or

(2) who would be so entitled to dissent and obtain payment but for the provisions of subsection (b);

may not challenge the corporate action creating (or that, but for the provisions of subsection (b), would have created) the shareholder's entitlement.

(e) Subsection (d) does not apply to a corporate action that was approved by less than unanimous consent of the voting shareholders under IC 23-1-29-4.5(b) if both of the following apply:

(1) The challenge to the corporate action is brought by a shareholder who did not consent and as to whom notice of the approval of the corporate action was not effective at least ten (10) days before the corporate action was effected.

(2) The proceeding challenging the corporate action is commenced not later than ten (10) days after notice of the approval of the corporate action is effective as to the shareholder bringing the proceeding.

SECTION 40. IC 23-15-1-1, AS AMENDED BY P.L.106-2008, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]: Sec. 1. (a) Except as otherwise provided in section 2 of this chapter,

~~(1)~~ a person **or general partnership** conducting or transacting business in Indiana under a name, designation, or title other than the real name of the person **or general partnership** conducting or transacting ~~such~~ **the** business

~~(2) a corporation conducting business in Indiana under a name, designation, or title other than the name of the corporation as shown by its articles of incorporation;~~

~~(3) a foreign corporation conducting business in Indiana under a name, designation, or title other than the name of the foreign corporation as shown by its application for certificate of authority to transact business in Indiana;~~

~~(4) a limited partnership conducting business in Indiana under a name, designation, or title other than the name of the limited partnership as shown by its certificate of limited partnership;~~

~~(5) a foreign limited partnership conducting business in Indiana under a name, designation, or title other than the name of the limited partnership as shown by its application for registration;~~

~~(6) a limited liability company conducting business in Indiana under a name, designation, or title other than as shown by its articles of organization;~~

~~(7) a foreign limited liability company conducting business in Indiana under a name, designation, or title other than the name of the limited liability company as shown by its application for registration;~~

~~(8) a limited liability partnership conducting business in Indiana under a name, designation, or title other than the name of the limited liability partnership as shown by its application for registration; and~~

~~(9) a foreign limited liability partnership conducting business in Indiana under a name, designation, or title other than the name of the limited liability partnership as shown by its application for registration;~~

shall file for record, in the office of the recorder of each county in which a place of business or an office of the person ~~limited partnership, foreign limited partnership, limited liability company, foreign limited liability company, corporation, or foreign corporation~~ **or general**

partnership is situated, a certificate stating the assumed name or names to be used and ~~in the case of a person,~~ the full name and address of the person **or general partnership** engaged in or transacting business. ~~or, in the case of a corporation, foreign corporation, limited liability company, foreign limited liability company, limited partnership, or foreign limited partnership, the full name and the address of the corporation's, limited liability company's, or limited partnership's principal office in Indiana.~~

(b) The recorder shall keep a record of the certificates filed under this section and shall keep an index of the certificates showing, in alphabetical order, the names of the persons ~~the names of the partnerships, the names of the limited liability companies, the corporate names of the corporations~~ **and general partnerships** having ~~such~~ certificates on file in the recorder's office, and the assumed name or names which they intend to use in carrying on their businesses as shown by the certificates.

(c) Before the dissolution of any business for which a certificate is on file with the recorder, the person ~~limited liability company, partnership, or corporation~~ **or general partnership** to which the certificate appertains shall file a notice of dissolution for record in the recorder's office.

(d) The county recorder shall charge a fee in accordance with IC 36-2-7-10 for each certificate, notice of dissolution, and notice of discontinuance of use filed with the recorder's office and recorded under this chapter. The funds received shall be receipted as county funds the same as other money received by the recorders.

(e) ~~A corporation, limited liability company, or limited partnership subject to this chapter~~ **Except as provided in section 2 of this chapter:**

(1) a corporation conducting business in Indiana under a name, designation, or title other than the name of the corporation as shown by its articles of incorporation;

(2) a foreign corporation conducting business in Indiana under a name, designation, or title other than the name of the foreign corporation as shown by its application for a certificate of authority to transact business in Indiana;

(3) a limited partnership conducting business in Indiana under a name, designation, or title other than the name of the

limited partnership as shown by its certificate of limited partnership;

(4) a foreign limited partnership conducting business in Indiana under a name, designation, or title other than the name of the limited partnership as shown by its application for registration;

(5) a limited liability company conducting business in Indiana under a name, designation, or title other than as shown by its articles of organization;

(6) a foreign limited liability company conducting business in Indiana under a name, designation, or title other than the name of the limited liability company as shown by its application for registration;

(7) a limited liability partnership conducting business in Indiana under a name, designation, or title other than the name of the limited liability partnership as shown by its application for registration; and

(8) a foreign limited liability partnership conducting business in Indiana under a name, designation, or title other than the name of the limited liability partnership as shown by its application for registration;

shall ~~in addition to filing the certificate provided for in subsection (a),~~ file with the secretary of state ~~a copy of each certificate.~~ **a certificate stating the assumed name or names to be used and the full name and address of the corporation's, limited partnership's, limited liability company's, or limited liability partnership's, foreign or domestic, principal office in Indiana.**

(f) A person, **general** partnership, **corporation, limited partnership,** limited liability company, or ~~corporation~~ **limited liability partnership, foreign or domestic,** that has filed a certificate of assumed business name or names under subsection (a) or (e) may file a notice of discontinuance of use of assumed business name or names with the secretary of state ~~and~~ **or** with the recorder's office in which the certificate was filed or transferred. The secretary of state ~~and~~ **or** the recorder shall keep a record of notices filed under this subsection.

~~(g) A corporation or limited partnership, domestic or foreign, that is subject to this chapter and that does not have a place of business or an office in Indiana, shall file the certificate required under subsection~~

~~(a) in the office of the recorder of the county where the corporation's or limited partnership's registered office is located. The certificate must state the assumed name or names to be used, the name of the registered agent, and the address of the registered office. The corporation or limited partnership must comply with the requirements in subsection (c).~~

(g) This subsection applies to a foreign or domestic corporation, limited partnership, limited liability company, or limited liability partnership that, before July 1, 2009:

(1) filed a certificate stating the assumed name or names to be used in carrying out the entity's business; and

(2) filed the certificate:

(A) with the secretary of state; and

(B) in the recorder's office.

The entity shall file a notice of dissolution or notice of discontinuance of use of the assumed business name or names with the secretary of state and with the recorder's office in which the certificate was filed or transferred.

(h) The secretary of state shall collect the following fees when a copy of a certificate is filed with the secretary of state under subsection (e):

(1) A fee of:

(A) twenty dollars ($20) for an electronic filing; or

(B) thirty dollars ($30) for a filing other than an electronic filing;

from a corporation (other than a nonprofit corporation), limited liability company, or a limited partnership.

(2) A fee of:

(A) ten dollars ($10) for an electronic filing; or

(B) twenty-six dollars ($26) for a filing other than an electronic filing;

from a nonprofit corporation.

The secretary of state shall prescribe the electronic means of filing certificates for purposes of collecting fees under this subsection. A fee collected under this subsection is in addition to any other fee collected by the secretary of state.

SECTION 41. IC 26-2-8-104, AS AMENDED BY P.L.110-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]: Sec. 104. (a) This chapter does not require that a record or signature be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(b) This chapter only applies to transactions between parties each of which has agreed to conduct transactions electronically. An agreement to conduct transactions electronically is determined from the context and surrounding circumstances, including the parties' conduct. A constituent of a business entity and a business entity are presumed to have agreed to conduct organic actions electronically unless and to the extent:

(1) the governing documents of the business entity limit or prohibit, in whole or in part, the use of electronic signatures, electronic records, or both; or

(2) the business entity expressly states the method, means, or requirement by which a constituent may respond to or participate in any organic action, including imposing a requirement that participants use a specific form of writing, record, or signature.

Unless and to the extent limited or prohibited **in the governing documents of a business entity,** any electronic record or electronic signature to be sent to a constituent is properly sent if sent in the manner and to the electronic address or other means of receipt designated by the constituent to receive the electronic record or electronic signature as shown in the current records of the business entity. If the electronic record is a notice, it is effective when sent. Unless and to the extent limited or prohibited, any electronic record or electronic signature sent by a constituent to a business entity shall be considered properly sent if it is sent in a manner designated by the business entity to an electronic address or other location designated by the business entity in a publication or notice provided by the business entity to the constituent. If the electronic record is a notice, it is effective upon receipt. The publication or notice may be included in the governing documents of the business entity, may be communicated to the constituent in writing, or may be transmitted by any other means selected by the business entity that is reasonably likely to convey the information to the constituent. A constituent or business entity may revoke or change any instruction regarding the manner, electronic address, or means of receipt the person requires for electronic records

or electronic signatures by sending notice of the change and the corresponding new information.

(c) If a party agrees to conduct a transaction electronically, this chapter does not prohibit the party from refusing to conduct other transactions electronically. This subsection may not be varied by agreement.

(d) Except as otherwise provided in this chapter, the effect of any provision of this chapter may be varied by agreement. The presence in certain provisions of this chapter of the words "unless otherwise agreed", or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.

(e) Whether an electronic record or electronic signature has legal consequences is determined by this chapter, if applicable, and otherwise by other applicable law.

SECTION 42. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 23-1-53-2; IC 23-1-29-4.5.

P.L.134-2009
[S.469. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning civil procedure.

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

SECTION 1. IC 34-6-2-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 11.5. "Asbestos claim", for purposes of IC 34-31-8, has the meaning set forth in IC 34-31-8-1.**

SECTION 2. IC 34-6-2-29.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 29.5. "Corporation", for purposes of IC 34-31-8, has the meaning set forth in IC 34-31-8-2.**

SECTION 3. IC 34-6-2-69.5 IS ADDED TO THE INDIANA CODE

AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 69.5. "Innocent successor corporation", for purposes of IC 34-31-8, has the meaning set forth in IC 34-31-8-3.**

SECTION 4. IC 34-6-2-142.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 142.5. "Successor asbestos related liability", for purposes of IC 34-31-8, has the meaning set forth in IC 34-31-8-4.**

SECTION 5. IC 34-6-2-143.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 143.8. "Transferor corporation", for purposes of IC 34-31-8, has the meaning set forth in IC 34-31-8-5.**

SECTION 6. IC 34-31-8 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 8. Limited Liability Concerning Asbestos Related Claims

Sec. 1. As used in this chapter, "asbestos claim" means any claim for damages, losses, indemnification, contribution, or other relief concerning asbestos, including:

(1) a claim relating to the health effects of exposure to asbestos, including:

(A) personal injury;

(B) death;

(C) mental injury;

(D) emotional injury;

(E) risk of disease or other injury; or

(F) the costs of medical monitoring or surveillance;

(2) a claim made by or on behalf of any person exposed to asbestos, including a claim of a:

(A) representative;

(B) spouse;

(C) parent;

(D) child; or

(E) other relative;

of a person exposed to asbestos; and

(3) a claim for damage or loss caused by the:

(A) installation;

(B) presence; or

(C) removal of asbestos.

Sec. 2. As used in this chapter, "corporation" means a corporation for profit, including a domestic corporation organized under Indiana law or a foreign corporation organized under the law of a jurisdiction other than Indiana.

Sec. 3. (a) As used in this chapter, "innocent successor corporation" means a corporation that:

(1) assumes;

(2) incurs;

(3) has assumed; or

(4) has incurred;

successor asbestos related liability and became a successor corporation due to a merger or consolidation with another corporation before January 1, 1972.

(b) The term includes a corporation into which an innocent successor corporation is at any time subsequently merged or consolidated.

(c) The term does not include a corporation that, after a merger, a consolidation, or the exercise of control or the ownership of stock of the corporation before the merger or consolidation, continues in the business of:

(1) mining asbestos;

(2) selling or distributing asbestos fibers; or

(3) manufacturing, distributing, removing, or installing asbestos containing products that are the same, or substantially the same, as those products previously manufactured, distributed, removed, or installed by the transferor corporation.

Sec. 4. As used in this chapter, "successor asbestos related liability" means any liability that is related to an asbestos claim that was assumed or incurred by a corporation as a result of:

(1) a merger or consolidation with another corporation;

(2) the plan of merger or consolidation related to the merger or consolidation; or

(3) the exercise of control or the ownership of stock of the corporation before the merger or consolidation.

Sec. 5. As used in this chapter, "transferor corporation" means

a corporation from which a successor asbestos related liability was assumed or incurred.

Sec. 6. This chapter shall be construed liberally regarding innocent successor corporations.

Sec. 7. This chapter applies to a civil action asserting an asbestos claim that is filed against an innocent successor corporation:

(1) after June 30, 2009; or

(2) before July 1, 2009, if trial has not commenced as of July 1, 2009.

Sec. 8. (a) Subject to subsections (c) and (d) and sections 10 and 12 of this chapter, the cumulative successor asbestos related liabilities of an innocent successor corporation are limited to the fair market value of the total gross assets of the transferor corporation, determined as of the time of the merger or consolidation through which the innocent successor corporation assumed or incurred successor asbestos related liability.

(b) An innocent successor corporation is not responsible for successor asbestos related liability in excess of the limitation set forth in subsection (a).

(c) For purposes of this section, if a transferor corporation assumed or incurred successor asbestos related liability in connection with a merger or consolidation with a prior transferor corporation, the fair market value of the total gross assets of the prior transferor corporation determined as of the time of the earlier merger or consolidation shall be substituted for the limitation set forth in subsection (a) to determine the limitation of liability of the innocent successor corporation.

(d) Cumulative successor asbestos related liabilities include liabilities that exist after the merger or consolidation of the innocent successor corporation and the transferor corporation and that are paid or discharged by or on behalf of the:

(1) innocent successor corporation; or

(2) transferor corporation;

as part of a settlement or judgment in Indiana or another jurisdiction.

Sec. 9. The limitations set forth in section 8 of this chapter apply to the successor asbestos related liability of an innocent successor corporation and do not apply to:

(1) worker's compensation benefits paid by or on behalf of an

employer to an employee under IC 22-3 or a comparable worker's compensation law in another jurisdiction;

(2) a claim against a corporation that is not a successor asbestos related liability;

(3) any obligation under the federal National Labor Relations Act (29 U.S.C. 151 et seq.); or

(4) a collective bargaining agreement.

Sec. 10. An innocent successor corporation may establish the fair market value of the total gross assets, including intangible assets, of a transferor corporation to determine limitations under section 8 of this chapter by any reasonable method, including:

(1) by reference to the going concern value of the assets;

(2) by reference to the purchase price attributable to or paid for assets in an arms length transaction; or

(3) in the absence of other readily available information from which the fair market value can be determined, by reference to the value of the assets recorded on a balance sheet.

Sec. 11. (a) If the total gross assets of a transferor corporation include liability insurance issued to the transferor corporation, this chapter does not affect the applicability, terms, conditions, or limits of the liability insurance.

(b) This chapter does not affect the rights and obligations of an insurer, transferor, or successor under an insurance contract or any related agreements, including:

(1) preenactment settlements resolving coverage related disputes; or

(2) contracts regarding the rights of an insurer to seek payment for applicable deductibles, retrospective premiums, self-insured periods, or periods as to which insurance is uncollectible or unavailable.

(c) A settlement of a dispute concerning liability insurance coverage entered into by a:

(1) transferor corporation; or

(2) successor corporation;

with the insurers of a transferor corporation before July 1, 2009, is determinative of the total coverage of liability insurance to be included in the calculation of a transferor corporation's total gross assets under this chapter.

Sec. 12. (a) Except as provided in subsections (b) through (d),

the sum determined as the fair market value of the total gross assets of a transferor corporation as of the time of a merger or consolidation for purposes of determining the limit on the cumulative successor asbestos related liabilities of an innocent successor corporation under this chapter shall be adjusted annually at a rate equal to the sum of the following:

(1) The prime rate listed in the first edition of the Wall Street Journal published for each calendar year since the merger or consolidation. If the prime rate is not published in the first edition of the Wall Street Journal, then a reasonable determination of the prime rate on the first day of the year may be used.

(2) One percent (1%).

(b) The rate described in subsection (a) may not be compounded.

(c) The adjustment of the fair market value of the total gross assets of the transferor corporation as of the time of the merger or consolidation shall continue as described in subsection (a) until the date as of which the adjusted value is first exceeded by the cumulative amounts of successor asbestos related liabilities paid or committed to be paid by or on behalf of:

(1) the innocent successor corporation;

(2) any predecessor corporation; and

(3) the transferor corporation;

after the time of the merger or consolidation.

(d) No adjustment of the fair market value of total gross assets of a transferor corporation under this section shall be applied to any liability insurance.

P.L.135-2009
[S.501. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning commercial law.

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

SECTION 1. IC 26-1-1-201, AS AMENDED BY P.L.143-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 201. Subject to additional definitions contained in IC 26-1-2 through IC 26-1-10 which are applicable to specific provisions, and unless the context otherwise requires, in IC 26-1:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, setoff, suit in equity, and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in IC 26-1-1-205. Whether an agreement has legal consequences is determined by the provisions of IC 26-1, if applicable; otherwise by the law of contracts (IC 26-1-1-103). (Compare "Contract".)

(4) "Bank" means ~~any~~ **a** person engaged in the business of banking **and includes a savings bank, savings and loan association, credit union, and trust company.**

(5) "Bearer" means the person:

(A) in control of a negotiable electronic document of title; or

(B) in possession of a negotiable instrument, a negotiable tangible document of title, or a certificated security payable to bearer or endorsed in blank.

(6) "Bill of lading" means a document of title evidencing the receipt of goods for shipment issued by a person engaged in the business of directly or indirectly transporting or forwarding

goods. The term does not include a warehouse receipt. The term includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person that buys goods in good faith without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course of business if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may require goods or documents of title under a preexisting contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from that seller under IC 26-1-2 may be a buyer in ordinary course of business. A person that acquires goods in a transfer in bulk or as security for or total or partial satisfaction of a money debt is not a buyer in ordinary course of business.

(10) "Conspicuous". A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is conspicuous if it is in larger or other contrasting type or color. But in a telegram any stated term is conspicuous. Whether a term or clause is conspicuous or not is for decision by the court.

(11) "Contract" means the total legal obligation which results

from the parties' agreement as affected by this Act and any other applicable rules of law. (Compare "Agreement".)

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" means the following:

(A) With respect to an electronic document of title, voluntary transfer of control.

(B) With respect to instruments, tangible documents of title, chattel paper, or certificated securities, voluntary transfer of possession.

(15) "Document of title" means a record that:

(A) in the regular course of business or financing, is treated as adequately evidencing that the person in possession or control of the record is entitled to receive, control, hold, and dispose of the record and the goods it covers; and

(B) purports to be issued by or addressed to a bailee and purports to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt, or order for delivery of goods. An electronic document of title means a document of title evidenced by a record consisting of information stored in an electronic medium. A tangible document of title means a document of title evidenced by a record consisting of information that is inscribed on a tangible medium.

(16) "Fault" means wrongful act, omission, or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of IC 26-1 to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith", **except as otherwise provided by IC 26-1-4 or IC 26-1-5.1,** means honesty in fact ~~in the conduct or transaction concerned.~~ **and the observance of reasonable commercial standards of fair dealing.**

(20) "Holder" means:

(A) the person in possession of a negotiable instrument that is payable either to bearer or to an identified person if the identified person is in possession of the instrument;

(B) the person in possession of a negotiable tangible document of title if the goods are deliverable either to bearer or to the order of the person in possession; or

(C) the person in control of a negotiable electronic document of title.

(21) To "honor" is to pay or to accept and pay or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay the person's debts in the ordinary course of business or cannot pay the person's debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government and includes a monetary unit of account established by an intergovernmental organization or by agreement between two (2) or more nations.

(25) A person has "notice" of a fact when:

(a) the person has actual knowledge of it;

(b) the person has received a notice or notification of it; or

(c) from all the facts and circumstances known to the person at the time in question, the person has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when the person has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by

IC 26-1.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when:

(a) it comes to the person's attention; or

(b) it is duly delivered at the place of business through which the contract was made or at any other place held out by the person as the place for receipt of such communications.

(27) Notice, knowledge, or a notice of notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction and, in any event, from the time when it would have been brought to the person's attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of the person's regular duties or unless the person has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two (2) or more persons having a joint or common interest, or any other legal or commercial entity.

(29) "Party", as distinct from "third party", means a person who has engaged in a transaction or made an agreement within IC 26-1.

(30) "Person" includes an individual or an organization. (See IC 26-1-1-102.)

(31) "Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(32) "Purchase" includes taking by sale, discount, negotiation,

mortgage, pledge, lien, security interest, issue or reissue, gift, or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(33a) "Registered mail" includes certified mail.

(33b) "Record", except as used in IC 26-1-1.5-2 and IC 26-1-2.1-309, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(34) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, and a trustee, executor, or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The term also includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to IC 26-1-9.1. The special property interest of a buyer of goods on identification of such goods to a contract for sale under IC 26-1-2-401 is not a security interest, but a buyer may also acquire a security interest by complying with IC 26-1-9.1. Except as otherwise provided in IC 26-1-2-505, the right of a seller or lessor of goods under IC 26-1-2 or IC 26-1-2.1 to retain or acquire possession of the goods is not a "security interest", but a seller or lessor may also acquire a "security interest" by complying with IC 26-1-9.1. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (IC 26-1-2-401) is limited in effect to a reservation of a "security interest". Whether a transaction creates a lease or security interest is determined by the facts of each case. However, a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee and:

(a) the original term of the lease is equal to or greater than the

remaining economic life of the goods;

(b) the lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;

(c) the lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement; or

(d) the lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

A transaction does not create a security interest merely because it provides that:

(a) the present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;

(b) the lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods;

(c) the lessee has an option to renew the lease or to become the owner of the goods;

(d) the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; or

(e) the lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

For purposes of this subsection:

(x) Additional consideration is not nominal if:

(i) when the option to renew the lease is granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed; or

(ii) when the option to become the owner of the goods is granted to the lessee the price is stated to be the fair market

value of the goods determined at the time the option is to be performed.

Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised.

(y) "Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into.

(z) "Present value" means the amount as of a date certain of one (1) or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into. Otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed or, if there be none, to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.

(39) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) "Surety" includes guarantor.

(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) "Term" means that portion of an agreement which relates to a particular matter.

(43) "Unauthorized" signature means one made without actual, implied, or apparent authority and includes a forgery.

(44) "Value". Except as otherwise provided with respect to negotiable instruments and bank collections (IC 26-1-3.1-303,

IC 26-1-4-208, and IC 26-1-4-209) a person gives value for rights if the person acquires them:

(a) in return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a chargeback is provided for in the event of difficulties in collection;

(b) as security for or in total or partial satisfaction of a preexisting claim;

(c) by accepting delivery pursuant to a preexisting contract for purchase; or

(d) generally, in return for any consideration sufficient to support a simple contract.

(45) "Warehouse receipt" means a document of title issued by a person engaged in the business of storing goods for hire.

(46) "Written" or "writing" includes printing, typewriting, or any other intentional reduction to tangible form.

SECTION 2. IC 26-1-3.1-103 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 103. (a) In IC 26-1-3.1:

(1) "Acceptor" means a drawee who has accepted a draft.

(2) "Consumer account" means an account established by an individual primarily for personal, family, or household purposes.

(3) "Consumer transaction" means a transaction in which an individual incurs an obligation primarily for personal, family, or household purposes.

~~(2)~~ **(4)** "Drawee" means a person ordered in a draft to make payment.

~~(3)~~ **(5)** "Drawer" means a person who signs or is identified in a draft as a person ordering payment.

~~(4)~~ **(6)** "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

~~(5)~~ **(7)** "Maker" means a person who signs or is identified in a note as a person undertaking to pay.

~~(6)~~ **(8)** "Order" means a written instruction to pay money signed by the person giving the instruction. The instruction may be addressed to any person, including the person giving the instruction, or to one (1) or more persons jointly or in the alternative but not in succession. An authorization to pay is not an

order unless the person authorized to pay is also instructed to pay.

~~(7)~~ **(9)** "Ordinary care" in the case of a person engaged in business means observance of reasonable commercial standards prevailing in the area in which the person is located, with respect to the business in which the person is engaged. In the case of a bank that takes an instrument for processing for collection or payment by automated means, reasonable commercial standards do not require the bank to examine the instrument if the failure to examine does not violate the bank's prescribed procedures and the bank's procedures do not vary unreasonably from general banking usage not disapproved by IC 26-1-3.1 or IC 26-1-4.

~~(8)~~ **(10)** "Party" means a party to an instrument.

(11) "Principal obligor", with respect to an instrument, means the accommodated party or any other party to the instrument against whom a secondary obligor has recourse under this article.

~~(9)~~ **(12)** "Promise" means a written undertaking to pay money signed by the person undertaking to pay. An acknowledgment of an obligation by the obligor is not a promise unless the obligor also undertakes to pay the obligation.

~~(10)~~ **(13)** "Prove" with respect to a fact means to meet the burden of establishing the fact (IC 26-1-1-201(8)).

~~(11)~~ **(14)** "Remitter" means a person who purchases an instrument from its issuer if the instrument is payable to an identified person other than the purchaser.

(15) "Remotely-created consumer item" means an item that is drawn on a consumer account, is not created by the payor bank, and does not bear a handwritten signature purporting to be the signature of the drawer.

(16) "Secondary obligor", with respect to an instrument, means:

(A) an endorser or an accommodation party;

(B) a drawer having the obligation described in IC 26-1-3.1-414(d); or

(C) any other party to the instrument that has recourse against another party to the instrument under IC 26-1-3.1-116(b).

(b) Other definitions applying to IC 26-1-3.1 and the sections in

which they appear are:

"Acceptance". IC 26-1-3.1-409.
"Accommodated party". IC 26-1-3.1-419.
"Accommodation party". IC 26-1-3.1-419.
"Alteration". IC 26-1-3.1-407.
"Anomalous endorsement". IC 26-1-3.1-205.
"Blank endorsement". IC 26-1-3.1-205.
"Cashier's check". IC 26-1-3.1-104.
"Certificate of deposit". IC 26-1-3.1-104.
"Certified check". IC 26-1-3.1-409.
"Check". IC 26-1-3.1-104.
"Consideration". IC 26-1-3.1-303.
"Draft". IC 26-1-3.1-104.
"Holder in due course". IC 26-1-3.1-302.
"Incomplete instrument". IC 26-1-3.1-115.
"Endorsement". IC 26-1-3.1-204.
"Endorser". IC 26-1-3.1-204.
"Instrument". IC 26-1-3.1-104.
"Issue". IC 26-1-3.1-105.
"Issuer". IC 26-1-3.1-105.
"Negotiable instrument". IC 26-1-3.1-104.
"Negotiation". IC 26-1-3.1-201.
"Note". IC 26-1-3.1-104.
"Payable at a definite time". IC 26-1-3.1-108.
"Payable on demand". IC 26-1-3.1-108.
"Payable to bearer". IC 26-1-3.1-109.
"Payable to order". IC 26-1-3.1-109.
"Payment". IC 26-1-3.1-602.
"Person entitled to enforce". IC 26-1-3.1-301.
"Presentment". IC 26-1-3.1-501.
"Reacquisition". IC 26-1-3.1-207.
"Special endorsement". IC 26-1-3.1-205.
"Teller's check". IC 26-1-3.1-104.
"Transfer of an instrument". IC 26-1-3.1-203.
"Traveler's check". IC 26-1-3.1-104.
"Value". IC 26-1-3.1-303.

(c) The following definitions in other IC 26-1-4 apply to IC 26-1-3.1:

~~"Bank". IC 26-1-4-105.~~

"Banking day". IC 26-1-4-104.

"Clearing house". IC 26-1-4-104.

"Collecting bank". IC 26-1-4-105.

"Depositary bank". IC 26-1-4-105.

"Documentary draft". IC 26-1-4-104.

"Intermediary bank". IC 26-1-4-105.

"Item". IC 26-1-4-104.

"Payor bank". IC 26-1-4-105.

"Suspends payments". IC 26-1-4-104.

(d) In addition, IC 26-1-1 contains general definitions and principles of construction and interpretation applicable throughout IC 26-1-3.1.

SECTION 3. IC 26-1-3.1-106 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 106. (a) Except as provided in this section, for the purposes of IC 26-1-3.1-104(a), a promise or order is unconditional unless it states:

(1) an express condition to payment;

(2) that the promise or order is subject to or governed by another ~~writing;~~ **record;** or

(3) that rights or obligations with respect to the promise or order are stated in another ~~writing.~~ **record.**

A reference to another ~~writing~~ **record** does not of itself make the promise or order conditional.

(b) A promise or order is not made conditional:

(1) by a reference to another ~~writing~~ **record** for a statement of rights with respect to collateral, prepayment, or acceleration; or

(2) because payment is limited to resort to a particular fund or source.

(c) If a promise or order requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the promise or order, the condition does not make the promise or order conditional for the purposes of IC 26-1-3.1-104(a). If the person whose specimen signature appears on an instrument fails to countersign the instrument, the failure to countersign is a defense to the obligation of the issuer, but the failure does not prevent a transferee of the instrument from becoming a holder of the instrument.

(d) If a promise or order at the time it is issued or first comes into possession of a holder contains a statement, required by applicable

statutory or administrative law, to the effect that the rights of a holder or transferee are subject to claims or defenses that the issuer could assert against the original payee, the promise or order is not thereby made conditional for the purposes of IC 26-1-3.1-104(a), but if the promise or order is an instrument, there cannot be a holder in due course of the instrument.

SECTION 4. IC 26-1-3.1-116 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 116. (a) Except as otherwise provided in the instrument, two (2) or more persons who have the same liability on an instrument as makers, drawers, acceptors, endorsers who endorse as joint payees, or anomalous endorsers are jointly and severally liable in the capacity in which they sign.

(b) Except as provided in ~~IC 26-1-3.1-419(c)~~ **IC 26-1-3.1-419(f)** or by agreement of the affected parties, a party having joint and several liability who pays the instrument is entitled to receive from any party having the same joint and several liability contribution in accordance with applicable law.

~~(c) Discharge of one (1) party having joint and several liability by a person entitled to enforce the instrument does not affect the right under subsection (b) of a party having the same joint and several liability to receive contribution from the party discharged.~~

SECTION 5. IC 26-1-3.1-119 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 119. In an action for breach of an obligation for which a third person is answerable over pursuant to IC 26-1-3.1 or IC 26-1-4, the defendant may give the third person ~~written~~ notice of the litigation **in a record,** and the person notified may then give similar notice to any other person who is answerable over. If the notice states:

(1) that the person notified may come in and defend; and

(2) that failure to do so will bind the person notified in an action later brought by the person giving the notice as to any determination of fact common to the two (2) litigations;

the person notified is so bound unless after reasonable receipt of the notice the person notified does come in and defend.

SECTION 6. IC 26-1-3.1-305 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 305. (a) Except as ~~stated in subsection (b),~~ **otherwise provided in this section,** the right to enforce the obligation of a party to pay an instrument is subject to

the following:

(1) a defense of the obligor based on:

(A) infancy of the obligor to the extent it is a defense to a simple contract;

(B) duress, lack of legal capacity, or illegality of the transaction which, under other law, nullifies the obligation of the obligor;

(C) fraud that induced the obligor to sign the instrument with neither knowledge nor reasonable opportunity to learn of its character or its essential terms; or

(D) discharge of the obligor in insolvency proceedings;

(2) a defense of the obligor stated in another section of IC 26-1-3.1 or a defense of the obligor that would be available if the person entitled to enforce the instrument were enforcing a right to payment under a simple contract; and

(3) a claim in recoupment of the obligor against the original payee of the instrument if the claim arose from the transaction that gave rise to the instrument, but the claim of the obligor may be asserted against a transferee of the instrument only to reduce the amount owing on the instrument at the time the action is brought.

(b) The right of a holder in due course to enforce the obligation of a party to pay the instrument is subject to defenses of the obligor stated in subsection (a)(1), but is not subject to defenses of the obligor stated in subsection (a)(2) or claims in recoupment stated in subsection (a)(3) against a person other than the holder.

(c) Except as stated in subsection (d), in an action to enforce the obligation of a party to pay the instrument, the obligor may not assert against the person entitled to enforce the instrument a defense, claim in recoupment, or claim to the instrument (IC 26-1-3.1-306) of another person, but the other person's claim to the instrument may be asserted by the obligor if the other person is joined in the action and personally asserts the claim against the person entitled to enforce the instrument. An obligor is not obliged to pay the instrument if the person seeking enforcement of the instrument does not have rights of a holder in due course and the obligor proves that the instrument is a lost or stolen instrument.

(d) In an action to enforce the obligation of an accommodation party to pay an instrument, the accommodation party may assert against the

person entitled to enforce the instrument any defense or claim in recoupment under subsection (a) that the accommodated party could assert against the person entitled to enforce the instrument, except the defenses of discharge in insolvency proceedings, infancy, and lack of legal capacity.

(e) In a consumer transaction, if law other than this article requires that an instrument include a statement to the effect that the rights of a holder or transferee are subject to a claim or defense that the issuer could assert against the original payee, and the instrument does not include such a statement:

(1) the instrument has the same effect as if the instrument included such a statement;

(2) the issuer may assert against the holder or transferee all claims and defenses that would have been available if the instrument included such a statement; and

(3) the extent to which claims may be asserted against the holder or transferee is determined as if the instrument included such a statement.

(f) This section is subject to law other than this article that establishes a different rule for consumer transactions.

SECTION 7. IC 26-1-3.1-309 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 309. (a) A person not in possession of an instrument is entitled to enforce the instrument if:

(1) the person ~~was in possession of the instrument and~~ **seeking to enforce the instrument:**

(A) was entitled to enforce ~~it~~ **the instrument** when loss of possession occurred; **or**

(B) has directly or indirectly acquired ownership of the instrument from a person who was entitled to enforce the instrument when loss of possession occurred;

(2) the loss of possession was not the result of a transfer by the person or a lawful seizure; and

(3) the person cannot reasonably obtain possession of the instrument because the instrument was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.

(b) A person seeking enforcement of an instrument under subsection

(a) must prove the terms of the instrument and the person's right to enforce the instrument. If that proof is made, IC 26-1-3.1-308 applies to the case as if the person seeking enforcement had produced the instrument. The court may not enter judgment in favor of the person seeking enforcement unless it finds that the person required to pay the instrument is adequately protected against loss that might occur by reason of a claim by another person to enforce the instrument. Adequate protection may be provided by any reasonable means.

SECTION 8. IC 26-1-3.1-312 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 312. (a) In this section:

(1) "Check" means a cashier's check, teller's check, or certified check.

(2) "Claimant" means a person who claims the right to receive the amount of a cashier's check, teller's check, or certified check that was lost, destroyed, or stolen.

(3) "Declaration of loss" means a ~~written~~ statement, made **in a record** under penalty of perjury, to the effect that (i) the declarer lost possession of a check, (ii) the declarer is the drawer or payee of the check, in the case of a certified check, or the remitter or payee of the check, in the case of a cashier's check or teller's check, (iii) the loss of possession was not the result of a transfer by the declarer or a lawful seizure, and (iv) the declarer cannot reasonably obtain possession of the check because the check was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.

(4) "Obligated bank" means the issuer of a cashier's check or teller's check or the acceptor of a certified check.

(b) A claimant may assert a claim to the amount of a check by a communication to the obligated bank describing the check with reasonable certainty and requesting payment of the amount of the check if (i) the claimant is the drawer or payee of a certified check or the remitter or payee of a cashier's check or teller's check, (ii) the communication contains or is accompanied by a declaration of loss of the claimant with respect to the check, (iii) the communication is received at a time and in a manner affording the bank a reasonable time to act on it before the check is paid, and (iv) the claimant provides reasonable identification if requested by the obligated bank. Delivery

of a declaration of loss is a warranty of the truth of the statements made in the declaration. If a claim is asserted in compliance with this subsection, the following rules apply:

(1) The claim becomes enforceable at the later of (i) the time the claim is asserted, or (ii) ninety (90) days after the date of the check, in the case of a cashier's check or teller's check, or ninety (90) days after the date of the acceptance, in the case of a certified check.

(2) Until the claim becomes enforceable, the claim has no legal effect and the obligated bank may pay the check or, in the case of a teller's check, may permit the drawee to pay the check. Payment to a person entitled to enforce the check discharges all liability of the obligated bank with respect to the check.

(3) If the claim becomes enforceable before the check is presented for payment, the obligated bank is not obliged to pay the check.

(4) When the claim becomes enforceable, the obligated bank becomes obliged to pay the amount of the check to the claimant if payment of the check has not been made to a person entitled to enforce the check. Subject to IC 26-1-4-302(a)(1), payment to the claimant discharges all liability of the obligated bank with respect to the check.

(c) If the obligated bank pays the amount of the check to a claimant under subsection (b)(4) and the check is presented for payment by a person having rights of a holder in due course, the claimant is obliged to (i) refund the payment to the obligated bank if the check is paid, or (ii) pay the amount of the check to the person having rights of a holder in due course if the check is dishonored.

(d) If a claimant has the right to assert a claim under subsection (b) and is also a person entitled to enforce a cashier's check, teller's check, or certified check which is lost, destroyed, or stolen, the claimant may assert rights with respect to the check either under this section or IC 26-1-3.1-309.

SECTION 9. IC 26-1-3.1-416 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 416. (a) A person who transfers an instrument for consideration warrants to the transferee and, if the transfer is by endorsement, to any subsequent transferee that:

(1) the warrantor is a person entitled to enforce the instrument;

(2) all signatures on the instrument are authentic and authorized;

(3) the instrument has not been altered;

(4) the instrument is not subject to a defense or claim in recoupment of any party which can be asserted against the warrantor; ~~and~~

(5) the warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer; **and**

(6) with respect to a remotely-created consumer item, the person on whose account the item is drawn authorized the issuance of the item in the amount for which the item is drawn.

(b) A person to whom the warranties under subsection (a) are made and who took the instrument in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, but not more than the amount of the instrument plus expenses and loss of interest incurred as a result of the breach.

(c) The warranties stated in subsection (a) cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within thirty (30) days after the claimant has reason to know of the breach and the identity of the warrantor, the liability of the warrantor under subsection (b) is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(d) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

SECTION 10. IC 26-1-3.1-417 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 417. (a) If an unaccepted draft is presented to the drawee for payment or acceptance and the drawee pays or accepts the draft (i) the person obtaining payment or acceptance, at the time of presentment, and (ii) a previous transferor of the draft, at the time of transfer, warrant to the drawee making payment or accepting the draft in good faith that:

(1) the warrantor is, or was, at the time the warrantor transferred the draft, a person entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft;

(2) the draft has not been altered; ~~and~~

(3) the warrantor has no knowledge that the signature of the

drawer of the draft is unauthorized; **and**

(4) with respect to a remotely-created consumer item, the person on whose account the item is drawn authorized the issuance of the item in the amount for which the item is drawn.

(b) A drawee making payment may recover from any warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the drawee received or is entitled to receive from the drawer because of the payment. In addition, the drawee is entitled to compensation for expenses and loss of interest resulting from the breach. The right of the drawee to recover damages under this subsection is not affected by any failure of the drawee to exercise ordinary care in making payment. If the drawee accepts the draft, breach of warranty is a defense to the obligation of the acceptor. If the acceptor makes payment with respect to the draft, the acceptor is entitled to recover from any warrantor for breach of warranty the amounts stated in this subsection.

(c) If a drawee asserts a claim for breach of warranty under subsection (a) based on an unauthorized endorsement of the draft or an alteration of the draft, the warrantor may defend by proving that the endorsement is effective under IC 26-1-3.1-404 or IC 26-1-3.1-405 or the drawer is precluded under IC 26-1-3.1-406 or IC 26-1-4-406 from asserting against the drawee the unauthorized endorsement or alteration.

(d) If (i) a dishonored draft is presented for payment to the drawer or an endorser or (ii) any other instrument is presented for payment to a party obliged to pay the instrument, and (iii) payment is received, the following rules apply:

(1) The person obtaining payment and a prior transferor of the instrument warrant to the person making payment in good faith that the warrantor is, or was, at the time the warrantor transferred the instrument, a person entitled to enforce the instrument or authorized to obtain payment on behalf of a person entitled to enforce the instrument.

(2) The person making payment may recover from any warrantor for breach of warranty an amount equal to the amount paid plus expenses and loss of interest resulting from the breach.

(e) The warranties stated in subsections (a) and (d) cannot be

disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within thirty (30) days after the claimant has reason to know of the breach and the identity of the warrantor, the liability of the warrantor under subsection (b) or (d) is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(f) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

SECTION 11. IC 26-1-3.1-419 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 419. (a) If an instrument is issued for value given for the benefit of a party to the instrument ("accommodated party") and another party to the instrument ("accommodation party") signs the instrument for the purpose of incurring liability on the instrument without being a direct beneficiary of the value given for the instrument, the instrument is signed by the accommodation party "for accommodation".

(b) An accommodation party may sign the instrument as maker, drawer, acceptor, or endorser and, subject to subsection (d), is obliged to pay the instrument in the capacity in which the accommodation party signs. The obligation of an accommodation party may be enforced notwithstanding any statute of frauds and whether or not the accommodation party receives consideration for the accommodation.

(c) A person signing an instrument is presumed to be an accommodation party and there is notice that the instrument is signed for accommodation if the signature is an anomalous endorsement or is accompanied by words indicating that the signer is acting as surety or guarantor with respect to the obligation of another party to the instrument. Except as provided in IC 26-1-3.1-605, the obligation of an accommodation party to pay the instrument is not affected by the fact that the person enforcing the obligation had notice when the instrument was taken by that person that the accommodation party signed the instrument for accommodation.

(d) If the signature of a party to an instrument is accompanied by words indicating unambiguously that the party is guaranteeing collection rather than payment of the obligation of another party to the instrument, the signer is obliged to pay the amount due on the instrument to a person entitled to enforce the instrument only if:

(1) execution of judgment against the other party has been

returned unsatisfied;

(2) the other party is insolvent or in an insolvency proceeding;

(3) the other party cannot be served with process; or

(4) it is otherwise apparent that payment cannot be obtained from the other party.

(e) If the signature of a party to an instrument is accompanied by words indicating that the party guarantees payment or the signer signs the instrument as an accommodation party in some other manner that does not unambiguously indicate an intention to guarantee collection rather than payment, the signer is obliged to pay the amount due on the instrument to a person entitled to enforce the instrument in the same circumstances as the accommodated party would be obliged, without prior resort to the accommodated party by the person entitled to enforce the instrument.

~~(c)~~ **(f)** An accommodation party who pays the instrument is entitled to reimbursement from the accommodated party and is entitled to enforce the instrument against the accommodated party. **In proper circumstances, an accommodation party may obtain relief that requires the accommodated party to perform its obligations on the instrument.** An accommodated party ~~who~~ **that** pays the instrument has no right of recourse against, and is not entitled to contribution from, an accommodation party.

SECTION 12. IC 26-1-3.1-602 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 602. (a) Subject to subsection ~~(b),~~ **(e),** an instrument is paid to the extent payment is made:

(1) by or on behalf of a party obliged to pay the instrument; and

(2) to a person entitled to enforce the instrument.

(b) Subject to subsection (e), a note is paid to the extent payment is made by or on behalf of a party obliged to pay the note to a person that formerly was entitled to enforce the note only if at the time of the payment the party obliged to pay has not received adequate notification that the note has been transferred and that payment is to be made to the transferee. A notification is adequate only if it is signed by the transferor or the transferee, reasonably identifies the transferred note, and provides an address at which payments subsequently are to be made. Upon request, a transferee shall seasonably furnish reasonable proof that the note has been

transferred. Unless the transferee complies with the request, a payment to the person that formerly was entitled to enforce the note is effective for purposes of subsection (c) even if the party obliged to pay the note has received a notification under this subsection.

(c) Subject to subsection (e), to the extent ~~of the~~ **a** payment **is made under subsections (a) and (b),** the obligation of the party obliged to pay the instrument is discharged even though payment is made with knowledge of a claim to the instrument under IC 26-1-3.1-306 by another person.

(d) Subject to subsection (e), a transferee, or any party that has acquired rights in the instrument directly or indirectly from a transferee, including any such party that has rights as a holder in due course, is considered to have notice of any payment that is made under subsection (b) after the date that the note is transferred to the transferee but before the party obliged to pay the note receives adequate notification of the transfer.

~~(b)~~ **(e)** The obligation of a party to pay the instrument is not discharged under ~~subsection~~ **subsections** (a) **through (d)** if:

(1) a claim to the instrument under IC 26-1-3.1-306 is enforceable against the party receiving payment and (i) payment is made with knowledge by the payor that payment is prohibited by injunction or similar process of a court of competent jurisdiction, or (ii) in the case of an instrument other than a cashier's check, teller's check, or certified check, the party making payment accepted, from the person having a claim to the instrument, indemnity against loss resulting from refusal to pay the person entitled to enforce the instrument; or

(2) the person making payment knows that the instrument is a stolen instrument and pays a person it knows is in wrongful possession of the instrument.

(f) As used in this section, "signed", with respect to a record that is not a writing, includes the attachment to or logical association with the record of an electronic symbol, sound, or process with the present intent to adopt or accept the record.

SECTION 13. IC 26-1-3.1-604 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 604. (a) A person entitled to enforce an instrument, with or without consideration, may

discharge the obligation of a party to pay the instrument:

(1) by an intentional voluntary act, such as surrender of the instrument to the party, destruction, mutilation, or cancellation of the instrument, cancellation or striking out of the party's signature, or the addition of words to the instrument indicating discharge; or

(2) by agreeing not to sue or otherwise renouncing rights against the party by a signed ~~writing.~~ **record.**

(b) Cancellation or striking out of an endorsement under subsection (a) does not affect the status and rights of a party derived from the endorsement.

(c) As used in this section, "signed", with respect to a record that is not a writing, includes the attachment to or logical association with the record of an electronic symbol, sound, or process with the present intent to adopt or accept the record.

SECTION 14. IC 26-1-3.1-605 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 605. ~~(a) In this section, the term "endorser" includes a drawer having the obligation described in IC 26-1-3.1-414(d).~~

~~(b) Discharge, under IC 26-1-3.1-604, of the obligation of a party to pay an instrument does not discharge the obligation of an endorser or accommodation party having a right of recourse against the discharged party.~~

~~(c)~~ **(a)** If a person entitled to enforce an instrument ~~agrees, with or without consideration, to an extension of the due date of the obligation of a party to pay the instrument, the extension discharges an endorser or accommodation party having a right of recourse against the party whose obligation is extended to the extent the endorser or accommodation party proves that the extension caused loss to the endorser or accommodation party with respect to the right of recourse.~~

~~(d) If a person entitled to enforce an instrument agrees, with or without consideration, to a material modification of the obligation of a party other than an extension of the due date, the modification discharges the obligation of an endorser or accommodation party having a right of recourse against the person whose obligation is modified to the extent the modification causes loss to the endorser or accommodation party with respect to the right of recourse. The loss suffered by the endorser or accommodation party as a result of the modification is equal to the amount of the right of recourse unless the~~

~~person enforcing the instrument proves that no loss was caused by the modification or that the loss caused by the modification was an amount less than the amount of the right of recourse.~~

~~(e) If the obligation of a party to pay an instrument is secured by an interest in collateral and a person entitled to enforce the instrument impairs the value of the interest in collateral, the obligation of an endorser or accommodation party having a right of recourse against the obligor is discharged to the extent of the impairment. The value of an interest in collateral is impaired to the extent:~~

~~(1) the value of the interest is reduced to an amount less than the amount of the right of recourse of the party asserting discharge; or~~

~~(2) the reduction in value of the interest causes an increase in the amount by which the amount of the right of recourse exceeds the value of the interest.~~

~~The burden of proving impairment is on the party asserting discharge.~~

~~(f) If the obligation of a party is secured by an interest in collateral not provided by an accommodation party and a person entitled to enforce the instrument impairs the value of the interest in collateral, the obligation of any party who is jointly and severally liable with respect to the secured obligation is discharged to the extent the impairment causes the party asserting discharge to pay more than that party would have been obliged to pay, taking into account rights of contribution, if impairment had not occurred. If the party asserting discharge is an accommodation party not entitled to discharge under subsection (e), the party is considered to have a right to contribution based on joint and several liability rather than a right to reimbursement. The burden of proving impairment is on the party asserting discharge.~~

~~(g) Under subsection (e) or (f), impairing value of an interest in collateral includes:~~

~~(1) failure to obtain or maintain perfection or recordation of the interest in collateral;~~

~~(2) release of collateral without substitution of collateral of equal value;~~

~~(3) failure to perform a duty to preserve the value of collateral owed, under IC 26-1-9.1 or other law, to a debtor or surety or other person secondarily liable; or~~

~~(4) failure to comply with applicable law in disposing of~~

~~collateral.~~

~~(h) An accommodation party is not discharged under subsection (c), (d), or (e) unless the person entitled to enforce the instrument knows of the accommodation or has notice under IC 26-1-3.1-419(c) that the instrument was signed for accommodation.~~

~~(i) A party is not discharged under this section if:~~

~~(1) the party asserting discharge consents to the event or conduct that is the basis of the discharge; or~~

~~(2) the instrument or a separate agreement of the party provides for waiver of discharge under this section either specifically or by general language indicating that parties waive defenses based on suretyship or impairment of collateral.~~

releases the obligation of a principal obligor in whole or in part, and another party to the instrument is a secondary obligor with respect to the obligation of that principal obligor, the following rules apply:

(1) Any obligations of the principal obligor to the secondary obligor with respect to any previous payment by the secondary obligor are not affected. Unless the terms of the release preserve the secondary obligor's recourse, the principal obligor is discharged, to the extent of the release, from any other duties to the secondary obligor under this article.

(2) Unless the terms of the release provide that the person entitled to enforce the instrument retains the right to enforce the instrument against the secondary obligor, the secondary obligor is discharged to the same extent as the principal obligor from any unperformed part of its obligation on the instrument. If the instrument is a check and the obligation of the secondary obligor is based on an endorsement of the check, the secondary obligor is discharged without regard to the language or circumstances of the discharge or other release.

(3) If the secondary obligor is not discharged under subdivision (2), the secondary obligor is discharged to the extent of the value of the consideration for the release, and to the extent that the release would otherwise cause the secondary obligor a loss.

(b) If a person entitled to enforce an instrument grants a principal obligor an extension of the time at which one (1) or more payments are due on the instrument, and another party to the instrument is a secondary obligor with respect to the obligation of that principal obligor, the following rules apply:

(1) Any obligations of the principal obligor to the secondary obligor with respect to any previous payment by the secondary obligor are not affected. Unless the terms of the extension preserve the secondary obligor's recourse, the extension correspondingly extends the time for performance of any other duties owed to the secondary obligor by the principal obligor under this article.

(2) The secondary obligor is discharged to the extent that the extension would otherwise cause the secondary obligor a loss.

(3) To the extent that the secondary obligor is not discharged under subdivision (2), the secondary obligor may perform its obligations to a person entitled to enforce the instrument as if the time for payment had not been extended or, unless the terms of the extension provide that the person entitled to enforce the instrument retains the right to enforce the instrument against the secondary obligor as if the time for payment had not been extended, may treat the time for performance of its obligations as having been extended correspondingly.

(c) If a person entitled to enforce an instrument agrees, with or without consideration, to a modification of the obligation of a principal obligor other than a complete or partial release or an extension of the due date, and another party to the instrument is a secondary obligor with respect to the obligation of that principal obligor, the following rules apply:

(1) Any obligations of the principal obligor to the secondary obligor with respect to any previous payment by the secondary obligor are not affected. The modification correspondingly modifies any other duties owed to the secondary obligor by the principal obligor under this article.

(2) The secondary obligor is discharged from any unperformed part of its obligation to the extent that the modification would otherwise cause the secondary obligor a loss.

(3) To the extent that the secondary obligor is not discharged under subdivision (2), the secondary obligor may satisfy its obligation on the instrument as if the modification had not occurred, or treat its obligation on the instrument as having been modified correspondingly.

(d) If the obligation of a principal obligor is secured by an interest in collateral, another party to the instrument is a secondary obligor with respect to that obligation, and a person entitled to enforce the instrument impairs the value of the interest in collateral, the obligation of the secondary obligor is discharged to the extent of the impairment. The value of an interest in collateral is impaired to the extent the value of the interest is reduced to an amount less than the amount of the recourse of the secondary obligor, or the reduction in value of the interest causes an increase in the amount by which the amount of the recourse exceeds the value of the interest. For purposes of this subsection, impairing the value of an interest in collateral includes failure to obtain or maintain perfection or recordation of the interest in collateral, release of collateral without substitution of collateral of equal value or equivalent reduction of the underlying obligation, failure to perform a duty to preserve the value of collateral owed, under IC 26-1-9.1 or other law, to a debtor or other person secondarily liable, and failure to comply with applicable law in disposing of or otherwise enforcing the interest in collateral.

(e) A secondary obligor is not discharged under subsection (a)(3), (b), (c), or (d) unless the person entitled to enforce the instrument knows that the person is a secondary obligor or has notice under IC 26-1-3.1-419(c) that the instrument was signed for accommodation.

(f) A secondary obligor is not discharged under this section if the secondary obligor consents to the event or conduct that is the basis of the discharge, or the instrument or a separate agreement of the party provides for waiver of discharge under this section specifically or by general language indicating that parties waive defenses based on suretyship or impairment of collateral. Unless the circumstances indicate otherwise, consent by the principal obligor to an act that would lead to a discharge under this section constitutes consent to that act by the secondary obligor if the secondary obligor controls the principal obligor or deals with the

person entitled to enforce the instrument on behalf of the principal obligor.

(g) A release or extension preserves a secondary obligor's recourse if the terms of the release or extension provide that:

(1) the person entitled to enforce the instrument retains the right to enforce the instrument against the secondary obligor; and

(2) the recourse of the secondary obligor continues as if the release or extension had not been granted.

(h) Except as otherwise provided in subsection (i), a secondary obligor asserting discharge under this section has the burden of persuasion both with respect to the occurrence of the acts alleged to harm the secondary obligor and loss or prejudice caused by those acts.

(i) If the secondary obligor demonstrates prejudice caused by an impairment of its recourse, and the circumstances of the case indicate that the amount of loss is not reasonably susceptible of calculation or requires proof of facts that are not ascertainable, it is presumed that the act impairing recourse caused a loss or impairment equal to the liability of the secondary obligor on the instrument. In that event, the burden of persuasion as to any lesser amount of the loss is on the person entitled to enforce the instrument.

SECTION 15. IC 26-1-4-104, AS AMENDED BY P.L.143-2007, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 104. (a) In IC 26-1-4, unless the context otherwise requires:

(1) "Account" means any deposit or credit account with a bank, including a demand, time, savings, passbook, share draft, or like account, other than an account evidenced by a certificate of deposit.

(2) "Afternoon" means the period of a day between noon and midnight.

(3) "Banking day" means the part of a day on which a bank is open to the public for carrying on substantially all of its banking functions, but does not include Saturday, Sunday, or a legal holiday.

(4) "Clearing house" means an association of banks or other

payors regularly clearing items.

(5) "Customer" means a person having an account with a bank or for whom a bank has agreed to collect items, including a bank that maintains an account at another bank.

(6) "Documentary draft" means a draft to be presented for acceptance or payment if specified documents, certificated securities (IC 26-1-8.1-102), or instructions for uncertificated securities (IC 26-1-8.1-102) or other certificates, statements, or the like are to be received by the drawee or other payor before acceptance or payment of the draft.

(7) "Draft" means a draft (as defined in IC 26-1-3.1-104) or an item, other than an instrument, that is an order.

(8) "Drawee" means a person ordered in a draft to make payment.

(9) **"Good faith" means honesty in fact in the conduct or transaction concerned.**

(10) "Item" means an instrument or a promise or order to pay money handled by a bank for collection or payment. The term does not include a payment order governed by IC 26-1-4.1 or a credit or debit card slip.

~~(10)~~ **(11)** "Midnight deadline" with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later.

~~(11)~~ **(12)** "Settle" means to pay in cash, by clearing-house settlement, in a charge or credit, or by remittance, or otherwise as instructed. A settlement may be either provisional or final.

~~(12)~~ **(13)** "Suspends payments" with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over, or that it ceases or refuses to make payments in the ordinary course of business.

(b) Other definitions applying to IC 26-1-4 and the sections in which they appear are:

"Agreement for electronic presentment". IC 26-1-4-110.

"Bank". IC 26-1-4-105.

"Collecting bank". IC 26-1-4-105.

"Depositary bank". IC 26-1-4-105.

"Intermediary bank". IC 26-1-4-105.

"Payor bank". IC 26-1-4-105.

"Presenting bank". IC 26-1-4-105.

"Presentment notice". IC 26-1-4-110.

(c) "Control" as provided in IC 26-1-7-106 and the following definitions in IC 26-1-3.1 apply to IC 26-1-4:

"Acceptance". IC 26-1-3.1-409.

"Alteration". IC 26-1-3.1-407.

"Cashier's check". IC 26-1-3.1-104.

"Certificate of deposit". IC 26-1-3.1-104.

"Certified check". IC 26-1-3.1-409.

"Check". IC 26-1-3.1-104.

"Holder in due course". IC 26-1-3.1-302.

"Instrument". IC 26-1-3.1-104.

"Notice of dishonor". IC 26-1-3.1-503.

"Order". IC 26-1-3.1-103.

"Ordinary care". IC 26-1-3.1-103.

"Person entitled to enforce". IC 26-1-3.1-301.

"Presentment". IC 26-1-3.1-501.

"Promise". IC 26-1-3.1-103.

"Prove". IC 26-1-3.1-103.

"Record". IC 26-1-1-201(33b).

"Remotely-created consumer item". IC 26-1-3.1-103.

"Teller's check". IC 26-1-3.1-104.

"Unauthorized signature". IC 26-1-3.1-403.

(d) In addition, IC 26-1-1 contains general definitions and principles of construction and interpretation applicable throughout IC 26-1-4.

SECTION 16. IC 26-1-4-207 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 207. (a) A customer or collecting bank that transfers an item and receives a settlement or other consideration warrants to the transferee and to any subsequent collecting bank that:

(1) the warrantor is a person entitled to enforce the item;

(2) all signatures on the item are authentic and authorized;

(3) the item has not been altered;

(4) the item is not subject to a defense or claim in recoupment (IC 26-1-3.1-305(a)) of any party that can be asserted against the warrantor; ~~and~~

(5) the warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case

of an unaccepted draft, the drawer; **and**

(6) with respect to a remotely-created consumer item, the person on whose account the item is drawn authorized the issuance of the item in the amount for which the item is drawn.

(b) If an item is dishonored, a customer or collecting bank transferring the item and receiving settlement or other consideration is obliged to pay the amount due on the item:

(1) according to the terms of the item at the time it was transferred; or

(2) if the transfer was of an incomplete item, according to its terms when completed as stated in IC 26-1-3.1-115 and IC 26-1-3.1-407.

The obligation of a transferor is owed to the transferee and to any subsequent collecting bank that takes the item in good faith. A transferor cannot disclaim its obligation under this subsection by an endorsement stating that it is made "without recourse" or otherwise disclaiming liability.

(c) A person to whom the warranties under subsection (a) are made and who took the item in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, but not more than the amount of the item plus expenses and loss of interest incurred as a result of the breach.

(d) The warranties stated in subsection (a) cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within thirty (30) days after the claimant has reason to know of the breach and the identity of the warrantor, the warrantor is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(e) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

SECTION 17. IC 26-1-4-208 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 208. (a) If an unaccepted draft is presented to the drawee for payment or acceptance and the drawee pays or accepts the draft, (i) the person obtaining payment or acceptance, at the time of presentment, and (ii) a previous transferor of the draft, at the time of transfer, warrant to the drawee that pays or accepts the draft in good faith that:

(1) the warrantor is, or was, at the time the warrantor transferred the draft, a person entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft;

(2) the draft has not been altered; ~~and~~

(3) the warrantor has no knowledge that the signature of the purported drawer of the draft is unauthorized; **and**

(4) with respect to a remotely-created consumer item, the person on whose account the item is drawn authorized the issuance of the item in the amount for which the item is drawn.

(b) A drawee making payment may recover from a warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the drawee received or is entitled to receive from the drawer because of the payment. In addition, the drawee is entitled to compensation for expenses and loss of interest resulting from the breach. The right of the drawee to recover damages under this subsection is not affected by any failure of the drawee to exercise ordinary care in making payment. If the drawee accepts the draft:

(1) breach of warranty is a defense to the obligation of the acceptor; and

(2) if the acceptor makes payment with respect to the draft, the acceptor is entitled to recover from a warrantor for breach of warranty the amounts stated in this subsection.

(c) If a drawee asserts a claim for breach of warranty under subsection (a) based on an unauthorized endorsement of the draft or an alteration of the draft, the warrantor may defend by proving that the endorsement is effective under IC 26-1-3.1-404 or IC 26-1-3.1-405 or the drawer is precluded under IC 26-1-3.1-406 or IC 26-1-4-406 from asserting against the drawee the unauthorized endorsement or alteration.

(d) If:

(1) a dishonored draft is presented for payment to the drawer or an endorser; or

(2) any other item is presented for payment to a party obliged to pay the item;

and the item is paid, the person obtaining payment and a prior transferor of the item warrant to the person making payment in good

faith that the warrantor is, or was, at the time the warrantor transferred the item, a person entitled to enforce the item or authorized to obtain payment on behalf of a person entitled to enforce the item. The person making payment may recover from any warrantor for breach of warranty an amount equal to the amount paid plus expenses and loss of interest resulting from the breach.

(e) The warranties stated in subsections (a) and (d) cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within thirty (30) days after the claimant has reason to know of the breach and the identity of the warrantor, the warrantor is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(f) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

SECTION 18. IC 26-1-4-212 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 212. (a) Unless otherwise instructed, a collecting bank may present an item not payable by, through, or at a bank by sending to the party to accept or pay a ~~written~~ **record providing** notice that the bank holds the item for acceptance or payment. The notice must be sent in time to be received on or before the day when presentment is due and the bank must meet any requirement of the party to accept or pay under IC 26-1-3.1-501 by the close of the bank's next banking day after it knows of the requirement.

(b) If presentment is made by notice and payment, acceptance, or request for compliance with a requirement under IC 26-1-3.1-501 is not received by the close of business on the day after maturity or, in the case of demand items, by the close of business on the third banking day after notice was sent, the presenting bank may treat the item as dishonored and charge any drawer or endorser by sending it notice of the facts.

SECTION 19. IC 26-1-4-301 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. ~~31.~~ **301.** (a) If a payor bank settles for a demand item other than a documentary draft presented otherwise than for immediate payment over the counter before midnight of the banking day of receipt, the payor bank may revoke the settlement and recover the settlement if, before it has made final payment and before its midnight deadline, it:

(1) returns the item; ~~or~~

(2) returns an image of the item, if the party to which the return is made has entered into an agreement to accept an image as a return of the item and the image is returned in accordance with that agreement; or

~~(2)~~ **(3)** sends ~~written~~ **a record providing** notice of dishonor or nonpayment if the item is unavailable for return.

(b) If a demand item is received by a payor bank for credit on its books, it may return the item or send notice of dishonor and may revoke any credit given or recover the amount thereof withdrawn by its customer, if it acts within the time limit and in the manner specified in subsection (a).

(c) Unless previous notice of dishonor has been sent, an item is dishonored at the time when for purposes of dishonor it is returned or notice sent in accordance with this section.

(d) An item is returned:

(1) as to an item received through a clearing-house, when it is delivered to the presenting or last collecting bank or to the clearing-house or is sent or delivered in accordance with its rules; or

(2) in all other cases, when it is sent or delivered to the bank's customer or transferor or pursuant to instructions.

SECTION 20. IC 26-1-4-403 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 403. (a) A customer or any person authorized to draw on the account if there is more than one (1) person may stop payment of any item drawn on the customer's account or close the account by an order to the bank describing the item or account with reasonable certainty received at a time and in a manner that affords the bank a reasonable opportunity to act on it before any action by the bank with respect to the item described in IC 26-1-4-303. If the signature of more than one (1) person is required to draw on an account, any of these persons may stop payment or close the account.

(b) A stop-payment order is effective for six (6) months, but it lapses after fourteen (14) calendar days if the original order was oral and was not confirmed in ~~writing~~ **a record** within that period. A stop-payment order may be renewed for additional six (6) month periods by a ~~writing~~ **record** given to the bank within a period during

which the stop-payment order is effective.

(c) The burden of establishing the fact and amount of loss resulting from the payment of an item contrary to a stop-payment order or order to close an account is on the customer. The loss from payment of an item contrary to a stop-payment order may include damages for dishonor of subsequent items under IC 26-1-4-402.

P.L.136-2009
[H.1094. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-4-4, AS AMENDED BY P.L.146-2008, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A general reassessment, involving a physical inspection of all real property in Indiana, shall begin July 1, 2000, and be the basis for taxes payable in 2003.

(b) A general reassessment, involving a physical inspection of all real property in Indiana, shall begin July 1, 2009, and each fifth year thereafter. Each reassessment under this subsection:

(1) shall be completed on or before March 1 of the year that succeeds by two (2) years the year in which the general reassessment begins; and

(2) shall be the basis for taxes payable in the year following the year in which the general assessment is to be completed.

(c) In order to ensure that assessing officials are prepared for a general reassessment of real property, the department of local government finance shall give adequate advance notice of the general reassessment to the assessing officials of each county.

(d) For a general reassessment that begins on or after July 1, 2009, the assessed value of real property shall be based on the

estimated true tax value of the property on the assessment date that is the basis for taxes payable in the year following the year in which the general reassessment is to be completed.

SECTION 2. IC 6-1.1-4-4.5, AS AMENDED BY P.L.228-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.5. (a) The department of local government finance shall adopt rules establishing a system for annually adjusting the assessed value of real property to account for changes in value in those years since a general reassessment of property last took effect.

(b) Subject to subsection (e), the system must be applied to adjust assessed values beginning with the 2006 assessment date and each year thereafter that is not a year in which a reassessment becomes effective.

(c) The rules adopted under subsection (a) must include the following characteristics in the system:

(1) Promote uniform and equal assessment of real property within and across classifications.

(2) Require that assessing officials:

(A) reevaluate the factors that affect value;

(B) express the interactions of those factors mathematically;

(C) use mass appraisal techniques to estimate updated property values within statistical measures of accuracy; and

(D) provide notice to taxpayers of an assessment increase that results from the application of annual adjustments.

(3) Prescribe procedures that permit the application of the adjustment percentages in an efficient manner by assessing officials.

(d) The department of local government finance must review and certify each annual adjustment determined under this section.

(e) In making the annual determination of the base rate to satisfy the requirement for an annual adjustment under subsection (a), the department of local government finance shall determine the base rate using the methodology reflected in Table 2-18 of Book 1, Chapter 2 of the department of local government finance's Real Property Assessment Guidelines (as in effect on January 1, 2005), except that the department shall adjust the methodology to use a six (6) year rolling average instead of a four (4) year rolling average.

(f) For assessment dates after December 31, 2009, an adjustment in the assessed value of real property under this section shall be

based on the estimated true tax value of the property on the assessment date that is the basis for taxes payable on that real property.

SECTION 3. IC 6-1.1-4-13.6, AS AMENDED BY P.L.146-2008, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.6. (a) The township assessor, or the county assessor if there is no township assessor for the township, shall determine the values of all classes of commercial, industrial, and residential land (including farm homesites) in the township or county using guidelines determined by the department of local government finance. Not later than November 1 of the year preceding the year in which a general reassessment becomes effective, the assessor determining the values of land shall submit the values to the county property tax assessment board of appeals. Not later than ~~December~~ **March** 1 of the year ~~preceding the year~~ in which a general reassessment becomes effective, the county property tax assessment board of appeals shall hold a public hearing in the county concerning those values. The property tax assessment board of appeals shall give notice of the hearing in accordance with IC 5-3-1. ~~and shall hold the hearing after March 31 and before December 1 of the year preceding the year in which the general reassessment under section 4 of this chapter becomes effective.~~

(b) The county property tax assessment board of appeals shall review the values submitted under subsection (a) and may make any modifications it considers necessary to provide uniformity and equality. The county property tax assessment board of appeals shall coordinate the valuation of property adjacent to the boundaries of the county with the county property tax assessment boards of appeals of the adjacent counties using the procedures adopted by rule under IC 4-22-2 by the department of local government finance. If the county assessor fails to submit land values under subsection (a) to the county property tax assessment board of appeals before November 1 of the year before the date the general reassessment under section 4 of this chapter becomes effective, the county property tax assessment board of appeals shall determine the values. If the county property tax assessment board of appeals fails to determine the values before the general reassessment becomes effective, the department of local government finance shall determine the values.

(c) The county assessor shall notify all township assessors in the county (if any) of the values as modified by the county property tax assessment board of appeals. Assessing officials shall use the values determined under this section.

SECTION 4. IC 6-1.1-4-22, AS AMENDED BY P.L.146-2008, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) If any assessing official assesses or reassesses any real property under this article, the official shall give notice to the taxpayer and the county assessor, by mail, of the amount of the assessment or reassessment.

(b) During a period of general reassessment, each township or county assessor shall mail the notice required by this section within ninety (90) days after the assessor:

(1) completes the appraisal of a parcel; or

(2) receives a report for a parcel from a professional appraiser or professional appraisal firm.

(c) The notice required by this section must include notice to the person of the opportunity to appeal the assessed valuation under IC 6-1.1-15-1.

(d) Notice of the opportunity to appeal the assessed valuation required under subsection (c) must include the following:

(1) The procedure that a taxpayer must follow to appeal the assessment or reassessment.

(2) The forms that must be filed for an appeal of the assessment or reassessment.

(3) Notice that an appeal of the assessment or reassessment requires evidence relevant to the true tax value of the taxpayer's property as of the assessment date.

SECTION 5. IC 6-1.1-15-1, AS AMENDED BY P.L.146-2008, SECTION 137, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A taxpayer may obtain a review by the county board of a county or township official's action with respect to either or both of the following:

(1) The assessment of the taxpayer's tangible property.

(2) A deduction for which a review under this section is authorized by any of the following:

(A) IC 6-1.1-12-25.5.

(B) IC 6-1.1-12-28.5.

(C) IC 6-1.1-12-35.5.
(D) IC 6-1.1-12.1-5.
(E) IC 6-1.1-12.1-5.3.
(F) IC 6-1.1-12.1-5.4.

(b) At the time that notice of an action referred to in subsection (a) is given to the taxpayer, the taxpayer shall also be informed in writing of:

(1) the opportunity for a review under this section, including a preliminary informal meeting under subsection (h)(2) with the county or township official referred to in this subsection; and

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

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

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

(1) May 10 of the year; or

(2) forty-five (45) days after the date of the **tax** statement mailed by the county ~~auditor under IC 6-1.1-17-3(b).~~ **treasurer, regardless of whether the assessing official changes the taxpayer's assessment.**

(e) A change in an assessment made as a result of a notice for review filed by a taxpayer under subsection (d) after the time

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

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

(1) The name of the taxpayer.

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

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

(g) The filing of a notice under subsection (c) or (d):

(1) initiates a review under this section; and

(2) constitutes a request by the taxpayer for a preliminary informal meeting with the official referred to in subsection (a).

(h) A county or township official who receives a notice for review filed by a taxpayer under subsection (c) or (d) shall:

(1) immediately forward the notice to the county board; and

(2) attempt to hold a preliminary informal meeting with the taxpayer to resolve as many issues as possible by:

(A) discussing the specifics of the taxpayer's assessment or deduction;

(B) reviewing the taxpayer's property record card;

(C) explaining to the taxpayer how the assessment or deduction was determined;

(D) providing to the taxpayer information about the statutes, rules, and guidelines that govern the determination of the assessment or deduction;

(E) noting and considering objections of the taxpayer;

(F) considering all errors alleged by the taxpayer; and

(G) otherwise educating the taxpayer about:

(i) the taxpayer's assessment or deduction;

(ii) the assessment or deduction process; and

(iii) the assessment or deduction appeal process.

(i) Not later than ten (10) days after the informal preliminary meeting, the official referred to in subsection (a) shall forward to the county auditor and the county board the results of the conference on a form prescribed by the department of local government finance that must be completed and signed by the taxpayer and the official. The

form must indicate the following:

(1) If the taxpayer and the official agree on the resolution of all assessment or deduction issues in the review, a statement of:

(A) those issues; and

(B) the assessed value of the tangible property or the amount of the deduction that results from the resolution of those issues in the manner agreed to by the taxpayer and the official.

(2) If the taxpayer and the official do not agree on the resolution of all assessment or deduction issues in the review:

(A) a statement of those issues; and

(B) the identification of:

(i) the issues on which the taxpayer and the official agree; and

(ii) the issues on which the taxpayer and the official disagree.

(j) If the county board receives a form referred to in subsection (i)(1) before the hearing scheduled under subsection (k):

(1) the county board shall cancel the hearing;

(2) the county official referred to in subsection (a) shall give notice to the taxpayer, the county board, the county assessor, and the county auditor of the assessment or deduction in the amount referred to in subsection (i)(1)(B); and

(3) if the matter in issue is the assessment of tangible property, the county board may reserve the right to change the assessment under IC 6-1.1-13.

(k) If:

(1) subsection (i)(2) applies; or

(2) the county board does not receive a form referred to in subsection (i) not later than one hundred twenty (120) days after the date of the notice for review filed by the taxpayer under subsection (c) or (d);

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

the county board. The county assessor is recused from any action the county board takes with respect to an assessment determination by the county assessor.

(l) At the hearing required under subsection (k):

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

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

(A) the basis for the assessment or deduction decision; and

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

(m) The official referred to in subsection (a) may not require the taxpayer to provide documentary evidence at the preliminary informal meeting under subsection (h). The county board may not require a taxpayer to file documentary evidence or summaries of statements of testimonial evidence before the hearing required under subsection (k). If the action for which a taxpayer seeks review under this section is the assessment of tangible property, the taxpayer is not required to have an appraisal of the property in order to do the following:

(1) Initiate the review.

(2) Prosecute the review.

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

(o) If the maximum time elapses:

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

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

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

SECTION 6. IC 6-1.1-17-3, AS AMENDED BY P.L.146-2008, SECTION 147, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The proper officers of a political subdivision shall formulate its estimated budget and its proposed tax rate and tax levy on the form prescribed by the department of local government finance and approved by the state

board of accounts. The political subdivision shall give notice by publication to taxpayers of:

(1) the estimated budget;

(2) the estimated maximum permissible levy;

(3) the current and proposed tax levies of each fund; and

(4) the amounts of excessive levy appeals to be requested.

In the notice, the political subdivision shall also state the time and place at which a public hearing will be held on these items. The notice shall be published twice in accordance with IC 5-3-1 with the first publication at least ten (10) days before the date fixed for the public hearing. Beginning in 2009, the duties required by this subsection must be completed before August 10 of the calendar year. ~~A political subdivision shall provide the estimated budget and levy information required for the notice under subsection (b) to the county auditor on the schedule determined by the department of local government finance.~~

~~(b) Beginning in 2010, before October 1 of a calendar year, the county auditor shall mail to the last known address of each person liable for any property taxes, as shown on the tax duplicate, or to the last known address of the most recent owner shown in the transfer book, a statement that includes:~~

~~(1) the assessed valuation as of the assessment date in the current calendar year of tangible property on which the person will be liable for property taxes first due and payable in the immediately succeeding calendar year and notice to the person of the opportunity to appeal the assessed valuation under IC 6-1.1-15-1(c) (before July 1, 2008) or IC 6-1.1-15-1 (after June 30, 2008);~~

~~(2) the amount of property taxes for which the person will be liable to each political subdivision on the tangible property for taxes first due and payable in the immediately succeeding calendar year, taking into account all factors that affect that liability, including:~~

~~(A) the estimated budget and proposed tax rate and tax levy formulated by the political subdivision under subsection (a);~~

~~(B) any deductions or exemptions that apply to the assessed valuation of the tangible property;~~

~~(C) any credits that apply in the determination of the tax liability; and~~

~~(D) the county auditor's best estimate of the effects on the tax liability that might result from actions of:~~

~~(i) the county board of tax adjustment; or~~

~~(ii) the department of local government finance;~~

~~(3) a prominently displayed notation that:~~

~~(A) the estimate under subdivision (2) is based on the best information available at the time the statement is mailed; and~~

~~(B) based on various factors, including potential actions by:~~

~~(i) the county board of tax adjustment; or~~

~~(ii) the department of local government finance;~~

~~it is possible that the tax liability as finally determined will differ substantially from the estimate;~~

~~(4) comparative information showing the amount of property taxes for which the person is liable to each political subdivision on the tangible property for taxes first due and payable in the current year; and~~

~~(5) the date, time, and place at which the political subdivision will hold a public hearing on the political subdivision's estimated budget and proposed tax rate and tax levy as required under subsection (a).~~

~~(c) The department of local government finance shall:~~

~~(1) prescribe a form for; and~~

~~(2) provide assistance to county auditors in preparing;~~

~~statements under subsection (b). Mailing the statement described in subsection (b) to a mortgagee maintaining an escrow account for a person who is liable for any property taxes shall not be construed as compliance with subsection (b).~~

~~(d)~~ **(b)** The board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal) may conduct the public hearing required under subsection (a):

(1) in any county of the solid waste management district; and

(2) in accordance with the annual notice of meetings published under IC 13-21-5-2.

~~(e)~~ **(c)** The trustee of each township in the county shall estimate the amount necessary to meet the cost of township assistance in the township for the ensuing calendar year. The township board shall adopt with the township budget a tax rate sufficient to meet the estimated cost of township assistance. The taxes collected as a result of the tax rate

adopted under this subsection are credited to the township assistance fund.

~~(f)~~ **(d)** This subsection expires January 1, 2009. A county shall adopt with the county budget and the department of local government finance shall certify under section 16 of this chapter a tax rate sufficient to raise the levy necessary to pay the following:

(1) The cost of child services (as defined in IC 12-19-7-1) of the county payable from the family and children's fund.

(2) The cost of children's psychiatric residential treatment services (as defined in IC 12-19-7.5-1) of the county payable from the children's psychiatric residential treatment services fund.

A budget, tax rate, or tax levy adopted by a county fiscal body or approved or modified by a county board of tax adjustment that is less than the levy necessary to pay the costs described in subdivision (1) or (2) shall not be treated as a final budget, tax rate, or tax levy under section 11 of this chapter.

SECTION 7. IC 6-1.1-22-8.1, AS AMENDED BY P.L.3-2008, SECTION 53, AND AS AMENDED BY P.L.146-2008, SECTION 251, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.1. (a) This section applies only to property taxes and special assessments first due and payable after December 31, 2007.

(b) The county treasurer shall:

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

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

a statement in the form required under subsection (c). *However, for property taxes first due and payable in 2008, the county treasurer may choose to use a tax statement that is different from the tax statement prescribed by the department under subsection (c). If a county chooses to use a different tax statement, the county must still transmit (with the tax bill) the statement in either color type or black-and-white type.*

(c) The department of local government finance shall prescribe a

form, subject to the approval of the state board of accounts, for the statement under subsection (b) that includes at least the following:

(1) A statement of the taxpayer's current and delinquent taxes and special assessments.

(2) A breakdown showing the total property tax and special assessment liability and the amount of the taxpayer's liability that will be distributed to each taxing unit in the county.

(3) An itemized listing for each property tax levy, including:

(A) the amount of the tax rate;

(B) the entity levying the tax owed; and

(C) the dollar amount of the tax owed.

(4) Information designed to show the manner in which the taxes and special assessments billed in the tax statement are to be used.

(5) A comparison showing any change in the assessed valuation for the property as compared to the previous year.

(6) A comparison showing any change in the property tax and special assessment liability for the property as compared to the previous year. The information required under this subdivision must identify:

(A) the amount of the taxpayer's liability distributable to each taxing unit in which the property is located in the current year and in the previous year; and

(B) the percentage change, if any, in the amount of the taxpayer's liability distributable to each taxing unit in which the property is located from the previous year to the current year.

(7) An explanation of the following:

(A) The homestead credit and all property tax deductions.

(B) The procedure and deadline for filing for the homestead credit and each deduction.

(C) The procedure that a taxpayer must follow to:

(i) appeal a current assessment; or

(ii) petition for the correction of an error related to the taxpayer's property tax and special assessment liability.

(D) The forms that must be filed for an appeal or a petition described in clause (C).

(E) Notice that an appeal described in clause (C) requires evidence relevant to the true tax value of the taxpayer's

property as of the assessment date that is the basis for the taxes payable on that property.

The department of local government finance shall provide the explanation required by this subdivision to each county treasurer.

(8) A checklist that shows:

(A) the homestead credit and all property tax deductions; and

(B) whether the homestead credit and each property tax deduction applies in the current statement for the property transmitted under subsection (b).

(d) The county treasurer may mail or transmit the statement one (1) time each year at least fifteen (15) days before the date on which the first or only installment is due. Whenever a person's tax liability for a year is due in one (1) installment under IC 6-1.1-7-7 or section 9 of this chapter, a statement that is mailed must include the date on which the installment is due and denote the amount of money to be paid for the installment. Whenever a person's tax liability is due in two (2) installments, a statement that is mailed must contain the dates on which the first and second installments are due and denote the amount of money to be paid for each installment.

(e) All payments of property taxes and special assessments shall be made to the county treasurer. The county treasurer, when authorized by the board of county commissioners, may open temporary offices for the collection of taxes in cities and towns in the county other than the county seat.

(f) The county treasurer, county auditor, and county assessor shall cooperate to generate the information to be included in the statement under subsection (c).

(g) The information to be included in the statement under subsection (c) must be simply and clearly presented and understandable to the average individual.

(h) After December 31, 2007, a reference in a law or rule to IC 6-1.1-22-8 *(expired January 1, 2008, and repealed)* shall be treated as a reference to this section.

SECTION 8. [EFFECTIVE UPON PASSAGE] **(a) 50 IAC 21-3-3 and any other rule or guideline of the department of local government finance is voided on July 1, 2009, to the extent that it is inconsistent with IC 6-1.1-4-4, IC 6-1.1-4-4.5, or IC 6-1.1-4-13.6, all as amended by this act. Notwithstanding any other law**

specifying the last date on which the department of local government finance or a political subdivision may certify a professional appraiser, certify computer systems or computer vendors, enter into a contract, or adopt a rule or guidelines for a general reassessment or annual adjustment in assessed value, the acts necessary to certify or recertify a professional appraiser, certify or recertify a computer system or vendor, enter into or amend a contract, or adopt a rule or guideline to conform a certification, contract, rule, or guideline to IC 6-1.1-4-4, IC 6-1.1-4-4.5, or IC 6-1.1-4-13.6, all as amended by this act, may be taken after the effective date of this SECTION.

(b) This SECTION expires July 1, 2010.

SECTION 9. **An emergency is declared for this act.**

P.L.137-2009

[H.1121. Approved May 12, 2009.]

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

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

SECTION 1. IC 4-6-9-7.5, AS ADDED BY P.L.136-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.5. The division may initiate and maintain an educational program to inform consumers of:

(1) risks involved in a breach of the security of ~~a system~~ **data;** and

(2) steps that the victim of a security breach should take to prevent and mitigate the damage from the security breach.

SECTION 2. IC 4-6-13 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 13. Identity Theft Unit

Sec. 1. As used in this chapter, "unit" refers to the identity theft unit established under section 2 of this chapter.

Sec. 2. The attorney general shall establish an identity theft unit to assist prosecuting attorneys in enforcing identity deception (IC 35-43-5-3.5) and related criminal statutes and to carry out this chapter.

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

(1) Investigate consumer complaints regarding identity theft, identity deception, fraud, deception, and related matters.

(2) Assist victims of identity theft, identity deception, fraud, deception, and related crimes in obtaining refunds in relation to fraudulent or authorized charges or debits, canceling fraudulent accounts, correcting false information in consumer reports caused by identity deception, correcting false information in personnel files and court records, and related matters.

(3) Cooperate with federal, state, and local law enforcement agencies in the investigation of identity theft, identity deception, fraud, deception, violations of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), and related crimes. To the extent authorized by federal law, the unit may enforce compliance with the federal statutes or regulations described in this subdivision or refer suspected violations of the statutes or regulations to the appropriate federal regulatory agencies.

(4) Assist state and federal prosecutors in the investigation and prosecution of identity theft, identity deception, fraud, deception, and related crimes.

(b) The attorney general shall adopt rules under IC 4-22-2 to the extent necessary to organize the unit.

Sec. 4. The attorney general may do any of the following when conducting an investigation under section 3 of this chapter:

(1) Issue and serve a subpoena for the production of records, including records stored in electronic data processing systems, books, papers, and documents for inspection by the attorney general or the investigator.

(2) Issue and serve a subpoena for the appearance of a person to provide testimony under oath.

(3) Apply to a court with jurisdiction to enforce a subpoena described in subdivision (1) or (2).

Sec. 5. If the attorney general determines during an investigation conducted under this chapter that there is reasonable suspicion to believe that a person has committed identity deception or a similar offense, the attorney general shall promptly notify a law enforcement agency and the prosecuting attorney that have jurisdiction over the person or offense.

Sec. 6. (a) The following may cooperate with the unit to implement this chapter:

(1) The bureau of motor vehicles.

(2) The secretary of state.

(3) The department of financial institutions.

(4) The department of insurance.

(5) The state police department.

(6) The department of workforce development.

(7) The department of state revenue.

(8) A prosecuting attorney.

(9) Local law enforcement agencies.

(b) Notwithstanding IC 5-14-3, the entities listed in subsection (a) may share information with the unit.

Sec. 7. The establishment of the unit and the unit's powers does not limit the jurisdiction of an entity described in section 6 of this chapter.

Sec. 8. A prosecuting attorney may deputize the attorney general or a deputy attorney general for purposes of the prosecution of an identity deception offense or a related offense.

Sec. 9. The unit may initiate and maintain an educational program to inform consumers of:

(1) risks relating to identity deception and similar crimes;

(2) steps consumers may take to minimize their risks of becoming a victim of identity deception;

(3) methods to detect identity deception and similar crimes; and

(4) measures that identity deception victims may take to recover from the crime and to hold the perpetrator of the crime accountable in a court of law.

SECTION 3. IC 24-4.9-2-2, AS AMENDED BY P.L.136-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) "Breach of the security of ~~a system"~~ **data"** means unauthorized acquisition of computerized data that compromises

the security, confidentiality, or integrity of personal information maintained by a person. The term includes the unauthorized acquisition of computerized data that have been transferred to another medium, including paper, microfilm, or a similar medium, even if the transferred data are no longer in a computerized format.

(b) The term does not include the following:

(1) Good faith acquisition of personal information by an employee or agent of the person for lawful purposes of the person, if the personal information is not used or subject to further unauthorized disclosure.

(2) Unauthorized acquisition of a portable electronic device on which personal information is stored, if all personal information on the device is protected by encryption and the encryption key:

(A) has not been compromised or disclosed; and

(B) is not in the possession of or known to the person who, without authorization, acquired or has access to the portable electronic device.

SECTION 4. IC 24-4.9-3-1, AS ADDED BY P.L.125-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided in section 4(c), 4(d), and 4(e) of this chapter, after discovering or being notified of a breach of the security of ~~a system,~~ **data,** the data base owner shall disclose the breach to an Indiana resident whose:

(1) unencrypted personal information was or may have been acquired by an unauthorized person; or

(2) encrypted personal information was or may have been acquired by an unauthorized person with access to the encryption key;

if the data base owner knows, should know, or should have known that the unauthorized acquisition constituting the breach has resulted in or could result in identity deception (as defined in IC 35-43-5-3.5), identity theft, or fraud affecting the Indiana resident.

(b) A data base owner required to make a disclosure under subsection (a) to more than one thousand (1,000) consumers shall also disclose to each consumer reporting agency (as defined in 15 U.S.C. 1681a(p)) information necessary to assist the consumer reporting agency in preventing fraud, including personal information of an Indiana resident affected by the breach of the security of a system.

(c) If a data base owner makes a disclosure described in subsection (a), the data base owner shall also disclose the breach to the attorney general.

SECTION 5. IC 24-4.9-3-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.5. (a) This section does not apply to a data base owner that maintains its own data security procedures as part of an information privacy, security policy, or compliance plan under:**

(1) the federal USA PATRIOT Act (P.L. 107-56);

(2) Executive Order 13224;

(3) the federal Driver's Privacy Protection Act (18 U.S.C. 2721 et seq.);

(4) the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.);

(5) the federal Financial Modernization Act of 1999 (15 U.S.C. 6801 et seq.); or

(6) the federal Health Insurance Portability and Accountability Act (HIPAA) (P.L. 104-191);

if the data base owner's information privacy, security policy, or compliance plan requires the data base owner to maintain reasonable procedures to protect and safeguard from unlawful use or disclosure personal information of Indiana residents that is collected or maintained by the data base owner and the data base owner complies with the data base owner's information privacy, security policy, or compliance plan.

(b) A data base owner shall implement and maintain reasonable procedures, including taking any appropriate corrective action, to protect and safeguard from unlawful use or disclosure any personal information of Indiana residents collected or maintained by the data base owner.

(c) A data base owner shall not dispose of records or documents containing unencrypted and unredacted personal information of Indiana residents without shredding, incinerating, mutilating, erasing, or otherwise rendering the personal information illegible or unusable.

(d) A person that knowingly or intentionally fails to comply with any provision of this section commits a deceptive act that is actionable only by the attorney general under this section.

(e) The attorney general may bring an action under this section to obtain any or all of the following:

(1) An injunction to enjoin further violations of this section.

(2) A civil penalty of not more than five thousand dollars ($5,000) per deceptive act.

(3) The attorney general's reasonable costs in:

(A) the investigation of the deceptive act; and

(B) maintaining the action.

(f) A failure to comply with subsection (b) or (c) in connection with related acts or omissions constitutes one (1) deceptive act.

SECTION 6. IC 24-4.9-3-4, AS ADDED BY P.L.125-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Except as provided in subsection (b), a data base owner required to make a disclosure under this chapter shall make the disclosure using one (1) of the following methods:

(1) Mail.

(2) Telephone.

(3) Facsimile (fax).

(4) Electronic mail, if the data base owner has the electronic mail address of the affected Indiana resident.

(b) If a data base owner required to make a disclosure under this chapter is required to make the disclosure to more than five hundred thousand (500,000) Indiana residents, or if the data base owner required to make a disclosure under this chapter determines that the cost of the disclosure will be more than two hundred fifty thousand dollars ($250,000), the data base owner required to make a disclosure under this chapter may elect to make the disclosure by using both of the following methods:

(1) Conspicuous posting of the notice on the web site of the data base owner, if the data base owner maintains a web site.

(2) Notice to major news reporting media in the geographic area where Indiana residents affected by the breach of the security of a system reside.

(c) A data base owner that maintains its own disclosure procedures as part of an information privacy policy or a security policy is not required to make a separate disclosure under this chapter if the data base owner's information privacy policy or security policy is at least as stringent as the disclosure requirements described in:

(1) sections 1 through 4(b) of this chapter;

(2) subsection (d); or

(3) subsection (e).

(d) A data base owner that maintains its own disclosure procedures as part of an information privacy, security policy, or compliance plan under:

(1) the federal USA ~~Patriot~~ **PATRIOT** Act (P.L. 107-56);

(2) Executive Order 13224;

(3) the federal Driver's Privacy Protection Act (18 U.S.C. 2781 et seq.);

(4) the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.);

(5) the federal Financial Modernization Act of 1999 (15 U.S.C. 6801 et seq.); or

(6) the federal Health Insurance Portability and Accountability Act (HIPAA) (P.L. 104-191);

is not required to make a disclosure under this chapter if the data base owner's information privacy, security policy, or compliance plan requires that Indiana residents be notified of a breach of the security of ~~a system~~ **data** without unreasonable delay and the data base owner complies with the data base owner's information privacy, security policy, or compliance plan.

(e) A financial institution that complies with the disclosure requirements prescribed by the Federal Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice or the Guidance on Response Programs for Unauthorized Access to Member Information and Member Notice, as applicable, is not required to make a disclosure under this chapter.

(f) A person required to make a disclosure under this chapter may elect to make all or part of the disclosure in accordance with subsection (a) even if the person could make the disclosure in accordance with subsection (b).

SECTION 7. IC 24-4.9-4-1, AS ADDED BY P.L.125-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A person that is required to make a disclosure or notification in accordance with IC 24-4.9-3 and that fails to comply with any provision of this article commits a deceptive act that is actionable only by the attorney general under this chapter.

(b) A failure to make a required disclosure or notification in

connection with a related series of breaches of the security of ~~a system~~ **data** constitutes one (1) deceptive act.

SECTION 8. IC 24-5-26 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 26. Identity Theft

Sec. 1. As used in this chapter, "identity theft" means:

(1) identity deception (IC 35-43-5-3.5);

(2) synthetic identity deception (IC 35-43-5-3.8); or

(3) a substantially similar crime committed in another jurisdiction.

Sec. 2. A person shall not do any of the following in the conduct of trade or commerce:

(1) Deny credit or public utility service to or reduce the credit limit of a consumer solely because the consumer was a victim of identity theft, if the person had prior knowledge that the consumer was a victim of identity deception or synthetic identity deception. A consumer is presumed to be a victim of identity theft for purposes of this subdivision if the consumer provides to the person:

(A) a copy of a police report evidencing the claim of the victim of identity theft; and

(B) either:

(i) a properly completed copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission under 15 U.S.C. 1681g; or

(ii) an affidavit of fact that is acceptable to the person for that purpose.

This subdivision does not prohibit denial of credit or public utility service if a consumer has placed a security freeze on the consumer's consumer report and does not wish to temporarily lift the freeze for purposes of the credit or public utility service request or application.

(2) Solicit to extend credit to a consumer who does not have an existing line of credit, or has not had or applied for a line of credit within the preceding year, through the use of an unsolicited check that includes personal identifying information other than the recipient's name, address, and a partial, encoded, or truncated personal identifying number.

In addition to any other penalty or remedy under this chapter or under IC 24-5-0.5, a credit card issuer, financial institution, or other lender that violates this subdivision, and not the consumer, is liable for the amount of the instrument if the instrument is used by an unauthorized user and for any fees assessed to the consumer if the instrument is dishonored.

(3) Solicit to extend credit to a consumer who does not have a current credit card, or has not had or applied for a credit card within the preceding year, through the use of an unsolicited credit card sent to the consumer. In addition to any other penalty or remedy under this chapter or under IC 24-5-0.5, a credit card issuer, financial institution, or other lender that violates this subdivision, and not the consumer, is liable for any charges if the credit card is used by an unauthorized user and for any interest or finance charges assessed to the consumer.

(4) Extend credit to a consumer without exercising reasonable procedures to verify the identity of that consumer. Compliance with regulations issued for depository institutions, and to be issued for other financial institutions, by the United States Department of Treasury under Section 326 of the USA PATRIOT Act, 31 U.S.C. 5318, is considered compliance with this subdivision. This subdivision does not apply to a purchase of a credit obligation in an acquisition, a merger, a purchase of assets, or an assumption of liabilities or any change to or review of an existing credit account.

Sec. 3. A person who knowingly or intentionally violates this chapter commits a deceptive act that is actionable by the attorney general under IC 24-5-0.5-4 and is subject to the penalties and remedies available to the attorney general under IC 24-5-0.5. This section does not affect the availability of any civil remedy for a violation of this chapter, IC 24-5-0.5, or any other state or federal law.

SECTION 9. IC 35-32-2-6, AS ADDED BY P.L.125-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Subject to subsection (b), a person who commits the offense of identity deception **or synthetic identity deception** may be tried in a county in which:

(1) the victim resides; or

(2) the person:

(A) obtains;

(B) possesses;

(C) transfers; or

(D) uses;

the information used to commit the offense.

(b) If:

(1) a person is charged with more than one (1) offense of identity deception **or synthetic identity deception, or if a person is charged with both identity deception and synthetic identity deception;** and

(2) either:

(A) the victims of the crimes reside in more than one (1) county; or

(B) the person performs an act described in subsection (a)(2) in more than one (1) county;

the person may be tried in any county described in subdivision (2).

SECTION 10. IC 35-37-4-6, AS AMENDED BY P.L.99-2007, SECTION 207, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(1) or (c)(2):

(1) Sex crimes (IC 35-42-4).

(2) Battery upon a child (IC 35-42-2-1(a)(2)(B)).

(3) Kidnapping and confinement (IC 35-42-3).

(4) Incest (IC 35-46-1-3).

(5) Neglect of a dependent (IC 35-46-1-4).

(6) Human and sexual trafficking crimes (IC 35-42-3.5).

(7) An attempt under IC 35-41-5-1 for an offense listed in subdivisions (1) through (6).

(b) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(3):

(1) Exploitation of a dependent or endangered adult (IC 35-46-1-12).

(2) A sex crime (IC 35-42-4).

(3) Battery (IC 35-42-2-1).

(4) Kidnapping, confinement, or interference with custody (IC 35-42-3).

(5) Home improvement fraud (IC 35-43-6).
(6) Fraud (IC 35-43-5).
(7) Identity deception (IC 35-43-5-3.5).
(8) Synthetic identity deception (IC 35-43-5-3.8).
~~(8)~~ **(9)** Theft (IC 35-43-4-2).
~~(9)~~ **(10)** Conversion (IC 35-43-4-3).
~~(10)~~ **(11)** Neglect of a dependent (IC 35-46-1-4).
~~(11)~~ **(12)** Human and sexual trafficking crimes (IC 35-42-3.5).

(c) As used in this section, "protected person" means:
(1) a child who is less than fourteen (14) years of age;
(2) an individual with a mental disability who has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:
(A) is manifested before the individual is eighteen (18) years of age;
(B) is likely to continue indefinitely;
(C) constitutes a substantial impairment of the individual's ability to function normally in society; and
(D) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated; or
(3) an individual who is:
(A) at least eighteen (18) years of age; and
(B) incapable by reason of mental illness, mental retardation, dementia, or other physical or mental incapacity of:
(i) managing or directing the management of the individual's property; or
(ii) providing or directing the provision of self-care.

(d) A statement or videotape that:
(1) is made by a person who at the time of trial is a protected person;
(2) concerns an act that is a material element of an offense listed in subsection (a) or (b) that was allegedly committed against the person; and
(3) is not otherwise admissible in evidence;
is admissible in evidence in a criminal action for an offense listed in subsection (a) or (b) if the requirements of subsection (e) are met.

(e) A statement or videotape described in subsection (d) is admissible in evidence in a criminal action listed in subsection (a) or (b) if, after notice to the defendant of a hearing and of the defendant's right to be present, all of the following conditions are met:

(1) The court finds, in a hearing:

(A) conducted outside the presence of the jury; and

(B) attended by the protected person;

that the time, content, and circumstances of the statement or videotape provide sufficient indications of reliability.

(2) The protected person:

(A) testifies at the trial; or

(B) is found by the court to be unavailable as a witness for one (1) of the following reasons:

(i) From the testimony of a psychiatrist, physician, or psychologist, and other evidence, if any, the court finds that the protected person's testifying in the physical presence of the defendant will cause the protected person to suffer serious emotional distress such that the protected person cannot reasonably communicate.

(ii) The protected person cannot participate in the trial for medical reasons.

(iii) The court has determined that the protected person is incapable of understanding the nature and obligation of an oath.

(f) If a protected person is unavailable to testify at the trial for a reason listed in subsection (e)(2)(B), a statement or videotape may be admitted in evidence under this section only if the protected person was available for cross-examination:

(1) at the hearing described in subsection (e)(1); or

(2) when the statement or videotape was made.

(g) A statement or videotape may not be admitted in evidence under this section unless the prosecuting attorney informs the defendant and the defendant's attorney at least ten (10) days before the trial of:

(1) the prosecuting attorney's intention to introduce the statement or videotape in evidence; and

(2) the content of the statement or videotape.

(h) If a statement or videotape is admitted in evidence under this section, the court shall instruct the jury that it is for the jury to

determine the weight and credit to be given the statement or videotape and that, in making that determination, the jury shall consider the following:

(1) The mental and physical age of the person making the statement or videotape.

(2) The nature of the statement or videotape.

(3) The circumstances under which the statement or videotape was made.

(4) Other relevant factors.

(i) If a statement or videotape described in subsection (d) is admitted into evidence under this section, a defendant may introduce a:

(1) transcript; or

(2) videotape;

of the hearing held under subsection (e)(1) into evidence at trial.

SECTION 11. IC 35-40-14 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 14. Rights of Victims of Identity Deception

Sec. 1. As used in this chapter, "identity theft" means:

(1) identity deception (IC 35-43-5-3.5);

(2) synthetic identity deception (IC 35-43-5-3.8); or

(3) a substantially similar crime committed in another jurisdiction.

Sec. 2. As used in this chapter, "unit" refers to the identity theft unit established under IC 4-6-13-2.

Sec. 3. (a) A person who has learned or reasonably suspects that the person has been the victim of identity theft may contact the local law enforcement agency that has jurisdiction over the person's residence. The local law enforcement agency shall take an official report of the matter and provide the complainant with a copy of that report. Even if jurisdiction lies elsewhere for investigation and prosecution of a crime of theft, the local law enforcement agency shall take the complaint and provide the person with a copy of the complaint. The law enforcement authority may refer the complaint to a law enforcement agency in a different jurisdiction.

(b) This section does not affect the discretion of a local law

enforcement agency to allocate resources for investigation of crimes. A complaint filed under this section is not required to be counted as an open case for purposes of compiling open case statistics.

Sec. 4. (a) A person who is injured by a crime of identity theft or who has filed a police report alleging commission of an offense of identity theft may file an application with the court in the jurisdiction where the person resides for the issuance of a court order declaring that the person is a victim of identity theft. A person may file an application under this section regardless of whether the person is able to identify each person who allegedly obtained, possessed, transferred, or used the person's identifying information in an unlawful manner.

(b) A person filing an application under subsection (a) shall file a copy of the application with the unit. The unit may appear at and present evidence in a hearing conducted under this section if the unit determines that a court order declaring the applicant a victim of identity theft would be inappropriate.

(c) A person is presumed to be a victim of identity theft under this section if another person is charged with and convicted of an offense of identity theft for unlawfully obtaining, possessing, transferring, or using the person's identifying information.

(d) After notice and hearing, if the court is satisfied by a preponderance of the evidence that the applicant has been injured by a crime of identity theft, the court shall enter an order containing:

(1) a declaration that the person filing the application is a victim of identity theft resulting from the commission of a crime of identity theft;

(2) any known information identifying the violator or person charged with the offense;

(3) the specific personal identifying information and any related document or record used to commit the alleged offense; and

(4) information identifying any financial account or transaction affected by the alleged offense, including:

(A) the name of the financial institution in which the account is established or of the merchant or creditor involved in the transaction, as appropriate;

(B) any relevant account numbers;

(C) the dollar amount of the account or transaction affected by the alleged offense; and

(D) the date or dates of the offense.

(e) Except as provided in subsection (h), an order issued under this section must be sealed because of the confidential nature of the information required to be included in the order. The order may be opened and the order or a copy of the order may be released only:

(1) to the proper officials in a civil proceeding brought by or against the victim arising or resulting from the commission of a crime of identity theft, including a proceeding to set aside a judgment obtained against the victim;

(2) to the victim for the purpose of submitting the copy of the order to a governmental entity or private business to:

(A) prove that a financial transaction or account of the victim was directly affected by the commission of a crime of identity theft; and

(B) correct any record of the entity or business that contains inaccurate or false information as a result of the offense;

(3) on order of the judge; or

(4) as otherwise required by law.

(f) A court at any time may vacate an order issued under this section if the court finds that the application or any information submitted to the court by the applicant contains a fraudulent misrepresentation or a material misrepresentation of fact.

(g) Except as provided in subsection (h), a copy of the order provided to a person under subsection (e)(1) must remain sealed throughout and after the civil proceeding. Information contained in a copy of an order provided to a governmental entity or business under subsection (e)(2) is confidential and may not be released to another person except as otherwise required by law.

(h) The following information regarding an application filed under this section may be released to the public:

(1) The name of the applicant.

(2) The county of residence of the applicant.

(3) Whether the application was approved or denied by the court.

SECTION 12. IC 35-41-1-1, AS AMENDED BY P.L.125-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) As used in this section, "Indiana" includes:

(1) the area within the boundaries of the state of Indiana, as set forth in Article 14, Section 1 of the Constitution of the State of Indiana;

(2) the portion of the Ohio River on which Indiana possesses concurrent jurisdiction with the state of Kentucky under Article 14, Section 2 of the Constitution of the State of Indiana; and

(3) the portion of the Wabash River on which Indiana possesses concurrent jurisdiction with the state of Illinois under Article 14, Section 2 of the Constitution of the State of Indiana.

(b) A person may be convicted under Indiana law of an offense if:

(1) either the conduct that is an element of the offense, the result that is an element, or both, occur in Indiana;

(2) conduct occurring outside Indiana is sufficient under Indiana law to constitute an attempt to commit an offense in Indiana;

(3) conduct occurring outside Indiana is sufficient under Indiana law to constitute a conspiracy to commit an offense in Indiana, and an overt act in furtherance of the conspiracy occurs in Indiana;

(4) conduct occurring in Indiana establishes complicity in the commission of, or an attempt or conspiracy to commit, an offense in another jurisdiction that also is an offense under Indiana law;

(5) the offense consists of the omission to perform a duty imposed by Indiana law with respect to domicile, residence, or a relationship to a person, thing, or transaction in Indiana;

(6) conduct that is an element of the offense or the result of conduct that is an element of the offense, or both, involve the use of the Internet or another computer network (as defined in IC 35-43-2-3) and access to the Internet or other computer network occurs in Indiana; or

(7) conduct:

(A) involves the use of:

(i) the Internet or another computer network (as defined in IC 35-43-2-3); or

(ii) another form of electronic communication;

(B) occurs outside Indiana and the victim of the offense

resides in Indiana at the time of the offense; and

(C) is sufficient under Indiana law to constitute an offense in Indiana.

(c) When the offense is homicide, either the death of the victim or bodily impact causing death constitutes a result under subsection (b)(1). If the body of a homicide victim is found in Indiana, it is presumed that the result occurred in Indiana.

(d) If the offense is identity deception **or synthetic identity deception,** the lack of the victim's consent constitutes conduct that is an element of the offense under subsection (b)(1). If a victim of identity deception **or synthetic identity deception** resides in Indiana when a person knowingly or intentionally obtains, possesses, transfers, or uses the victim's identifying information, it is presumed that the conduct that is the lack of the victim's consent occurred in Indiana.

SECTION 13. IC 35-43-5-1, AS AMENDED BY P.L.181-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The definitions set forth in this section apply throughout this chapter.

(b) "Claim statement" means an insurance policy, a document, or a statement made in support of or in opposition to a claim for payment or other benefit under an insurance policy, or other evidence of expense, injury, or loss. The term includes statements made orally, in writing, or electronically, including the following:

(1) An account.

(2) A bill for services.

(3) A bill of lading.

(4) A claim.

(5) A diagnosis.

(6) An estimate of property damages.

(7) A hospital record.

(8) An invoice.

(9) A notice.

(10) A proof of loss.

(11) A receipt for payment.

(12) A physician's records.

(13) A prescription.

(14) A statement.

(15) A test result.

(16) X-rays.

(c) "Coin machine" means a coin box, vending machine, or other mechanical or electronic device or receptacle designed:

(1) to receive a coin, bill, or token made for that purpose; and

(2) in return for the insertion or deposit of a coin, bill, or token automatically:

(A) to offer, provide, or assist in providing; or

(B) to permit the acquisition of;

some property.

(d) "Credit card" means an instrument or device (whether known as a credit card or charge plate, or by any other name) issued by an issuer for use by or on behalf of the credit card holder in obtaining property.

(e) "Credit card holder" means the person to whom or for whose benefit the credit card is issued by an issuer.

(f) "Customer" means a person who receives or has contracted for a utility service.

(g) "Drug or alcohol screening test" means a test that:

(1) is used to determine the presence or use of alcohol, a controlled substance, or a drug in a person's bodily substance; and

(2) is administered in the course of monitoring a person who is:

(A) incarcerated in a prison or jail;

(B) placed in a community corrections program;

(C) on probation or parole;

(D) participating in a court ordered alcohol or drug treatment program; or

(E) on court ordered pretrial release.

(h) "Entrusted" means held in a fiduciary capacity or placed in charge of a person engaged in the business of transporting, storing, lending on, or otherwise holding property of others.

(i) "Identifying information" means information that identifies ~~an individual,~~ **a person,** including ~~an individual's~~ **a person's:**

(1) name, address, date of birth, place of employment, employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental entity;

(2) unique biometric data, including the ~~individual's~~ **person's** fingerprint, voice print, or retina or iris image;

(3) unique electronic identification number, address, or routing

code;

(4) telecommunication identifying information; or

(5) telecommunication access device, including a card, a plate, a code, a telephone number, an account number, a personal identification number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access that may be used to:

(A) obtain money, goods, services, or any other thing of value; or

(B) initiate a transfer of funds.

(j) "Insurance policy" includes the following:

(1) An insurance policy.

(2) A contract with a health maintenance organization (as defined in IC 27-13-1-19) or a limited service health maintenance organization (as defined in IC 27-13-1-27).

(3) A written agreement entered into under IC 27-1-25.

(k) "Insurer" has the meaning set forth in IC 27-1-2-3(x). The term also includes the following:

(1) A reinsurer.

(2) A purported insurer or reinsurer.

(3) A broker.

(4) An agent of an insurer, a reinsurer, a purported insurer or reinsurer, or a broker.

(5) A health maintenance organization.

(6) A limited service health maintenance organization.

(l) "Manufacturer" means a person who manufactures a recording. The term does not include a person who manufactures a medium upon which sounds or visual images can be recorded or stored.

(m) "Make" means to draw, prepare, complete, counterfeit, copy or otherwise reproduce, or alter any written instrument in whole or in part.

(n) "Metering device" means a mechanism or system used by a utility to measure or record the quantity of services received by a customer.

(o) "Public relief or assistance" means any payment made, service rendered, hospitalization provided, or other benefit extended to a person by a governmental entity from public funds and includes township assistance, food stamps, direct relief, unemployment compensation, and any other form of support or aid.

(p) "Recording" means a tangible medium upon which sounds or visual images are recorded or stored. The term includes the following:

(1) An original:

(A) phonograph record;

(B) compact disc;

(C) wire;

(D) tape;

(E) audio cassette;

(F) video cassette; or

(G) film.

(2) Any other medium on which sounds or visual images are or can be recorded or otherwise stored.

(3) A copy or reproduction of an item in subdivision (1) or (2) that duplicates an original recording in whole or in part.

(q) "Slug" means an article or object that is capable of being deposited in a coin machine as an improper substitute for a genuine coin, bill, or token.

(r) "Synthetic identifying information" means identifying information that identifies:

(1) a false or fictitious person;

(2) a person other than the person who is using the information; or

(3) a combination of persons described under subdivisions (1) and (2).

~~(r)~~ **(s)** "Utility" means a person who owns or operates, for public use, any plant, equipment, property, franchise, or license for the production, storage, transmission, sale, or delivery of electricity, water, steam, telecommunications, information, or gas.

~~(s)~~ **(t)** "Written instrument" means a paper, a document, or other instrument containing written matter and includes money, coins, tokens, stamps, seals, credit cards, badges, trademarks, medals, retail sales receipts, labels or markings (including a universal product code (UPC) or another product identification code), or other objects or symbols of value, right, privilege, or identification.

SECTION 14. IC 35-43-5-3.5, AS AMENDED BY P.L.125-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3.5. (a) Except as provided in subsection (c), a person who knowingly or intentionally obtains, possesses, transfers, or

uses the identifying information of another person, including the identifying information of a person who is deceased:

(1) without the other person's consent; and

(2) with intent to:

(A) harm or defraud another person;

(B) assume another person's identity; or

(C) profess to be another person;

commits identity deception, a Class D felony.

(b) However, the offense defined in subsection (a) is a Class C felony if:

(1) a person obtains, possesses, transfers, or uses the identifying information of more than one hundred (100) persons; ~~or~~

(2) the fair market value of the fraud or harm caused by the offense is at least fifty thousand dollars ($50,000); **or**

(3) a person obtains, possesses, transfers, or uses the identifying information of a person who is less than eighteen (18) years of age and is:

(A) the person's son or daughter;

(B) a dependent of the person;

(C) a ward of the person; or

(D) an individual for whom the person is a guardian.

(c) The conduct prohibited in subsections (a) and (b) does not apply to:

(1) a person less than twenty-one (21) years of age who uses the identifying information of another person to acquire an alcoholic beverage (as defined in IC 7.1-1-3-5);

(2) a minor (as defined in IC 35-49-1-4) who uses the identifying information of another person to acquire:

(A) a cigarette or tobacco product (as defined in IC 6-7-2-5);

(B) a periodical, a videotape, or other communication medium that contains or depicts nudity (as defined in IC 35-49-1-5);

(C) admittance to a performance (live or film) that prohibits the attendance of the minor based on age; or

(D) an item that is prohibited by law for use or consumption by a minor; or

(3) any person who uses the identifying information for a lawful purpose.

(d) It is not a defense in a prosecution under subsection (a) or (b)

that no person was harmed or defrauded.

SECTION 15. IC 35-43-5-3.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.8. (a) A person who knowingly or intentionally obtains, possesses, transfers, or uses the synthetic identifying information:**

(1) with intent to harm or defraud another person;

(2) with intent to assume another person's identity; or

(3) with intent to profess to be another person;

commits synthetic identity deception, a Class D felony.

(b) The offense under subsection (a) is a Class C felony if:

(1) a person obtains, possesses, transfers, or uses the synthetic identifying information of more than one hundred (100) persons; or

(2) the fair market value of the fraud or harm caused by the offense is at least fifty thousand dollars ($50,000).

(c) The conduct prohibited in subsections (a) and (b) does not apply to:

(1) a person less than twenty-one (21) years of age who uses the synthetic identifying information of another person to acquire an alcoholic beverage (as defined in IC 7.1-1-3-5); or

(2) a minor (as defined in IC 35-49-1-4) who uses the synthetic identifying information of another person to acquire:

(A) a cigarette or tobacco product (as defined in IC 6-7-2-5);

(B) a periodical, a videotape, or other communication medium that contains or depicts nudity (as defined in IC 35-49-1-5);

(C) admittance to a performance (live or on film) that prohibits the attendance of the minor based on age; or

(D) an item that is prohibited by law for use or consumption by a minor.

(d) It is not a defense in a prosecution under subsection (a) or (b) that no person was harmed or defrauded.

SECTION 16. IC 35-43-5-4.3, AS ADDED BY P.L.125-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.3. (a) As used in this section, "card skimming device" means a device that is designed to read information encoded on

a credit card. The term includes a device designed to read, record, or transmit information encoded on a credit card:

(1) directly from a credit card; or

(2) from another device that reads information directly from a credit card.

(b) A person who possesses a card skimming device with intent to commit:

(1) identity deception (IC 35-43-5-3.5);

(2) synthetic identity deception (IC 35-43-5-3.8);

~~(2)~~ **(3)** fraud (IC 35-43-5-4); or

~~(3)~~ **(4)** terroristic deception (IC 35-43-5-3.6);

commits unlawful possession of a card skimming device. Unlawful possession of a card skimming device under subdivision (1), ~~or~~ (2), **or (3)** is a Class D felony. Unlawful possession of a card skimming device under subdivision ~~(3)~~ **(4)** is a Class C felony.

SECTION 17. [EFFECTIVE JULY 1, 2009] **IC 35-43-5-3.8, as added by this act, and IC 35-43-5-3.5 and IC 35-43-5-4.3, both as amended by this act, apply only to crimes committed after June 30, 2009.**

ACTS 2009

Laws enacted by the

116th GENERAL ASSEMBLY

at the

FIRST REGULAR SESSION
(2009)

VOLUME III

(P.L.138-2009 through P.L.181-2009)

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

Office of Code Revision
Legislative Services Agency

P.L.138-2009
[H.1123. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-19-14.5-1, AS AMENDED BY P.L.1-2006, SECTION 162, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. A privately owned vehicle belonging to a certified paramedic, certified emergency medical technician-intermediate, certified emergency medical technician-basic advanced, certified emergency medical technician, certified emergency medical service driver, or certified emergency medical service first responder while traveling in the line of duty in connection with emergency medical services activities may display flashing or revolving green lights, subject to the following restrictions and conditions:

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

(2) All lights ~~shall be placed~~ **must be prominently displayed** on the top of the vehicle.

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

(4) The lights must consist of:

(A) a lamp with a green lens; ~~and not of an uncolored lens with a green bulb.~~ **or**

(B) a green light emitting diode (LED).

However, the revolving lights may contain multiple bulbs.

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

(6) For a person to be authorized under this chapter to display a

flashing or revolving green light on the person's vehicle, the person must first secure a written permit from the executive director of the department of homeland security to use the light. The permit must be carried by the person when the light is displayed.

SECTION 2. IC 9-21-5-6, AS AMENDED BY P.L.169-2006, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Except as provided in ~~subsection~~ **subsections** (e) **and (f),** whenever a local authority in the authority's jurisdiction determines that the maximum speed permitted under this chapter is greater or less than reasonable and safe under the conditions found to exist on a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit on the highway. The maximum limit declared under this section may do any of the following:

(1) Decrease the limit within urban districts, but not to less than twenty (20) miles per hour.

(2) Increase the limit within an urban district, but not to more than fifty-five (55) miles per hour during daytime and fifty (50) miles per hour during nighttime.

(3) Decrease the limit outside an urban district, but not to less than thirty (30) miles per hour.

(4) Decrease the limit in an alley, but to not less than five (5) miles per hour.

(5) Increase the limit in an alley, but to not more than thirty (30) miles per hour.

The local authority must perform an engineering and traffic investigation before a determination may be made to change a speed limit under subdivision (2), (3), (4), or (5) or before the speed limit within an urban district may be decreased to less than twenty-five (25) miles per hour under subdivision (1).

(b) **Except as provided in subsection (f),** a local authority in the authority's jurisdiction shall determine by an engineering and traffic investigation the proper maximum speed for all local streets and shall declare a reasonable and safe maximum speed permitted under this chapter for an urban district. However, an engineering and traffic study is not required to be performed for the local streets in an urban district under this subsection if the local authority determines that the proper

maximum speed in the urban district is not less than twenty-five (25) miles per hour.

(c) An altered limit established under this section is effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice of the altered limit are erected on the street or highway.

(d) Except as provided in this subsection, a local authority may not alter a speed limit on a highway or extension of a highway in the state highway system. A city or town may establish speed limits on state highways upon which a school is located. However, a speed limit established under this subsection is valid only if the following conditions exist:

(1) The limit is not less than twenty (20) miles per hour.

(2) The limit is imposed only in the immediate vicinity of the school.

(3) Children are present.

(4) The speed zone is properly signed. **After June 30, 2011, there must be:**

(A) a sign located:

(i) where the reduced speed zone begins; or

(ii) as near as practical to the point where the reduced speed zone begins;

indicating the reduced speed limit; and

(B) a sign located at the end of the reduced speed zone indicating:

(i) the speed limit for the section of highway that follows; or

(ii) the end of the reduced speed zone.

(5) The Indiana department of transportation has been notified of the limit imposed by certified mail.

(e) A local authority may decrease a limit on a street to not less than fifteen (15) miles per hour if the following conditions exist:

(1) The street is located within a park or playground established under IC 36-10.

(2) The:

(A) board established under IC 36-10-3;

(B) board established under IC 36-10-4; or

(C) park authority established under IC 36-10-5;

requests the local authority to decrease the limit.

(3) The speed zone is properly signed.

(f) A city, town, or county may establish speed limits on a street or highway upon which a school is located if the street or highway is under the jurisdiction of the city, town, or county, respectively. However, a speed limit established under this subsection is valid only if the following conditions exist:

(1) The limit is not less than:

(A) twenty (20) miles per hour within an urban district; and

(B) thirty (30) miles per hour outside an urban district.

(2) The limit is imposed only in the immediate vicinity of the school.

(3) Children are present.

(4) The speed zone is properly signed. After June 30, 2011, there must be:

(A) a sign located:

(i) where the reduced speed zone begins; or

(ii) as near as practical to the point where the reduced speed zone begins;

indicating the reduced speed limit; and

(B) a sign located at the end of the reduced speed zone indicating the end of the reduced speed zone.

P.L.139-2009
[H.1133. Approved May 12, 2009.]

AN ACT concerning labor and safety.

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

SECTION 1. [EFFECTIVE JULY 1, 2009] **(a) As used in this SECTION, "commission" refers to the pension management oversight commission established by IC 2-5-12-1.**

(b) The general assembly urges the legislative council to assign to the commission the study of the feasibility of the state personnel department conducting an analysis to determine the comparable work value of the work performed by each class of state employees, including the use of the state personnel department's current job evaluation system or another job evaluation system, if necessary to conduct the analysis.

(c) If the commission is assigned the topic described in subsection (b), the commission shall issue a final report to the legislative council containing the commission's findings and recommendations concerning the topic, including any recommended legislation, not later than November 1, 2009.

(d) This SECTION expires June 30, 2010.

P.L.140-2009
[H.1194. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning Medicaid.

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

SECTION 1. IC 12-15-1-20.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 20.2. The office shall develop, maintain, and use a computer system to store documents concerning the disproportionate share hospital payment program, the hospital care for the indigent program, and the hospital care for the indigent upper payment level program. The system must include the following documents related to the programs:**

(1) Federal and state laws.

(2) Federal and state rules and regulations.

(3) Policies and guidance statements.

(4) Medicaid waivers.

(5) Medicaid state plan amendments.

(6) Funding allotments to health care facilities.

(7) Funding formulas and any other explanatory information detailing how an individual allotment is calculated.

SECTION 2. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "committee" refers to the interim study committee on Medicaid supplemental programs established by this SECTION.**

(b) There is established the interim study committee on Medicaid supplemental programs. The committee shall study issues concerning Medicaid supplemental payment programs, including the following:

(1) Federal intergovernmental transfer leveraging and alternative revenue generating options if currently used leveraging is determined by the federal government to be invalid.

(2) The merits and effect of expanding the Indiana check-up

plan established by IC 12-15-44.2-3 to cover additional childless adults through a federal Medicaid waiver or Medicaid state plan amendment.

(c) The committee shall operate under the policies governing study committees adopted by the legislative council.

(d) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including a final report.

(e) This SECTION expires November 1, 2009.

SECTION 3. [EFFECTIVE JULY 1, 2009] **(a) As used in this SECTION, "committee" refers to the legislative evaluation and oversight policy subcommittee established by IC 2-5-21-6.**

(b) The committee shall evaluate the following programs under the office of the secretary of family and social services during 2009 and 2010:

(1) The disproportionate share hospital care payment program.

(2) The hospital care for the indigent program.

(3) The hospital care for the indigent upper payment level program.

(c) The committee shall submit a report of the findings of the committee to the legislative council not later than July 1, 2010.

(d) The report described in this SECTION replaces any other report the committee was previously scheduled to conduct in 2009 and report on by July 1, 2010.

(e) This SECTION expires December 31, 2010.

SECTION 4. **An emergency is declared for this act.**

P.L.141-2009
[H.1230. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-3-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The cost of all public notice advertising which any elected or appointed public official or governmental agency is required by law to have published, or orders published, for which the compensation to the newspapers or qualified publications publishing such advertising is drawn from and is the ultimate obligation of the public treasury of the governmental unit concerned with the advertising shall be charged to and collected from the proper fund of the public treasury and paid over to the newspapers or qualified publications publishing such advertising, after proof of publication and claim for payment has been filed.

(b) The basic charges for publishing public notice advertising shall be by the line and shall be computed based on a square of two hundred and fifty (250) ems at the following rates:

(1) Before January 1, 1996, three dollars and thirty cents ($3.30) per square for the first insertion in newspapers or qualified publications plus one dollar and sixty-five cents ($1.65) per square for each additional insertion in newspapers or qualified publications.

(2) After December 31, 1995, and before December 31, 2005, a newspaper or qualified publication may, effective January 1 of any year, increase the basic charges by five percent (5%) more than the basic charges that were in effect during the previous year. However, the basic charges for the first insertion of a public notice in a newspaper or qualified publication may not exceed the lowest classified advertising rate charged to advertisers by the

newspaper or qualified publication for comparable use of the same amount of space for other purposes.

(3) After December 31, 2009, a newspaper or qualified publication may, effective January 1 of any year, increase the basic charges by not more than two and three-quarters percent (2.75%) more than the basic charges that were in effect during the previous year. However, the basic charges for the first insertion of a public notice in a newspaper or qualified publication may not exceed the lowest classified advertising rate charged to advertisers by the newspaper or qualified publication for comparable use of the same amount of space for other purposes and must include all multiple insertion discounts extended to the newspaper's other advertisers.

An additional charge of fifty percent (50%) shall be allowed for the publication of all public notice advertising containing rule or tabular work.

(c) All public notice advertisements shall be set in solid type ~~not larger than the type used in the regular reading matter of the newspaper or qualified publication,~~ **that is at least 7 point type,** without any leads or other devices for increasing space. All public notice advertisements shall be headed by not more than two (2) lines, neither of which shall total more than four (4) solid lines of the type in which the body of the advertisement is set. Public notice advertisements may be submitted by an appointed or elected official or a governmental agency to a newspaper or qualified publication in electronic form, if the newspaper or qualified publication is equipped to accept information in compatible electronic form.

(d) Each newspaper or qualified publication publishing public notice advertising shall submit proof of publication and claim for payment in duplicate on each public notice advertisement published. For each additional proof of publication required by a public official, a charge of one dollar ($1) per copy shall be allowed each newspaper or qualified publication furnishing proof of publication.

(e) The circulation of a newspaper or qualified publication is determined as follows:

(1) For a newspaper, by the circulation stated on line 10.C. (Total Paid and/or Requested Circulation of Single Issue Published Nearest to Filing Date) of the Statement of Ownership,

Management and Circulation required by 39 U.S.C. 3685 that was filed during the previous year.

(2) For a qualified publication, by a verified affidavit filed with each governmental agency that has public notices the qualified publication wants to publish. The affidavit must:

(A) be filed with the governmental agency before January 1 of each year; and

(B) attest to the circulation of the qualified publication for the issue published nearest to October 1 of the previous year.

SECTION 2. IC 5-3-1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.5. (a) This section applies after June 30, 2009, to a notice that must be published in accordance with this chapter.**

(b) If a newspaper maintains an Internet web site, a notice that is published in the newspaper must also be posted on the newspaper's web site. The notice must appear on the web site on the same day the notice appears in the newspaper.

(c) The state board of accounts shall develop a standard form for notices posted on a newspaper's Internet web site.

(d) A newspaper may not charge a fee for posting a notice on the newspaper's Internet web site under this section.

SECTION 3. IC 5-3-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) This section applies only when notice of an event is required to be given by publication in accordance with ~~IC 5-3-1.~~ **this chapter.**

(b) If the event is a public hearing or meeting concerning any matter not specifically mentioned in subsection (c), (d), (e), (f), (g), or (h) notice shall be published one (1) time, at least ten (10) days before the date of the hearing or meeting.

(c) If the event is an election, notice shall be published one (1) time, at least ten (10) days before the date of the election.

(d) If the event is a sale of bonds, notes, or warrants, notice shall be published two (2) times, at least one (1) week apart, with:

(1) the first publication made at least fifteen (15) days before the date of the sale; and

(2) the second publication made at least three (3) days before the date of the sale.

(e) If the event is the receiving of bids, notice shall be published two

(2) times, at least one (1) week apart, with the second publication made at least seven (7) days before the date the bids will be received.

(f) If the event is the establishment of a cumulative or sinking fund, notice of the proposal and of the public hearing that is required to be held by the political subdivision shall be published two (2) times, at least one (1) week apart, with the second publication made at least three (3) days before the date of the hearing.

(g) If the event is the submission of a proposal adopted by a political subdivision for a cumulative or sinking fund for the approval of the department of local government finance, the notice of the submission shall be published one (1) time. The political subdivision shall publish the notice when directed to do so by the department of local government finance.

(h) If the event is the required publication of an ordinance, notice of the passage of the ordinance shall be published one (1) time within thirty (30) days after the passage of the ordinance.

(i) If the event is one about which notice is required to be published after the event, notice shall be published one (1) time within thirty (30) days after the date of the event.

(j) If the event is anything else, notice shall be published two (2) times, at least one (1) week apart, with the second publication made at least three (3) days before the event.

(k) ~~In case~~ **If** any officer charged with the duty of publishing any notice required by law is unable to procure advertisement:

(1) at the price fixed by law; ~~or~~

(2) because the newspaper refuses to publish the advertisement; **or**

(3) because the newspaper refuses to post the advertisement on the newspaper's Internet web site (if required under section 1.5 of this chapter);

it is sufficient for the officer to post printed notices in three (3) prominent places in the political subdivision, instead of ~~advertisement~~ **publication of the notice** in newspapers **and on an Internet web site (if required under section 1.5 of this chapter).**

(l) If a notice of budget estimates for a political subdivision is published as required in IC 6-1.1-17-3, and the published notice contains an error due to the fault of a newspaper, the notice as presented for publication is a valid notice under this chapter.

(m) Notwithstanding subsection (j), if a notice of budget estimates for a political subdivision is published as required in IC 6-1.1-17-3, and if the notice is not published at least ten (10) days before the date fixed for the public hearing on the budget estimate due to the fault of a newspaper, the notice is a valid notice under this chapter if it is published one (1) time at least three (3) days before the hearing.

SECTION 4. IC 5-3-1-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.5. (a) This section applies to each political subdivision that has:**

(1) an annual budget of at least three hundred thousand dollars ($300,000); and

(2) the power to levy taxes.

(b) This section does not apply to a political subdivision that is required to publish an annual report under any other statute.

(c) As used in this section, "political subdivision" has the meaning set forth in IC 36-1-2-13.

(d) Not later than sixty (60) days after the expiration of each calendar year, a political subdivision shall publish an annual report of the receipts and expenditures of the political subdivision during the preceding calendar year.

(e) The annual reports required by this section shall be published only one (1) time per year.

SECTION 5. IC 5-3-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Whenever officers of a political subdivision are required to publish a notice affecting the political subdivision, they shall publish the notice in two (2) newspapers published in the political subdivision.

(b) This subsection applies to notices published by county officers. If there is only one (1) newspaper published in the county, then publication in that newspaper alone is sufficient.

(c) This subsection applies to notices published by city, town, or school corporation officers. If there is only one (1) newspaper published in the municipality or school corporation, then publication in that newspaper alone is sufficient. If no newspaper is published in the municipality or school corporation, then publication shall be made in a newspaper published in the county in which the municipality or school corporation is located and that circulates within the municipality or school corporation. ~~The notice shall be posted.~~

~~(1) at or near the city or town hall or school administration building; or~~

~~(2) at the:~~

~~(A) public building where the governing body of the respective city, town, or school corporation meets; or~~

~~(B) post office in the municipality or school corporation (or at the bank if there is no post office);~~

~~if the municipality does not have a city or town hall, or the school corporation does not have an administration building.~~

(d) This subsection applies to notices published by officers of political subdivisions not covered by subsection (a) or (b). ~~including township officers.~~ If there is only one (1) newspaper published in the political subdivision, then the notice shall be published in that newspaper. ~~and if another newspaper is published in the county and circulates within the political subdivision in the other newspaper.~~ If no newspaper is published in the political subdivision, then publication shall be made in a newspaper published in the county and that circulates within the political subdivision.

(e) This subsection applies to a political subdivision, including a city, town, or school corporation. Notwithstanding any other law, if a political subdivision has territory in more than one (1) county, public notices that are required by law or ordered to be published must be given as follows:

(1) By publication in two (2) newspapers published within the boundaries of the political subdivision.

(2) If only one (1) newspaper is published within the boundaries of the political subdivision, by publication in that newspaper and in some other newspaper:

(A) published in any county in which the political subdivision extends; and

(B) that has a general circulation in the political subdivision.

(3) If no newspaper is published within the boundaries of the political subdivision, by publication in two (2) newspapers that:

(A) are published in any counties into which the political subdivision extends; and

(B) have a general circulation in the political subdivision.

(4) If only one (1) newspaper is published in any of the counties into which the political subdivision extends, by publication in that

newspaper if it circulates within the political subdivision.

(f) A political subdivision may, in its discretion, publish public notices in a qualified publication or additional newspapers to provide supplementary notification to the public. The cost of publishing supplementary notification is a proper expenditure of the political subdivision.

SECTION 6. IC 6-1.1-15-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) If a review or appeal authorized under this chapter results in a reduction of the amount of an assessment or if the department of local government finance on its own motion reduces an assessment, the taxpayer is entitled to a credit in the amount of any overpayment of tax on the next successive tax installment, if any, due in that year. After the credit is given, the county auditor shall:

(1) determine if a further amount is due the taxpayer; and

(2) if a further amount is due the taxpayer, notwithstanding IC 5-11-10-1 and IC 36-2-6-2, without a claim or an appropriation being required, pay the amount due the taxpayer.

The county auditor shall charge the amount refunded to the taxpayer against the accounts of the various taxing units to which the overpayment has been paid. The county auditor shall notify the county executive of the payment of the amount due. ~~and publish the allowance in the manner provided in IC 36-2-6-3.~~

(b) The notice **provided** under ~~subsection (a)(2) is~~ **subsection (a) shall be** treated as a claim by the taxpayer for the amount due referred to in ~~that subsection.~~ **subsection (a)(2).**

SECTION 7. IC 36-2-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) This section does not apply to claims for salaries fixed in a definite amount by ordinance or statute, per diem of jurors, and salaries of officers of a court.

(b) The county auditor shall ~~publish all claims that have been filed for the consideration of the county executive and shall~~ publish all allowances made by courts of the county. ~~Claims filed for the consideration of the executive shall be published at least three (3) days before each session of the executive, and~~ Court allowances shall be published at least three (3) days before the issuance of warrants in payment of those allowances. ~~In publication of itemized statements filed by assistant highway supervisors for consideration of the~~

~~executive, the auditor shall publish the name of each party and the total amount due each party named in the itemized statements. Notice of claims filed for consideration of the county executive must state their amounts and to whom they are made. Claims and~~ Allowances subject to this section shall be published as prescribed by IC 5-3-1 except that only one (1) publication in two (2) newspapers is required.

(c) ~~A member of the county executive who considers or allows a claim, or~~ A county auditor who issues warrants in payment of allowances made by ~~the county executive or~~ a court of the county, before compliance with subsection (b), commits a Class C infraction.

(d) A county auditor shall publish one (1) time in accordance with IC 5-3-1 a notice of all allowances made by a circuit or superior court. The notice must be published within sixty (60) days after the allowances are made and must state their amount, to whom they are made, and for what purpose they are made.

SECTION 8. IC 36-2-6-4.5, AS AMENDED BY P.L.146-2008, SECTION 688, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.5. (a) A county executive may adopt an ordinance allowing money to be disbursed for lawful county purposes under this section.

(b) Notwithstanding IC 5-11-10, with the prior written approval of the board having jurisdiction over the allowance of claims, the county auditor may make claim payments in advance of board allowance for the following kinds of expenses if the county executive has adopted an ordinance under subsection (a):

(1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.

(2) License or permit fees.

(3) Insurance premiums.

(4) Utility payments or utility connection charges.

(5) General grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.

(6) Grants of state funds authorized by statute.

(7) Maintenance or service agreements.

(8) Leases or rental agreements.

(9) Bond or coupon payments.

(10) Payroll.

(11) State or federal taxes.

(12) Expenses that must be paid because of emergency circumstances.

(13) Expenses described in an ordinance.

(c) Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the county auditor.

(d) The county executive or the county board having jurisdiction over the allowance of the claim shall review and allow the claim at its next regular or special meeting following the preapproved payment of the expense.

~~(e) A payment of expenses under this section must be published in the manner provided under section 3 of this chapter.~~

SECTION 9. IC 36-4-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) As used in this section, "compensation" means the total of all money paid to an elected city officer for performing duties as a city officer, regardless of the source of funds from which the money is paid.

(b) The city legislative body shall, by ordinance, fix the annual compensation of all elected city officers. ~~The ordinance must be published under IC 5-3-1, with the first publication at least thirty (30) days before final passage by the legislative body.~~

(c) The compensation of an elected city officer may not be changed in the year for which it is fixed nor may it be reduced below the amount fixed for the previous year.

SECTION 10. IC 36-4-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) This section applies only to second class cities.

(b) The city executive shall appoint:

(1) a city controller;

(2) a city civil engineer;

(3) a corporation counsel;

(4) a chief of the fire department;

(5) a chief of the police department; and

(6) other officers, employees, boards, and commissions required by statute.

(c) The board of public works and safety may be composed of three (3) members or five (5) members appointed by the executive. A

member may hold other appointive positions in city government during the member's tenure. IC 36-4-11-2 applies to board member appointments under this section. The executive shall appoint a clerk for the board.

(d) If the board of public works and board of public safety are established as separate boards, each board may be composed of three (3) members or five (5) members who are appointed by the executive. A member may hold other appointive positions in city government during the member's tenure. The executive shall appoint a clerk for each board.

(e) If the executive:

(1) increases the number of members of a board of public works and safety, a board of public works, or a board of public safety from three (3) to five (5) members; or

(2) decreases the number of members of a board of public works and safety, a board of public works, or a board of public safety from five (5) to three (3) members;

the city shall publish notice under IC 5-3-1 of the increase or decrease in members and state the total number of members appointed to the board.

SECTION 11. IC 36-4-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) This section applies only to third class cities.

(b) The city executive shall appoint:

(1) a city civil engineer;

(2) a city attorney;

(3) a chief of the fire department;

(4) a chief of the police department; and

(5) other officers, employees, boards, and commissions required by statute.

(c) **The board of public works and safety consists of three (3) or five (5) members (as determined by the city executive).** The members of the board of public works and safety are:

(1) the city executive; and

(2) two (2) **or four (4)** persons appointed by the executive.

If the executive increases the number of board members from three (3) to five (5) members or decreases the number of board members from five (5) to three (3) members, the city shall publish

notice under IC 5-3-1 of the increase or decrease in members and state the total number of members appointed to the board. IC 36-4-4-2 notwithstanding, a member may hold other appointive or elective positions in city government during the member's tenure. IC 36-4-11-2 applies to board member appointments under this section. The city clerk is the clerk of the board.

(d) If the city legislative body adopts an ordinance under IC 36-4-12 to employ a city manager, the executive may appoint the city manager to a position on the board of public works and safety in place of the executive.

P.L.142-2009
[H.1285. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning gaming.

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

SECTION 1. IC 4-1-8-1, AS AMENDED BY P.L.1-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) No individual may be compelled by any state agency, board, commission, department, bureau, or other entity of state government (referred to as "state agency" in this chapter) to provide the individual's Social Security number to the state agency against the individual's will, absent federal requirements to the contrary. However, the provisions of this chapter do not apply to the following:

(1) Department of state revenue.
(2) Department of workforce development.
(3) The programs administered by:
  (A) the division of family resources;
  (B) the division of mental health and addiction;
  (C) the division of disability and rehabilitative services;

(D) the division of aging; and

(E) the office of Medicaid policy and planning;

of the office of the secretary of family and social services.

(4) Auditor of state.

(5) State personnel department.

(6) Secretary of state, with respect to the registration of broker-dealers, agents, and investment advisors.

(7) The legislative ethics commission, with respect to the registration of lobbyists.

(8) Indiana department of administration, with respect to bidders on contracts.

(9) Indiana department of transportation, with respect to bidders on contracts.

(10) Indiana professional licensing agency.

(11) Department of insurance, with respect to licensing of insurance producers.

(12) The department of child services.

(13) A pension fund administered by the board of trustees of the public employees' retirement fund.

(14) The Indiana state teachers' retirement fund.

(15) The state police benefit system.

(16) The alcohol and tobacco commission.

(17) The state department of health, for purposes of licensing radiologic technologists under IC 16-41-35-29(c).

(b) The bureau of motor vehicles may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number in an application for an official certificate of title for any vehicle required to be titled under IC 9-17.

(2) That an individual include the individual's Social Security number on an application for registration.

(3) That a corporation, limited liability company, firm, partnership, or other business entity include its federal tax identification number on an application for registration.

(c) The Indiana department of administration, the Indiana department of transportation, and the Indiana professional licensing agency may require an employer to provide its federal employer identification number.

(d) The department of correction may require a committed offender to provide the offender's Social Security number for purposes of matching data with the Social Security Administration to determine benefit eligibility.

(e) The Indiana gaming commission may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number:

(A) in any application for a riverboat owner's license, supplier's license, or occupational license; **or**

(B) in any document submitted to the commission in the course of an investigation necessary to ensure that gaming under IC 4-32.2, IC 4-33, and IC 4-35 is conducted with credibility and integrity.

(2) That a sole proprietorship, a partnership, an association, a fiduciary, a corporation, a limited liability company, or any other business entity include its federal tax identification number on an application for a riverboat owner's license or supplier's license.

(f) Notwithstanding this chapter, the department of education established by IC 20-19-3-1 may require an individual who applies to the department for a license or an endorsement to provide the individual's Social Security number. The Social Security number may be used by the department only for conducting a background investigation, if the department is authorized by statute to conduct a background investigation of an individual for issuance of the license or endorsement.

SECTION 2. IC 4-33-2-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 19. "Trustee" means a person granted authority under IC 4-33-21 to conduct gambling operations on a riverboat for the mutual benefit of:**

(1) the state; and

(2) the owner of the riverboat.

SECTION 3. IC 4-33-3-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) The governor shall appoint the executive director of the commission to serve at the pleasure of the governor. The executive director's compensation shall be approved annually by the governor under

IC 4-12-2.

(b) The commission may by resolution assign to the executive director any duty imposed upon the commission by this article.

~~(b)~~ **(c)** The executive director shall perform the duties assigned to the executive director by the commission. **The executive director may exercise any power conferred upon the commission by this article that is consistent with the duties assigned to the executive director under subsection (b).**

~~(c)~~ **(d)** In addition to any salary paid under this section, the executive director is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the executive director's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

SECTION 4. IC 4-33-4-3, AS AMENDED BY P.L.170-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The commission shall do the following:

(1) Adopt rules that the commission determines necessary to protect or enhance the following:

(A) The credibility and integrity of gambling operations authorized by this article.

(B) The regulatory process provided in this article.

(2) Conduct all hearings concerning civil violations of this article.

(3) Provide for the establishment and collection of license fees and taxes imposed under this article.

(4) Deposit the license fees and taxes in the state gaming fund established by IC 4-33-13.

(5) Levy and collect penalties for noncriminal violations of this article.

(6) Deposit the penalties in the state gaming fund established by IC 4-33-13.

(7) Be present through the commission's gaming agents during the time gambling operations are conducted on a riverboat to do the following:

(A) Certify the revenue received by a riverboat.

(B) Receive complaints from the public.

(C) Conduct other investigations into the conduct of the gambling games and the maintenance of the equipment that

the commission considers necessary and proper.

(8) Adopt emergency rules under IC 4-22-2-37.1 if the commission determines that:

(A) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and

(B) an emergency rule is likely to address the need.

(9) Adopt rules to establish and implement a voluntary exclusion program that meets the requirements of subsection (c).

(10) Establish the requirements for a power of attorney submitted under IC 4-33-6-2(c), IC 4-33-6-22, IC 4-33-6.5-2(c), or IC 4-33-6.5-16.

(b) The commission shall begin rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 to adopt an emergency rule adopted under subsection (a)(8) not later than thirty (30) days after the adoption of the emergency rule under subsection (a)(8).

(c) Rules adopted under subsection (a)(9) must provide the following:

(1) Except as provided by rule of the commission, a person who participates in the voluntary exclusion program agrees to refrain from entering a riverboat or other facility under the jurisdiction of the commission.

(2) That the name of a person participating in the program will be included on a list of persons excluded from all facilities under the jurisdiction of the commission.

(3) Except as provided by rule of the commission, a person who participates in the voluntary exclusion program may not petition the commission for readmittance to a facility under the jurisdiction of the commission.

(4) That the list of patrons entering the voluntary exclusion program and the personal information of the participants are confidential and may only be disseminated by the commission to the owner or operator of a facility under the jurisdiction of the commission for purposes of enforcement and to other entities, upon request by the participant and agreement by the commission.

(5) That an owner of a facility under the jurisdiction of the commission shall make all reasonable attempts as determined by the commission to cease all direct marketing efforts to a person

participating in the program.

(6) That an owner of a facility under the jurisdiction of the commission may not cash the check of a person participating in the program or extend credit to the person in any manner. However, the voluntary exclusion program does not preclude an owner from seeking the payment of a debt accrued by a person before entering the program.

SECTION 5. IC 4-33-4-24.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 24.2. The executive director shall establish a model power of attorney setting forth the terms and conditions under which a trustee may conduct gambling operations on a riverboat under IC 4-33-21. The executive director may provide a copy of the model power of attorney to any interested party.**

SECTION 6. IC 4-33-4-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 25. (a) The commission may appoint a person to serve as a temporary trustee for a particular riverboat if the commission makes the following findings:**

(1) That circumstances requiring a trustee to assume control of the riverboat are likely to occur.

(2) That the commission has not approved a power of attorney identifying any other person to serve as the trustee for the riverboat.

(3) That there is not enough time to consider and approve a power of attorney with respect to the riverboat before the circumstances found likely to occur under subdivision (1) will occur.

(b) A person appointed under this section must be qualified to perform any duty described in this section or IC 4-33-21.

(c) A trustee appointed by the commission under this section shall serve until any of the following occurs:

(1) The commission adopts a resolution under IC 4-33-21-3 authorizing a trustee appointed by an approved power of attorney to conduct gambling operations under IC 4-33-21 on the riverboat.

(2) The commission revokes the trustee's authority to conduct gambling operations under IC 4-33-21-12.

(3) A new licensed owner or operating agent assumes control

of the riverboat.

(d) A trustee appointed by the commission under this section shall exercise the trustee's powers in accordance with:

(1) the model power of attorney established by the executive director under section 24.2 of this chapter; and

(2) IC 4-33-21.

SECTION 7. IC 4-33-4-26 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 26. The commission may impose a civil penalty upon a person who:**

(1) fails to submit a power of attorney before a deadline imposed by this article;

(2) fails to take any corrective action required by the commission with respect to a power of attorney submitted under IC 4-33-6-2(c), IC 4-33-6-22, IC 4-33-6.5-2(c), or IC 4-33-6.5-16; or

(3) violates any provision of this article concerning the submission of a power of attorney identifying the person who would serve as a trustee under the power of attorney.

SECTION 8. IC 4-33-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A person applying for an owner's license under this chapter must pay a nonrefundable application fee to the commission. The commission shall determine the amount of the application fee.

(b) An applicant must submit the following on forms provided by the commission:

(1) If the applicant is an individual, two (2) sets of the individual's fingerprints.

(2) If the applicant is not an individual, two (2) sets of fingerprints for each officer and director of the applicant.

(c) This subsection applies to an applicant who applies after June 30, 2009, for an owner's license. An applicant shall submit for the approval of the commission a written power of attorney identifying the person who, if approved by the commission, would serve as the applicant's trustee to operate the riverboat. The power of attorney submitted under this subsection must:

(1) be executed in the manner required by IC 30-5;

(2) describe the powers that may be delegated to the proposed trustee;

(3) conform with the requirements established by the commission under IC 4-33-4-3(a)(10); and

(4) be submitted on the date that the applicant pays the application fee described in subsection (a).

~~(c)~~ **(d)** The commission shall review the applications for an owner's license under this chapter and shall inform each applicant of the commission's decision concerning the issuance of the owner's license.

~~(d)~~ **(e)** The costs of investigating an applicant for an owner's license under this chapter shall be paid from the application fee paid by the applicant.

~~(e)~~ **(f)** An applicant for an owner's license under this chapter must pay all additional costs that are:

(1) associated with the investigation of the applicant; and

(2) greater than the amount of the application fee paid by the applicant.

SECTION 9. IC 4-33-6-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 22. (a) This section applies to any licensed owner who was not required to submit a proposed power of attorney when applying for an owner's license.**

(b) A licensed owner shall submit for the approval of the commission a written power of attorney identifying the person who, if approved by the commission, would serve as the licensed owner's trustee to operate the riverboat. The power of attorney submitted under this subsection must:

(1) be executed in the manner required by IC 30-5;

(2) describe the powers that may be delegated to the proposed trustee;

(3) conform with the requirements established by the commission under IC 4-33-4-3(a)(10); and

(4) be submitted before:

(A) November 1, 2009, in the case of a person holding an owner's license on July 1, 2009; or

(B) the deadline imposed by the commission in the case of a licensed owner who is subject to this section and not described by clause (A).

(c) The commission may not renew an owner's license unless the commission:

(1) receives a proposed power of attorney from the licensed

owner;

(2) approves the trustee identified by the power of attorney; and

(3) approves the power of attorney.

(d) A licensed owner must petition the commission for its approval of any changes to a power of attorney approved by the commission.

SECTION 10. IC 4-33-6.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A person, including a person who holds or has an interest in an owner's license issued under this article, may file an application with the commission to serve as an operating agent under this chapter. An applicant must pay a nonrefundable application fee to the commission in an amount to be determined by the commission.

(b) An applicant must submit the following on forms provided by the commission:

(1) If the applicant is an individual, two (2) sets of the individual's fingerprints.

(2) If the applicant is not an individual, two (2) sets of fingerprints for each officer and director of the applicant.

(c) This subsection applies to an applicant who applies after the effective date of this subsection to serve as an operating agent under this chapter. An applicant shall submit for the approval of the commission a written power of attorney identifying the person who, if approved by the commission, would serve as the applicant's trustee to operate the riverboat. The power of attorney submitted under this subsection must:

(1) be executed in the manner required by IC 30-5;

(2) describe the powers that may be delegated to the proposed trustee;

(3) conform with the requirements established by the commission under IC 4-33-4-3(a)(10); and

(4) be submitted on the date that the applicant pays the application fee described in subsection (a).

~~(c)~~ **(d)** The commission shall review the applications filed under this chapter and shall inform each applicant of the commission's decision.

~~(d)~~ **(e)** The costs of investigating an applicant to serve as an operating agent under this chapter shall be paid from the application fee paid by the applicant.

~~(c)~~ **(f)** An applicant to serve as an operating agent under this chapter must pay all additional costs that are:

(1) associated with the investigation of the applicant; and

(2) greater than the amount of the application fee paid by the applicant.

SECTION 11. IC 4-33-6.5-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16. (a) The person holding an operating agent contract on July 1, 2009, shall submit for the approval of the commission a written power of attorney identifying the person who, if approved by the commission, would serve as the operating agent's trustee to operate the riverboat. The power of attorney submitted under this subsection must:**

(1) be executed in the manner required by IC 30-5;

(2) describe the powers that may be delegated to the proposed trustee;

(3) conform with the requirements established by the commission under IC 4-33-4-3(a)(10); and

(4) be submitted before November 1, 2009.

(b) The commission may not renew an operating agent contract unless the commission:

(1) receives a proposed power of attorney from the operating agent;

(2) approves the trustee identified by the power of attorney; and

(3) approves the power of attorney.

(c) An operating agent must petition the commission for its approval of any changes to a power of attorney approved by the commission.

SECTION 12. IC 4-33-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a)** The commission may issue a supplier's license under this chapter to a person if:

(1) the person has:

(A) applied for the supplier's license;

(B) paid a nonrefundable application fee set by the commission;

(C) paid a ~~five~~ **seven** thousand **five hundred** dollar ~~($5,000)~~ **($7,500)** annual license fee; and

(D) submitted the following on forms provided by the

commission:

(i) if the applicant is an individual, two (2) sets of the individual's fingerprints; and

(ii) if the applicant is not an individual, two (2) sets of fingerprints for each officer and director of the applicant; and

(2) the commission has determined that the applicant is eligible for a supplier's license.

(b) A license issued under this chapter after June 30, 2009, satisfies the requirements of IC 4-35-6-1 with respect to suppliers for gambling games conducted at racetracks (as defined in IC 4-35-2-9).

SECTION 13. IC 4-33-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) Unless a supplier's license is suspended, expires, or is revoked, the supplier's license may be renewed annually upon:

(1) the payment of a ~~five~~ **seven** thousand **five hundred** dollar ~~($5,000)~~ **($7,500)** annual renewal fee; and

(2) a determination by the commission that the licensee is in compliance with this article.

(b) The holder of a supplier's license shall undergo a complete investigation every three (3) years to determine that the licensee is in compliance with this article.

(c) Notwithstanding subsection (b), the commission may investigate the holder of a supplier's license at any time the commission determines it is necessary to ensure that the licensee is in compliance with this article.

(d) The holder of a supplier's license shall bear the cost of an investigation or reinvestigation of the licensee and any investigation resulting from a potential transfer of ownership.

(e) A person who on June 30, 2009:

(1) held a supplier's license under IC 4-35-6; and

(2) did not hold a supplier's license under this chapter;

may obtain a renewal of the supplier's license under this chapter.

(f) A license renewed and held under this chapter after June 30, 2009, satisfies the requirements of IC 4-35-6-1 with respect to suppliers for gambling games conducted at racetracks (as defined in IC 4-35-2-9).

(g) This subsection applies to a supplier described in subsection (e) who applies for a renewal under this chapter. If the supplier's application is approved by the commission, the supplier is entitled to deduct the product of the following from the renewal fee due under subsection (a):

(1) six hundred twenty-five dollars ($625); multiplied by

(2) the number of months remaining on the annual license issued to the supplier under IC 4-35-6 when that license was terminated on July 1, 2009.

SECTION 14. IC 4-33-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The commission may issue an occupational license to an individual if:

(1) the individual has applied for the occupational license;

(2) a nonrefundable application fee set by the commission has been paid on behalf of the applicant in accordance with subsection (b);

(3) the commission has determined that the applicant is eligible for an occupational license; and

(4) an ~~annual~~ **initial** license fee in an amount established by the commission has been paid on behalf of the applicant in accordance with subsection (b).

(b) A licensed owner, an applicant for a riverboat owner's license, an operating agent, an applicant for an operating agent contract, or a holder of a supplier's license shall pay the application fee of an individual applying for an occupational license to work:

(1) at the licensed owner's or operating agent's riverboat gambling operation; or

(2) for the holder of a supplier's license.

The licensed owner, applicant for a riverboat owner's license, operating agent, applicant for an operating agent contract, or holder of a supplier's license shall pay the ~~annual~~ **initial** occupational license fee **or license renewal fee** on behalf of an employee or potential employee. The licensed owner, applicant for a riverboat owner's license, operating agent, applicant for an operating agent contract, or holder of a supplier's license may seek reimbursement of ~~the~~ **an** application fee, ~~or annual~~ **initial** license fee, **or license renewal fee** from an employee who is issued an occupational license.

(c) A license issued under this chapter is valid for one (1) year, **two**

(2) years, or (3) years after the date of issuance **as determined by the commission.**

(d) Unless an occupational license is suspended, expires, or is revoked, the occupational license may be renewed ~~annually~~ upon:

(1) the payment of ~~an annual~~ **a** license **renewal** fee by the licensed owner, operating agent, or holder of a supplier's license on behalf of the licensee in an amount established by the commission; and

(2) a determination by the commission that the licensee is in compliance with this article.

(e) The commission may investigate the holder of an occupational license at any time the commission determines it is necessary to ensure that the licensee is in compliance with this article.

(f) A licensed owner, an applicant for a riverboat owner's license, an operating agent, an applicant for an operating agent contract, or a holder of a supplier's license shall pay the cost of an investigation or reinvestigation of a holder of an occupational license who is employed by the licensed owner, operating agent, or licensed supplier. The licensed owner, applicant for a riverboat owner's license, operating agent, applicant for an operating agent contract, or holder of a supplier's license may seek reimbursement of the cost of an investigation or reinvestigation from an employee who holds an occupational license.

SECTION 15. IC 4-33-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Gambling may be conducted **on a riverboat** by:

(1) a licensed ~~owners or~~ **owner;**

(2) an operating agent; ~~on riverboats.~~ **or**

(3) a trustee in accordance with IC 4-33-21.

SECTION 16. IC 4-33-21 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 21. Riverboat Operations Temporarily Conducted by a Trustee

Sec. 1. This chapter applies only to a trustee acting under the authority of:

(1) a resolution adopted by the commission authorizing the trustee to conduct gambling operations under this chapter;

and

(2) either of the following:

(A) A written power of attorney approved by the commission under IC 4-33-6-2(c), IC 4-33-6-22, IC 4-33-6.5-2(c), or IC 4-33-6.5-16.

(B) An appointment by the commission under IC 4-33-4-25.

Sec. 2. A person may not exercise any powers delegated by a power of attorney described by section 1(2) of this chapter unless the commission adopts a resolution under section 3 of this chapter.

Sec. 3. The commission may adopt a resolution authorizing a trustee to temporarily conduct gambling operations on a riverboat if any of the following occurs with respect to that particular riverboat:

(1) The commission revokes the owner's license or operating agent contract.

(2) The commission declines to renew the owner's license or operating agent contract.

(3) A proposed transferee is denied an owner's license under this article when attempting to purchase the riverboat and obtain an owner's license, but the person who attempted to sell the riverboat is unable or unwilling to retain ownership or control of the riverboat.

(4) A proposed transferee is denied an operating agent contract under this article when attempting to purchase the riverboat subject to IC 4-33-6.5, but the person who attempted to sell the riverboat is unable or unwilling to retain ownership or control of the riverboat.

(5) A licensed owner or an operating agent agrees in writing to relinquish control of a riverboat to a trustee as approved by the commission.

Sec. 4. A power of attorney designating a trustee to conduct gambling operations on a riverboat is effective on the date designated by the commission in a resolution authorizing the trustee to commence gambling operations. The power of attorney remains in effect until the date the trusteeship established by the operation of the power of attorney is terminated by resolution of the commission.

Sec. 5. (a) IC 30-5 applies to a trustee exercising powers under

this chapter.

(b) For purposes of IC 30-5, a trustee is an attorney in fact.

Sec. 6. A trustee who conducts gambling operations on a riverboat:

(1) must:

(A) be eligible to receive an occupational license under IC 4-33-8; and

(B) satisfy the requirements of any rule adopted by the commission under IC 4-33-8-4;

(2) must conduct the gambling operations within the same standards for character, reputation, and financial integrity that are imposed upon a licensed owner or operating agent by this article;

(3) must submit to the commission any information requested by the commission; and

(4) is charged with all the duties imposed upon a licensed owner or operating agent under this article.

Sec. 7. (a) A trustee acting under the authority of this chapter must fulfill the trustee's duties as a fiduciary for the owner of the riverboat. In addition, the trustee shall consider the effect of the trustee's actions upon:

(1) the amount of taxes remitted by the trustee under IC 4-33-12 and IC 4-33-13;

(2) the riverboat's dock city or county;

(3) the riverboat's employees; and

(4) the creditors of the owner of the riverboat.

(b) In balancing the interests described in subsection (a), a trustee shall conduct gambling operations on the riverboat in a manner that enhances the credibility and integrity of riverboat gambling in Indiana while minimizing disruptions to tax revenues, incentive payments, employment, and credit obligations.

Sec. 8. (a) A person who directly or indirectly owns a riverboat that is the subject of a resolution described in section 3 of this chapter has one hundred eighty (180) days after the date on which the commission adopts the resolution to sell the riverboat (and its related properties described in section 9 of this chapter) to another person who:

(1) satisfies the requirements of this article for obtaining an owner's license; and

(2) is approved by the commission.

(b) If the person is unable to sell the riverboat (and its related properties described in section 9 of this chapter) in the time required by subsection (a), the trustee may take any action necessary to sell the properties to another person who:

(1) satisfies the requirements of this article for obtaining an owner's license; and

(2) is approved by the commission.

Sec. 9. A trustee acting under the authority of this chapter may conduct the operations of any hotel, restaurant, golf course, or other amenity related to the riverboat operation.

Sec. 10. A trustee is entitled to reasonable compensation for carrying out the duties imposed upon the trustee under this chapter. The trustee's compensation must be:

(1) approved by the commission; and

(2) paid by the owner of the riverboat that is the subject of a resolution described in section 3 of this chapter.

Sec. 11. A licensed owner or an operating agent shall purchase liability insurance, in an amount determined by the commission, to protect the trustee appointed to conduct gambling operations on behalf of the licensed owner or operating agent from liability for any act or omission by the trustee occurring within the scope of the trustee's duties. The insurance coverage required by this section must apply to the entire period of the trusteeship.

Sec. 12. (a) Except as provided in subsection (b), the commission may after a public meeting revoke, modify, or amend a resolution authorizing a trustee to conduct gambling operations under this chapter upon a showing of good cause. A public meeting held under this subsection may be conducted by the commission or the executive director.

(b) In an emergency that requires immediate action to protect the credibility and integrity of riverboat gambling in Indiana, the commission may, without holding a hearing, take the following actions concerning a trustee whose actions have created the emergency:

(1) Revoke the resolution authorizing the trustee to conduct gambling operations under this chapter.

(2) Remove the trustee from the control of the riverboat subject to the revoked resolution.

SECTION 17. IC 4-35-2-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11. "Trustee" means a person granted authority under IC 4-35-12 to conduct gambling games at a racetrack for the mutual benefit of:**

(1) the state; and

(2) the permit holder who owns the racetrack.

SECTION 18. IC 4-35-4-2, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The commission shall do the following:

(1) Adopt rules under IC 4-22-2 that the commission determines are necessary to protect or enhance the following:

(A) The credibility and integrity of gambling games authorized under this article.

(B) The regulatory process provided in this article.

(2) Conduct all hearings concerning civil violations of this article.

(3) Provide for the establishment and collection of license fees imposed under this article, and deposit the license fees in the state general fund.

(4) Levy and collect penalties for noncriminal violations of this article and deposit the penalties in the state general fund.

(5) Approve the design, appearance, aesthetics, and construction of slot machine facilities authorized under this article.

(6) Adopt emergency rules under IC 4-22-2-37.1 if the commission determines that:

(A) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and

(B) an emergency rule is likely to address the need.

(7) Adopt rules to establish and implement a voluntary exclusion program that meets the requirements of subsection (c).

(8) Establish the requirements for a power of attorney submitted under IC 4-35-5-9.

(b) The commission shall begin rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 to adopt an emergency rule adopted under subsection (a)(6) not later than thirty (30) days after the adoption of the emergency rule under subsection (a)(6).

(c) Rules adopted under subsection (a)(7) must provide the

following:

(1) Except as provided by rule of the commission, a person who participates in the voluntary exclusion program agrees to refrain from entering a facility at which gambling games are conducted or another facility under the jurisdiction of the commission.

(2) That the name of a person participating in the program will be included on a list of persons excluded from all facilities under the jurisdiction of the commission.

(3) Except as provided by rule of the commission, a person who participates in the voluntary exclusion program may not petition the commission for readmittance to a facility under the jurisdiction of the commission.

(4) That the list of patrons entering the voluntary exclusion program and the personal information of the participants are confidential and may only be disseminated by the commission to the owner or operator of a facility under the jurisdiction of the commission for purposes of enforcement and to other entities, upon request by the participant and agreement by the commission.

(5) That an owner of a facility under the jurisdiction of the commission shall make all reasonable attempts as determined by the commission to cease all direct marketing efforts to a person participating in the program.

(6) That an owner of a facility under the jurisdiction of the commission may not cash the check of a person participating in the program or extend credit to the person in any manner. However, the voluntary exclusion program does not preclude an owner from seeking the payment of a debt accrued by a person before entering the program.

SECTION 19. IC 4-35-4-13.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.2. The executive director shall establish a model power of attorney setting forth the terms and conditions under which a trustee may conduct gambling games at a racetrack under IC 4-35-12. The executive director may provide a copy of the model power of attorney to any interested party.**

SECTION 20. IC 4-35-4-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: **Sec. 14. (a) The commission may appoint a temporary trustee for a particular slot machine facility at a racetrack if the commission makes the following findings:**

(1) That circumstances requiring a trustee to assume control of the slot machine facility are likely to occur.

(2) That the commission has not approved a power of attorney identifying any other person to serve as the trustee for the slot machine facility.

(3) That there is not enough time to consider and approve a power of attorney with respect to the slot machine facility before the circumstances found likely to occur under subdivision (1) will occur.

(b) A person appointed under this section must be qualified to perform any duty described in this section or IC 4-35-12.

(c) A trustee appointed by the commission under this section shall serve until any of the following occur:

(1) The commission adopts a resolution under IC 4-35-12-3 authorizing a trustee appointed in an approved power of attorney submitted by the permit holder to conduct gambling games under IC 4-35-12.

(2) The commission revokes the trustee's authority to conduct gambling games as provided by IC 4-35-12-12.

(3) A new permit holder assumes control of the racetrack, slot machine facility, and related properties.

(d) A trustee appointed by the commission under this section shall exercise the trustee's powers in accordance with:

(1) the model power of attorney established by the executive director under section 13.2 of this chapter; and

(2) IC 4-35-12.

SECTION 21. IC 4-35-4-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15. The commission may impose a civil penalty upon a person who:**

(1) fails to submit a power of attorney before the deadline specified in IC 4-35-5-9;

(2) fails to take any corrective action required by the commission with respect to a power of attorney submitted under IC 4-35-5-9; or

(3) violates any provision of this article concerning the

submission of a power of attorney identifying the person who would serve as a trustee under the power of attorney.

SECTION 22. IC 4-35-5-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. (a) A permit holder or an applicant for a gambling game license shall submit for the approval of the commission a written power of attorney identifying the person who, if approved by the commission, would serve as the permit holder's or applicant's trustee to conduct gambling games at a racetrack. The power of attorney submitted under this subsection must:**

(1) be executed in the manner required by IC 30-5;

(2) describe the powers that may be delegated to the proposed trustee; and

(3) conform with the requirements established by the commission under IC 4-35-4-2(a)(8).

(b) The proposed power of attorney required by this section must be submitted as follows:

(1) Before November 1, 2009, in the case of a permit holder who holds a gambling game license as of July 1, 2009.

(2) Before the deadline established by the commission, in the case of a person who applies for a gambling game license after December 31, 2008.

(c) A permit holder must petition the commission for its approval of any changes to a power of attorney approved by the commission.

SECTION 23. IC 4-35-6-1, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a) Before July 1, 2009,** the commission may issue a supplier's license under this chapter to a person if:

(1) the person has:

(A) applied for the supplier's license;

(B) paid a nonrefundable application fee set by the commission;

(C) paid a five thousand dollar ($5,000) annual supplier's license fee; and

(D) submitted, on forms provided by the commission, two (2) sets of:

(i) the individual's fingerprints, if the applicant is an

individual; or

(ii) fingerprints for each officer and director of the applicant, if the applicant is not an individual; and

(2) the commission has determined that the applicant is eligible for a supplier's license.

(b) Each license issued under this chapter is terminated on July 1, 2009.

(c) After June 30, 2009, a person may not:

(1) sell;

(2) lease; or

(3) contract to sell or lease;

a slot machine to a licensee unless the person holds a supplier's license originally issued under IC 4-33-7-1 or renewed under IC 4-33-7-8.

SECTION 24. IC 4-35-6.5-2, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The commission may issue an occupational license to an individual if:

(1) the individual has applied for the occupational license;

(2) a nonrefundable application fee set by the commission has been paid on behalf of the applicant in accordance with subsection (b);

(3) the commission has determined that the applicant is eligible for an occupational license; and

(4) an ~~annual~~ **initial** license fee in an amount established by the commission has been paid on behalf of the applicant in accordance with subsection (b).

(b) A permit holder that is an applicant for a license under this article or that is issued a license under this article or a holder of a supplier's license under this article shall pay the application fee of an individual applying for an occupational license to work:

(1) in an occupation related to gambling games at the permit holder's racetrack; or

(2) for the holder of a supplier's license.

A permit holder that is an applicant for a license under this article or that is issued a license under this article or a holder of a supplier's license under this article shall pay the ~~annual~~ **initial** occupational license fee **or license renewal fee** on behalf of an employee or

potential employee. A permit holder that is an applicant for a license under this article or that is issued a license under this article or a holder of a supplier's license under this article may seek reimbursement of the application fee, ~~or annual~~ **initial** license fee, **or license renewal fee** from an employee who is issued an occupational license.

(c) A license issued under this chapter is valid for one (1) year, **two (2) years, or three (3) years** after the date of issuance **as determined by the commission.**

(d) Unless an occupational license is suspended, expires, or is revoked, the occupational license may be renewed ~~annually~~ upon:

(1) the payment of ~~an annual~~ **a** license **renewal** fee by the permit holder that is issued a license under this article or the holder of a supplier's license under this article on behalf of the licensee in an amount established by the commission; and

(2) a determination by the commission that the licensee is in compliance with this article.

(e) The commission may investigate the holder of an occupational license at any time the commission determines it is necessary to ensure that the licensee is in compliance with this article.

(f) A permit holder that is an applicant for a license under this article or that is issued a license under this article or a holder of a supplier's license under this article:

(1) shall pay the cost of an investigation or reinvestigation of a holder of an occupational license who is employed by the permit holder or holder of a supplier's license; and

(2) may seek reimbursement of the cost of an investigation or reinvestigation from an employee who holds an occupational license.

SECTION 25. IC 4-35-7-12, AS AMENDED BY P.L.146-2008, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) The Indiana horse racing commission shall enforce the requirements of this section.

(b) Except as provided in subsections (j) and (k), a licensee shall before the fifteenth day of each month devote to the gaming integrity fund, horse racing purses, and to horsemen's associations an amount equal to fifteen percent (15%) of the adjusted gross receipts of the slot machine wagering from the previous month at the licensee's racetrack. The Indiana horse racing commission may not use any of this money

for any administrative purpose or other purpose of the Indiana horse racing commission, and the entire amount of the money shall be distributed as provided in this section. A licensee shall pay the first two hundred fifty thousand dollars ($250,000) distributed under this section in a state fiscal year to the **Indiana horse racing** commission for deposit in the gaming integrity fund established by IC 4-35-8.7-3. After this money has been distributed to the **Indiana horse racing** commission, a licensee shall distribute the remaining money devoted to horse racing purses and to horsemen's associations under this subsection as follows:

(1) Five-tenths percent (0.5%) shall be transferred to horsemen's associations for equine promotion or welfare according to the ratios specified in subsection (e).

(2) Two and five-tenths percent (2.5%) shall be transferred to horsemen's associations for backside benevolence according to the ratios specified in subsection (e).

(3) Ninety-seven percent (97%) shall be distributed to promote horses and horse racing as provided in subsection (d).

(c) A horsemen's association shall expend the amounts distributed to the horsemen's association under subsection (b)(1) through (b)(2) for a purpose promoting the equine industry or equine welfare or for a benevolent purpose that the horsemen's association determines is in the best interests of horse racing in Indiana for the breed represented by the horsemen's association. Expenditures under this subsection are subject to the regulatory requirements of subsection (f).

(d) A licensee shall distribute the amounts described in subsection (b)(3) as follows:

(1) Forty-six percent (46%) for thoroughbred purposes as follows:

(A) Sixty percent (60%) for the following purposes:

(i) Ninety-seven percent (97%) for thoroughbred purses.

(ii) Two and four-tenths percent (2.4%) to the horsemen's association representing thoroughbred owners and trainers.

(iii) Six-tenths percent (0.6%) to the horsemen's association representing thoroughbred owners and breeders.

(B) Forty percent (40%) to the breed development fund established for thoroughbreds under IC 4-31-11-10.

(2) Forty-six percent (46%) for standardbred purposes as follows:

(A) Fifty percent (50%) for the following purposes:

(i) Ninety-six and five-tenths percent (96.5%) for standardbred purses.

(ii) Three and five-tenths percent (3.5%) to the horsemen's association representing standardbred owners and trainers.

(B) Fifty percent (50%) to the breed development fund established for standardbreds under IC 4-31-11-10.

(3) Eight percent (8%) for quarter horse purposes as follows:

(A) Seventy percent (70%) for the following purposes:

(i) Ninety-five percent (95%) for quarter horse purses.

(ii) Five percent (5%) to the horsemen's association representing quarter horse owners and trainers.

(B) Thirty percent (30%) to the breed development fund established for quarter horses under IC 4-31-11-10.

Expenditures under this subsection are subject to the regulatory requirements of subsection (f).

(e) Money distributed under subsection (b)(1) and (b)(2) shall be allocated as follows:

(1) Forty-six percent (46%) to the horsemen's association representing thoroughbred owners and trainers.

(2) Forty-six percent (46%) to the horsemen's association representing standardbred owners and trainers.

(3) Eight percent (8%) to the horsemen's association representing quarter horse owners and trainers.

(f) Money distributed under this section may not be expended unless the expenditure is for a purpose authorized in this section and is either for a purpose promoting the equine industry or equine welfare or is for a benevolent purpose that is in the best interests of horse racing in Indiana or the necessary expenditures for the operations of the horsemen's association required to implement and fulfill the purposes of this section. The Indiana horse racing commission may review any expenditure of money distributed under this section to ensure that the requirements of this section are satisfied. The Indiana horse racing commission shall adopt rules concerning the review and oversight of money distributed under this section and shall adopt rules concerning the enforcement of this section. The following apply to a horsemen's association receiving a distribution of money under this section:

(1) The horsemen's association must annually file a report with the Indiana horse racing commission concerning the use of the

money by the horsemen's association. The report must include information as required by the commission.

(2) The horsemen's association must register with the Indiana horse racing commission.

(g) The commission shall provide the Indiana horse racing commission with the information necessary to enforce this section.

(h) The Indiana horse racing commission shall investigate any complaint that a licensee has failed to comply with the horse racing purse requirements set forth in this section. If, after notice and a hearing, the Indiana horse racing commission finds that a licensee has failed to comply with the purse requirements set forth in this section, the Indiana horse racing commission may:

(1) issue a warning to the licensee;

(2) impose a civil penalty that may not exceed one million dollars ($1,000,000); or

(3) suspend a meeting permit issued under IC 4-31-5 to conduct a pari-mutuel wagering horse racing meeting in Indiana.

(i) A civil penalty collected under this section must be deposited in the state general fund.

(j) For a state fiscal year beginning after June 30, 2008, and ending before July 1, 2009, the amount of money dedicated to the purposes described in subsection (b) for a particular state fiscal year is equal to the lesser of:

(1) fifteen percent (15%) of the licensee's adjusted gross receipts for the state fiscal year; or

(2) eighty-five million dollars ($85,000,000).

If fifteen percent (15%) of a licensee's adjusted gross receipts for the state fiscal year exceeds the amount specified in subdivision (2), the licensee shall transfer the amount of the excess to the commission for deposit in the state general fund. The licensee shall adjust the transfers required under this section in the final month of the state fiscal year to comply with the requirements of this subsection.

(k) For a state fiscal year beginning after June 30, 2009, the amount of money dedicated to the purposes described in subsection (b) for a particular state fiscal year is equal to the lesser of:

(1) fifteen percent (15%) of the licensee's adjusted gross receipts for the state fiscal year; or

(2) the amount dedicated to the purposes described in subsection

(b) in the previous state fiscal year increased by a percentage that does not exceed the percent of increase in the United States Department of Labor Consumer Price Index during the year preceding the year in which an increase is established.

If fifteen percent (15%) of a licensee's adjusted gross receipts for the state fiscal year exceeds the amount specified in subdivision (2), the licensee shall transfer the amount of the excess to the commission for deposit in the state general fund. The licensee shall adjust the transfers required under this section in the final month of the state fiscal year to comply with the requirements of this subsection.

SECTION 26. IC 4-35-8.7-2, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. A licensee that offers slot machine wagering under this article shall annually pay to the **Indiana horse racing** commission a gaming integrity fee equal to two hundred fifty thousand dollars ($250,000) for each racetrack at which the licensee offers slot machine wagering. The **Indiana horse racing** commission shall deposit gaming integrity fees in the fund.

SECTION 27. IC 4-35-8.7-3, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The gaming integrity fund is established.

(b) The fund shall be administered by the **Indiana horse racing** commission.

(c) The fund consists of gaming integrity fees deposited in the fund under this chapter and money distributed to the fund under IC 4-35-7-12.

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

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

(f) Money in the fund may be used by the **Indiana horse racing** commission only for the following purposes:

(1) To pay the cost of analyzing equine specimens under IC 4-31-12-6(b).

(2) To pay dues to the Drug Testing Standards and Practices (DTSP) Committee of the Association of Racing Commissioners International.

(3) To provide grants for research for the advancement of equine drug testing. Grants under this subdivision must be approved by the Drug Testing Standards and Practices (DTSP) Committee of the Association of Racing Commissioners International or by the Racing Mediation and Testing Consortium.

SECTION 28. IC 4-35-12 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 12. Gambling Games Temporarily Conducted by a Trustee

Sec. 1. This chapter applies only to a trustee acting under the authority of:

(1) a resolution adopted by the commission authorizing the trustee to conduct gambling games under this chapter; and

(2) either of the following:

(A) A written power of attorney approved by the commission under IC 4-35-5-9.

(B) An appointment by the commission under IC 4-35-4-14.

Sec. 2. A person may not exercise any powers delegated under a power of attorney submitted under IC 4-35-5-9 unless the commission adopts a resolution under section 3 of this chapter.

Sec. 3. The commission may adopt a resolution authorizing a trustee to temporarily conduct gambling games at a racetrack if any of the following occur with respect to that particular racetrack:

(1) The commission revokes the owner's permit or gambling game license.

(2) The commission declines to renew the owner's permit or gambling game license.

(3) A proposed transferee is denied a permit under IC 4-31 or a gambling game license under this article when attempting to purchase the racetrack and obtain a permit, but the person who attempted to sell the racetrack is unable or unwilling to retain ownership or control of the racetrack.

(4) A permit holder agrees in writing to relinquish control of the racetrack to a trustee as approved by the commission.

Sec. 4. A power of attorney designating a trustee to conduct gambling games at a racetrack is effective on the date designated

by the commission in a resolution authorizing the trustee to conduct gambling games under this chapter. The power of attorney remains in effect until the date the trusteeship established by the operation of the power of attorney is terminated by resolution of the commission.

Sec. 5. (a) IC 30-5 applies to a trustee exercising powers under this chapter.

(b) For purposes of IC 30-5, a trustee is an attorney in fact.

Sec. 6. A trustee who conducts gambling games at a racetrack:

(1) must:

(A) be eligible to receive an occupational license under IC 4-35-6.5; and

(B) satisfy the requirements of any rule adopted by the commission under IC 4-35-6.5-4;

(2) must conduct the gambling games within the same standards for character, reputation, and financial integrity that are imposed upon a permit holder by this article;

(3) must submit to the commission any information requested by the commission; and

(4) is charged with all the duties imposed upon a permit holder under this article.

Sec. 7. (a) A trustee acting under the authority of this chapter must fulfill the trustee's duties as a fiduciary for the owner of the racetrack. In addition, the trustee shall consider the effect of the trustee's actions upon:

(1) the amount of taxes and fees remitted by the trustee under this article;

(2) the racetrack's surrounding community;

(3) the racetrack's employees; and

(4) the creditors of the owner of the racetrack.

(b) In balancing the interests described in subsection (a), a trustee shall conduct gambling games at the racetrack in a manner that enhances the credibility and integrity of gambling games in Indiana while minimizing disruptions to tax revenues, fee remissions, employment, and credit obligations.

Sec. 8. (a) A person who directly or indirectly owns a racetrack that is the subject of a resolution described in section 3 of this chapter has one hundred eighty (180) days after the date on which the commission adopts the resolution to sell the racetrack (and its

related properties described in section 9 of this chapter) to another person that:

(1) satisfies the requirements of IC 4-31 for obtaining a permit and this article for obtaining a gambling game license; and

(2) is approved by the commission.

(b) If the person is unable to sell the racetrack (and its related properties described in section 9 of this chapter) in the time required by subsection (a), the trustee may take any action necessary to sell the properties to another person that:

(1) satisfies the requirements of IC 4-31 for obtaining a permit and this article for obtaining a gambling game license; and

(2) is approved by the commission.

Sec. 9. A trustee acting under the authority of this chapter may conduct the operations of any hotel, restaurant, golf course, or other amenity related to the racetrack's slot machine facility.

Sec. 10. A trustee is entitled to reasonable compensation for carrying out the duties imposed upon the trustee under this chapter. The trustee's compensation must be:

(1) approved by the commission; and

(2) paid by the owner of the racetrack that is the subject of a resolution described in section 3 of this chapter.

Sec. 11. A permit holder shall purchase liability insurance, in an amount determined by the commission, to protect the trustee appointed to conduct gambling games on behalf of the permit holder from liability for any act or omission by the trustee occurring within the scope of the trustee's duties. The insurance coverage required by this section must apply to the entire period of the trusteeship.

Sec. 12. (a) Except as provided in subsection (b), the commission may revoke, modify, or amend a resolution authorizing a trustee to conduct gambling games under this chapter upon a showing of good cause after a public meeting. A public meeting held under this subsection may be conducted by the commission or the executive director.

(b) In an emergency that requires immediate action to protect the credibility and integrity of gambling games authorized by this article, the commission may, without holding a hearing, take the following actions concerning a trustee whose actions have created the emergency:

(1) Revoke the resolution authorizing the trustee to conduct gambling games under this chapter.

(2) Remove the trustee from the control of the racetrack subject to the revoked resolution.

SECTION 29. IC 20-47-1-3, AS ADDED BY P.L.2-2006, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. **(a) As used in this section, "gaming revenue" has the meaning set forth in IC 36-1-14-1(b).**

(b) A political subdivision may donate ~~proceeds from riverboat~~ gaming **revenue** to a public school endowment corporation under the following conditions:

(1) The public school endowment corporation retains all rights to the donation, including investment powers.

(2) The public school endowment corporation agrees to return the donation to the political subdivision if the corporation:

(A) loses the corporation's status as a public charitable organization;

(B) is liquidated; or

(C) violates any condition of the endowment set by the fiscal body of the political subdivision.

SECTION 30. IC 20-47-1-5, AS ADDED BY P.L.2-2006, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) The governing body of a school corporation may donate the proceeds of a grant, a gift, a donation, an endowment, a bequest, a trust, ~~or~~ an agreement to share tax revenue received by a city or county under IC 4-33-12-6 or IC 4-33-13, **or an agreement to share revenue received by a political subdivision under IC 4-35-8.5,** or other funds not generated from taxes levied by the school corporation, to a foundation under the following conditions:

(1) The foundation is a charitable nonprofit community foundation.

(2) The foundation retains all rights to the donation, including investment powers, except as provided in subdivision (3).

(3) The foundation agrees to do the following:

(A) Hold the donation as a permanent endowment.

(B) Distribute the income from the donation only to the school corporation as directed by resolution of the governing body of

the school corporation.

(C) Return the donation to the general fund of the school corporation if the foundation:

(i) loses the foundation's status as a public charitable organization;

(ii) is liquidated; or

(iii) violates any condition of the endowment set by the governing body of the school corporation.

(b) A school corporation may use income received under this section from a community foundation only for purposes of the school corporation.

SECTION 31. IC 36-1-8-9.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 9.2. (a) Each unit that receives:**

(1) tax revenue under IC 4-35-8.5; or

(2) revenue under an agreement to share the tax revenue received under IC 4-35-8.5 by another unit;

shall establish a fund, separate from the unit's general fund, into which the revenue shall be deposited. Money in the fund may be used for any legal or corporate purpose of the unit.

(b) The fund established by subsection (a) shall be administered by the unit's treasurer, and the expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the unit's general fund.

SECTION 32. IC 36-1-14-1, AS AMENDED BY P.L.2-2006, SECTION 190, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) This section does not apply to donations of ~~proceeds from riverboat~~ gaming **revenue** to a public school endowment corporation under IC 20-47-1-3.

(b) As used in this section, ~~"riverboat~~ "gaming revenue" means **either of the following:**

(1) Tax revenue received by a unit under IC 4-33-12-6, IC 4-33-13, or an agreement to share a city's or county's part of the tax revenue.

(2) Revenue received by a unit under IC 4-35-8.5 or an

agreement to share revenue received by another unit under IC 4-35-8.5.

(c) Notwithstanding IC 8-1.5-2-6(d), a unit may donate the proceeds from the sale of a utility or facility or from a grant, a gift, a donation, an endowment, a bequest, a trust, or ~~riverboat~~ gaming revenue to a foundation under the following conditions:

(1) The foundation is a charitable nonprofit community foundation.

(2) The foundation retains all rights to the donation, including investment powers.

(3) The foundation agrees to do the following:

(A) Hold the donation as a permanent endowment.

(B) Distribute the income from the donation only to the unit as directed by resolution of the fiscal body of the unit.

(C) Return the donation to the general fund of the unit if the foundation:

(i) loses the foundation's status as a public charitable organization;

(ii) is liquidated; or

(iii) violates any condition of the endowment set by the fiscal body of the unit.

SECTION 33. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 4-35-6-2; IC 4-35-6-3; IC 4-35-6-4; IC 4-35-6-5; IC 4-35-6-6; IC 4-35-6-7; IC 4-35-6-8; IC 4-35-6-9; IC 4-35-6-10.

SECTION 34. **An emergency is declared for this act.**

P.L.143-2009
[H.1287. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning probate and trusts.

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

SECTION 1. IC 2-5-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **(a) For calendar year 2009 and every fourth calendar year thereafter,** the ~~chairman of the legislative council~~ **president pro tempore of the senate** shall appoint a chairman and a vice chairman from among the commission's legislative members, each to serve a term of ~~one (1) year.~~ **two (2) years.**

(b) For calendar year 2011 and every fourth calendar year thereafter, the speaker of the house of representatives shall appoint a chairman and a vice chairman from among the commission's legislative members, each to serve a term of two (2) years.

SECTION 2. IC 6-4.1-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Within ten (10) days after life insurance proceeds are paid to a resident decedent's estate, the life insurance company shall give notice of the payment to the department of state revenue.

(b) Not later than ten (10) days after damages payable under a cause of action maintained by a personal representative under IC 34-9-3-4 are paid to a resident decedent's estate, the person making the payment shall give notice of the payment to the department of state revenue.

~~(b)~~ **(c)** The department of state revenue shall send a copy of any notice which it receives under subsection (a) **or (b)** to the county assessor of the county in which the resident decedent was domiciled at the time of ~~his~~ **the resident decedent's** death.

SECTION 3. IC 9-17-3-9, AS ADDED BY P.L.83-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,

2009]: Sec. 9. (a) An individual whose certificate of title for a vehicle indicates that the individual is the sole owner of the vehicle may create an interest in the vehicle that is transferrable on the death of the individual by obtaining a certificate of title conveying the interest in the vehicle to one (1) or more named individuals as transfer on death beneficiaries.

(b) Subject to subsection (e), an interest in a vehicle transferred under this section vests upon the death of the transferor.

(c) A certificate of title that is:

(1) worded in substance as "A.B. transfers on death to C.D."; and

(2) signed by the transferor;

is a good and sufficient conveyance on the death of the transferor to the transferee.

(d) A certificate of title obtained under this section is not required to be:

(1) supported by consideration; or

(2) delivered to the named transfer on death beneficiary;

to be effective.

(e) Upon the death of an individual conveying an interest in a vehicle in a certificate of title obtained under this section, the interest in the vehicle is transferred to each beneficiary who:

(1) is named in the certificate; and

(2) survives the transferor.

(f) A transfer of an interest in a vehicle under this section is subject to IC 6-4.1.

(g) A certificate of title designating a transfer on death beneficiary is not testamentary.

(h) In general, IC 32-17-14 applies to a certificate of title designating a transfer on death beneficiary. However, a particular provision of IC 32-17-14 does not apply if it is inconsistent with the requirements of this section or IC 9-17-2-2(b).

SECTION 4. IC 9-31-2-30, AS ADDED BY P.L.83-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 30. (a) An individual whose certificate of title for a watercraft indicates that the individual is the sole owner of the watercraft may create an interest in the watercraft that is transferrable on the death of the individual by obtaining a certificate of title conveying the interest in the watercraft to one (1) or more named

individuals as transfer on death beneficiaries.

(b) Subject to subsection (e), an interest in a watercraft transferred under this section vests upon the death of the transferor.

(c) A certificate of title that is:

(1) worded in substance as "A.B. transfers on death to C.D."; and

(2) signed by the transferor;

is a good and sufficient conveyance on the death of the transferor to the transferee.

(d) A certificate of title obtained under this section is not required to be:

(1) supported by consideration; or

(2) delivered to the named transfer on death beneficiary;

to be effective.

(e) Upon the death of an individual conveying an interest in a watercraft in a certificate of title obtained under this section, the interest in the watercraft is transferred to each beneficiary who:

(1) is named in the certificate; and

(2) survives the transferor.

(f) A transfer of an interest in a watercraft under this section is subject to IC 6-4.1.

(g) A certificate of title designating a transfer on death beneficiary is not testamentary.

(h) In general, IC 32-17-14 applies to a certificate of title designating a transfer on death beneficiary. However, a particular provision of IC 32-17-14 does not apply if it is inconsistent with the requirements of this section or IC 9-31-2-16.

SECTION 5. IC 23-14-31-26, AS AMENDED BY P.L.102-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 26. (a) Except as provided in subsection (c), the following persons, in the priority listed, have the right to serve as an authorizing agent:

(1) An individual granted the authority to serve in a funeral planning declaration executed by the decedent under IC 29-2-19.

~~(1)~~ **(2)** An individual ~~who possesses~~ **granted the authority to serve in** a health care power of attorney ~~of~~ **executed by** the decedent ~~unless the power of attorney prohibits the individual from making plans for the disposition of the decedent's body.~~

under IC 30-5-5-16.

~~(2)~~ **(3)** The individual who was the spouse of the decedent at the time of the decedent's death.

~~(3)~~ **(4)** The decedent's surviving adult children. If more than one (1) adult child is surviving, any adult child who confirms in writing that the other adult children have been notified, unless the crematory authority receives a written objection to the cremation from another adult child.

~~(4)~~ **(5)** The decedent's surviving parent. If the decedent is survived by both parents, either parent may serve as the authorizing agent unless the crematory authority receives a written objection to the cremation from the other parent.

~~(5)~~ **(6)** The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent. If more than one (1) individual of the same degree is surviving, any person of that degree may serve as the authorizing agent unless the crematory authority receives a written objection to the cremation from one (1) or more persons of the same degree.

~~(6)~~ **(7)** In the case of an indigent or other individual whose final disposition is the responsibility of the state or township, the following may serve as the authorizing agent:

(A) If none of the persons identified in subdivisions (1) through ~~(5) of this section~~ **(6)** are available:

(i) a public administrator, including a responsible township trustee or the trustee's designee; or

(ii) the coroner.

(B) A state appointed guardian.

However, an indigent decedent may not be cremated if a surviving family member objects to the cremation or if cremation would be contrary to the religious practices of the deceased individual as expressed by the individual or the individual's family.

~~(7)~~ **(8)** In the absence of any person under subdivisions (1) through ~~(6),~~ **(7),** any person willing to assume the responsibility as the authorizing agent, as specified in this article.

(b) When a body part of a nondeceased individual is to be cremated, a representative of the institution that has arranged with the crematory authority to cremate the body part may serve as the authorizing agent.

(c) If:

(1) the death of the decedent appears to have been the result of:

(A) murder (IC 35-42-1-1);

(B) voluntary manslaughter (IC 35-42-1-3); or

(C) another criminal act, if the death does not result from the operation of a vehicle; and

(2) the coroner, in consultation with the law enforcement agency investigating the death of the decedent, determines that there is a reasonable suspicion that a person described in subsection (a) committed the offense;

the person referred to in subdivision (2) may not serve as the authorizing agent.

(d) The coroner, in consultation with the law enforcement agency investigating the death of the decedent, shall inform the crematory authority of the determination referred to in subsection (c)(2).

SECTION 6. IC 23-14-55-2, AS AMENDED BY P.L.3-2008, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Except as provided in subsection (d), the owner of a cemetery is authorized to inter, entomb, or inurn the body or cremated remains of a deceased human upon the receipt of a written authorization of an individual who professes either of the following:

(1) To be (in the priority listed) one (1) of the following:

(A) An individual granted the authority in a funeral planning declaration executed by the decedent under IC 29-2-19.

~~(A)~~ **(B)** An individual ~~who possesses~~ **granted the authority in** a health care power of attorney ~~of~~ **executed by** the decedent ~~unless the power of attorney prohibits the individual from making plans for the disposition of the decedent's body.~~ **under IC 30-5-5-16.**

~~(B)~~ **(C)** The individual who was the spouse of the decedent at the time of the decedent's death.

~~(C)~~ **(D)** The decedent's surviving adult child. If more than one (1) adult child is surviving, any adult child who confirms in writing that the other adult children have been notified, unless the owner of the cemetery receives a written objection to the disposition from another adult child.

~~(D)~~ **(E)** The decedent's surviving parent. If the decedent is survived by both parents, either parent unless the cemetery owner receives a written objection to the disposition from the other parent.

~~(E)~~ **(F)** The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent. If more than one (1) individual of the same degree of kinship is surviving, any person of that degree unless the cemetery owner receives a written objection to the disposition from one (1) or more persons of the same degree of kinship.

(2) To have acquired **by court order** the right to control the disposition of the deceased human body or cremated remains.

The owner of a cemetery may accept the authorization of an individual only if all other individuals of the same priority or a higher priority (according to the priority listing in this subsection) are deceased, are barred from authorizing the disposition of the deceased human body or cremated remains under subsection (d), or are physically or mentally incapacitated from exercising the authorization, and the incapacity is certified to by a qualified medical doctor.

(b) A cemetery owner is not liable in any action for making an interment, entombment, or inurnment under a written authorization described in subsection (a) unless the cemetery owner had actual notice that the representation made under subsection (a) by the individual who issued the written authorization was untrue.

(c) An action may not be brought against the owner of a cemetery relating to the remains of a human that have been left in the possession of the cemetery owner without permanent interment, entombment, or inurnment for a period of three (3) years, unless the cemetery owner has entered into a written contract for the care of the remains.

(d) If:

(1) the death of the decedent appears to have been the result of:

(A) murder (IC 35-42-1-1);

(B) voluntary manslaughter (IC 35-42-1-3); or

(C) another criminal act, if the death does not result from the operation of a vehicle; and

(2) the coroner, in consultation with the law enforcement agency investigating the death of the decedent, determines that there is a reasonable suspicion that a person described in subsection (a)

committed the offense;

the person referred to in subdivision (2) may not authorize the disposition of the decedent's body or cremated remains.

(e) The coroner, in consultation with the law enforcement agency investigating the death of the decedent, shall inform the cemetery owner of the determination referred to in subsection (d)(2).

SECTION 7. IC 25-15-9-18, AS AMENDED BY P.L.3-2008, SECTION 185, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. (a) Except as provided in subsection (b), the following persons, in the order of priority indicated, have the authority to designate the manner, type, and selection of the final disposition and interment of human remains:

(1) An individual granted the authority in a funeral planning declaration executed by the decedent under IC 29-2-19.

~~(1)~~ **(2)** An individual ~~who possesses~~ **granted the authority in** a health care power of attorney ~~of~~ **executed by** the decedent ~~unless the power of attorney prohibits the individual from making plans for the disposition of the decedent's body.~~ **under IC 30-5-5-16.**

~~(2)~~ **(3)** The individual who was the spouse of the decedent at the time of the decedent's death.

~~(3)~~ **(4)** The decedent's surviving adult child. If more than one (1) adult child is surviving, any adult child who confirms in writing that the other adult children have been notified, unless the licensed funeral director or licensed funeral home receives a written objection from another adult child.

~~(4)~~ **(5)** The decedent's surviving parent. If the decedent is survived by both parents, either parent has the authority unless the licensed funeral director or licensed funeral home receives a written objection from the other parent.

~~(5)~~ **(6)** The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent. If more than one (1) individual of the same degree survives, any person of that degree has the authority unless the licensed funeral director or licensed funeral home receives a written objection from one (1) or more persons of the same degree.

~~(6)~~ **(7)** In the case of an indigent or other individual whose final disposition is the responsibility of the state or township, the following:

(A) If none of the persons identified in subdivisions (1) through ~~(5)~~ **(6)** is available:

(i) a public administrator, including a responsible township trustee or the trustee's designee; or

(ii) the coroner.

(B) A state appointed guardian.

(b) If:

(1) the death of the decedent appears to have been the result of:

(A) murder (IC 35-42-1-1);

(B) voluntary manslaughter (IC 35-42-1-3); or

(C) another criminal act, if the death does not result from the operation of a vehicle; and

(2) the coroner, in consultation with the law enforcement agency investigating the death of the decedent, determines that there is a reasonable suspicion that a person described in subsection (a) committed the offense;

the person referred to in subdivision (2) may not authorize or designate the manner, type, or selection of the final disposition and internment of human remains.

(c) The coroner, in consultation with the law enforcement agency investigating the death of the decedent, shall inform the cemetery owner or crematory authority of the determination under subsection (b)(2).

SECTION 8. IC 29-1-2-1, AS AMENDED BY P.L.101-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The estate of a person dying intestate shall descend and be distributed as provided in this section.

(b) Except as otherwise provided in subsection (c), the surviving spouse shall receive the following share:

(1) One-half (1/2) of the net estate if the intestate is survived by at least one (1) child or by the issue of at least one (1) deceased child.

(2) Three-fourths (3/4) of the net estate, if there is no surviving issue, but the intestate is survived by one (1) or both of the intestate's parents.

(3) All of the net estate, if there is no surviving issue or parent.

(c) If the surviving spouse is a second or other subsequent spouse who did not at any time have children by the decedent, and the

decedent left surviving the decedent a child or children or the descendants of a child or children by a previous spouse, the surviving second or subsequent childless spouse shall take only an amount equal to twenty-five percent (25%) of the remainder of:

(1) the fair market value as of the date of death of the real property of the deceased spouse; minus

(2) the value of the liens and encumbrances on the real property of the deceased spouse.

The fee shall, at the decedent's death, vest at once in the decedent's surviving child or children, or the descendants of the decedent's child or children who may be dead. A second or subsequent childless spouse described in this subsection shall, however, receive the same share of the personal property of the decedent as is provided in subsection (b) with respect to surviving spouses generally.

(d) The share of the net estate not distributable to the surviving spouse, or the entire net estate if there is no surviving spouse, shall descend and be distributed as follows:

(1) To the issue of the intestate, if they are all of the same degree of kinship to the intestate, they shall take equally, or if of unequal degree, then those of more remote degrees shall take by representation.

(2) Except as provided in subsection (e), if there is a surviving spouse but no surviving issue of the intestate, then to the surviving parents of the intestate.

(3) Except as provided in subsection (e), if there is no surviving spouse or issue of the intestate, then to the surviving parents, brothers, and sisters, and the issue of deceased brothers and sisters of the intestate. Each living parent of the intestate shall be treated as of the same degree as a brother or sister and shall be entitled to the same share as a brother or sister. However, the share of each parent shall be not less than one-fourth (1/4) of the decedent's net estate. Issue of deceased brothers and sisters shall take by representation.

(4) If there is no surviving parent or brother or sister of the intestate, then to the issue of brothers and sisters. If the distributees described in this subdivision are all in the same degree of kinship to the intestate, they shall take equally or, if of unequal degree, then those of more remote degrees shall take by

representation.

(5) If there is no surviving issue or parent of the intestate or issue of a parent, then to the surviving grandparents of the intestate equally.

(6) If there is no surviving issue or parent or issue of a parent, or grandparent of the intestate, then the estate of the decedent shall be divided into that number of shares equal to the sum of:

(A) the number of brothers and sisters of the decedent's parents surviving the decedent; plus

(B) the number of deceased brothers and sisters of the decedent's parents leaving issue surviving both them and the decedent;

and one (1) of the shares shall pass to each of the brothers and sisters of the decedent's parents or their respective issue per stirpes.

(7) If interests in real estate go to a husband and wife under this subsection, the aggregate interests so descending shall be owned by them as tenants by the entireties. Interests in personal property so descending shall be owned as tenants in common.

(8) If there is no person mentioned in subdivisions (1) through (7), then to the state.

(e) A parent may not receive an intestate share of the estate of the parent's minor or adult child if ~~(1)~~ the parent was convicted of causing the death of the child's other parent by:

~~(A)~~ **(1)** murder (IC 35-42-1-1);

~~(B)~~ **(2)** voluntary manslaughter (IC 35-42-1-3);

~~(C)~~ **(3)** another criminal act, if the death does not result from the operation of a vehicle; or

~~(D)~~ **(4)** a crime in any other jurisdiction in which the elements of the crime are substantially similar to the elements of a crime listed in ~~clauses (A)~~ **subdivisions (1)** through ~~(C); and~~ **(3).**

~~(2) the victim of the crime is the other parent of the child.~~

If a parent is disqualified from receiving an intestate share under this subsection, the estate of the deceased child shall be distributed as though the parent had predeceased the child.

SECTION 9. IC 29-1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a)** The surviving spouse of a decedent who was domiciled in Indiana at ~~his~~ **the decedent's** death is

entitled from the estate to an allowance of twenty-five thousand dollars ($25,000). ~~The allowance may be claimed against the personal property of the estate or a residence that is a part of the decedent's estate, or a combination of both.~~ If there is no surviving spouse, the decedent's children who are under eighteen (18) years of age at the time of the decedent's death are entitled to the same allowance to be divided equally among them.

(b) The allowance under subsection (a) may be claimed against:

(1) the personal property of the decedent's estate;

(2) the real property that is part of the decedent's estate; or

(3) a combination of personal property under subdivision (1) and real property under subdivision (2).

(c) Not later than ninety (90) days after the order commencing the estate administration, an individual entitled to the allowance may file with the court an election specifying whether the allowance is being claimed under subsection (b) against the personal property of the estate or the real property that is part of the estate, or a combination of both. An interested party may file an objection to the manner in which the allowance is being claimed not later than thirty (30) days after the date the election is filed with the court. The court shall rule on the objection after notice and a hearing. If an election is not filed within ninety (90) days after the order commencing the estate administration, the allowance must be satisfied according to the following order of preference:

(1) From the intangible personal property of the estate.

(2) From the tangible personal property of the estate.

(3) From the real property that is part of the estate.

(d) If the personal property ~~and a residence that is a part~~ of the ~~decedent's~~ estate ~~are~~ **is** less than twenty-five thousand dollars ($25,000) in value, the spouse or decedent's children who are under eighteen (18) years of age at the time of the decedent's death, as the case may be, are entitled to any real estate of the estate to the extent necessary to make up the difference between the value of the personal property ~~plus the residence that is a part of the decedent's estate~~ and twenty-five thousand dollars ($25,000). The amount of that difference is a lien on the ~~remaining~~ real estate. **However, no real estate may be sold to satisfy the survivor's allowance unless the sale is approved:**

(1) in an agreement signed by all interested persons; or

(2) by court order following notice to all interested persons.

(e) An allowance under this section is not chargeable against the distributive shares of either the surviving spouse or the children.

(f) For purposes of this section, the value of the real property that is part of a decedent's estate must be determined as of the date of the decedent's death.

SECTION 10. IC 29-1-7-7, AS AMENDED BY P.L.95-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) As soon as letters testamentary or of administration, general or special, supervised or unsupervised, have been issued, the clerk of the court shall publish notice of the estate administration.

(b) The notice required under subsection (a) shall be published in a newspaper of general circulation, printed in the English language and published in the county where the court is located, once each week for two (2) consecutive weeks. A copy of the notice, with proof of publication, shall be filed with the clerk of the court as a part of the administration of the estate within thirty (30) days after the publication. If no newspaper is published in the county, the notice shall be published in a newspaper published in an adjacent county.

(c) The notice required under subsection (a) shall be served by ~~certified~~ **first class postage prepaid** mail on each heir, devisee, legatee, and known creditor whose name and address is set forth in the petition for probate or letters, **except as otherwise ordered by the court.** The personal representative shall furnish sufficient copies of the notice, prepared for mailing, and the clerk of the court shall mail the notice upon the issuance of letters.

(d) The personal representative or the personal representative's agent shall serve notice on each creditor of the decedent:

(1) whose name is not set forth in the petition for probate or letters under subsection (c);

(2) who is known or reasonably ascertainable within one (1) month after the first publication of notice under subsection (a); and

(3) whose claim has not been paid or settled by the personal representative.

The notice may be served by mail or any other means reasonably calculated to ensure actual receipt of the notice by a creditor.

(e) Notice under subsection (d) shall be served within one (1) month after the first publication of notice under subsection (a) or as soon as possible after the elapse of one (1) month. If the personal representative or the personal representative's agent fails to give notice to a known or reasonably ascertainable creditor of the decedent under subsection (d) within one (1) month after the first publication of notice under subsection (a), the period during which the creditor may submit a claim against the estate includes an additional period ending two (2) months after the date notice is given to the creditor under subsection (d). However, a claim filed under IC 29-1-14-1(a) more than nine (9) months after the death of the decedent is barred.

(f) A schedule of creditors that received notice under subsection (d) shall be delivered to the clerk of the court as soon as possible after notice is given.

(g) The giving of notice to a creditor or the listing of a creditor on the schedule delivered to the clerk of the court does not constitute an admission by the personal representative that the creditor has an allowable claim against the estate.

(h) If any person entitled to receive notice under this section is under a legal disability, the notice may be served upon or waived by the person's natural or legal guardian or by the person who has care and custody of the person.

(i) The notice shall read substantially as follows:

NOTICE OF ADMINISTRATION

In the _____ Court of _____ County, Indiana.

Notice is hereby given that _____ was, on the ____ day of _____, 20 __, appointed personal representative of the estate of _____, deceased, who died on the ___ day of _____, 20 __.

All persons who have claims against this estate, whether or not now due, must file the claim in the office of the clerk of this court within three (3) months from the date of the first publication of this notice, or within nine (9) months after the decedent's death, whichever is earlier, or the claims will be forever barred.

Dated at _____, Indiana, this ___ day of _____, 20 __.

_____
CLERK OF THE _____ COURT
FOR _____ COUNTY, INDIANA

SECTION 11. IC 29-1-7.5-1.5, AS AMENDED BY P.L.238-2005,

SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) As soon as letters testamentary or letters of administration have been issued, the clerk of the court shall serve by mail notice of the petition on each of the decedent's heirs at law, if the decedent died intestate, or the devisees and legatees under the decedent's will. The mailing of notice under this subsection may not be waived.

(b) The notice required under subsection (a) shall read substantially as follows:

NOTICE OF UNSUPERVISED ADMINISTRATION TO BE MAILED TO A DISTRIBUTEE

In the _____ Court of _____ County, Indiana.

Notice is hereby given that _____, on the _____ day of _____, 20__, was appointed as the personal representative of the estate of _____, who died on the ____ day of _____, 20__, {leaving a will} {not leaving a will}. The estate will be administered without court supervision.

As an heir, a devisee, or a legatee of the estate (a "distributee"), you are advised of the following information:

(1) The personal representative has the authority to take actions concerning the estate without first consulting you.

(2) The personal representative may be serving without posting a bond with the court. You have the right to petition the court to set a bond for your protection. **You also have the right to petition the court to remove a corporate personal representative not later than thirty (30) days after this notice if the ownership or control of the corporate personal representative has changed since the execution of the decedent's will.**

(3) The personal representative will not obtain court approval of any action, including the amount of attorney's or personal representative's fees.

(4) Within two (2) months after the appointment of the personal representative, the personal representative must prepare an inventory of the estate's assets. You have the right to request and receive a copy of this inventory from the personal representative. However, if you do not participate in the residue of the estate and receive only a specific bequest in money or personal property that will be paid, you are entitled only to the information concerning

your specific bequest and not to the assets of the estate as a whole.

(5) The personal representative is required to furnish you with a copy of the closing statement that will be filed with the court, and, if your interests are affected, with a full account in writing of the administration of the estate.

(6) You must file an objection to the closing statement within three (3) months after the closing statement is filed with the court if you want the court to consider your objection.

(7) If an objection to the closing statement is not filed with the court within three (3) months after the filing of the closing statement, the estate is closed and the court does not have a duty to audit or make an inquiry.

IF, AT ANY TIME BEFORE THE ESTATE IS CLOSED, YOU HAVE REASON TO BELIEVE THAT THE ADMINISTRATION OF THE ESTATE SHOULD BE SUPERVISED BY THE COURT, YOU HAVE THE RIGHT TO PETITION THE COURT FOR SUPERVISED ADMINISTRATION.

IF YOU DO NOT UNDERSTAND THIS NOTICE, YOU SHOULD ASK YOUR ATTORNEY TO EXPLAIN IT TO YOU.

The personal representative's address is _____, and telephone number is _____. The attorney for the personal representative is _____, whose address is _____ and telephone number is _____.

Dated at _____, Indiana, this _____ day of _____, 20__.

CLERK OF THE _____ COURT

SECTION 12. IC 29-1-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. **(a) This section does not apply to the removal of a corporate fiduciary after a change in control of the corporate fiduciary.**

(b) When the personal representative becomes incapacitated (unless the incapacity is caused only by a physical illness, infirmity, or impairment), disqualified, unsuitable or incapable of discharging the representative's duties, has mismanaged the estate, failed to perform any duty imposed by law or by any lawful order of the court, or has ceased to be domiciled in Indiana, the court may remove the representative ~~as provided:~~ **in accordance with either of the**

following:

~~(a)~~ **(1)** The court on its own motion may, or on petition of any person interested in the estate shall, order the representative to appear and show cause why the representative should not be removed. ~~Such~~ **The** order shall set forth in substance the alleged grounds upon which such removal is based, the time and place of the hearing, and may be served upon the personal representative in the same manner as a notice is served under this article.

~~(b)~~ **(2)** The court may without motion, petition or application, for any such cause, in cases of emergency, remove such personal representative instantly without notice or citation.

(c) The removal of a personal representative after letters are duly issued does not invalidate official acts performed prior to removal.

SECTION 13. IC 29-1-10-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6.5. (a) This section does not apply to the removal of a personal representative under section 6 of this chapter.**

(b) An heir may petition the court for the removal of a corporate fiduciary appointed by the court as personal representative if there has been a change in the control of the corporate fiduciary and either of the following applies:

(1) The change in the control of the corporate fiduciary occurred after the date of the execution of the decedent's will but before the decedent's death.

(2) The change in the control of the corporate fiduciary occurred after the corporate fiduciary was appointed and during the administration of the decedent's estate.

(c) A petition described in subsection (b) must be filed:

(1) not later than thirty (30) days after an heir, a devisee, or a legatee receives notice under IC 29-1-7-7(c) or IC 29-1-7.5-1.5, in the case of a change of control described in subsection (b)(1); or

(2) not later than a reasonable time after the change of control, in the case of a change of control described in subsection (b)(2).

(d) The court may remove the corporate fiduciary if the court determines, after a hearing, that the removal is in the best interests of all the beneficiaries of the will. The court may replace the

corporate fiduciary with another corporate fiduciary or an individual.

(e) For purposes of this section, a change in control of a corporate fiduciary occurs whenever a person or group of persons acting in concert acquires the beneficial ownership of a total of at least twenty-five percent (25%) of the outstanding voting stock of:

(1) a corporate fiduciary; or

(2) a corporation controlling a corporate fiduciary.

(f) The removal of a corporate fiduciary after letters are duly issued does not invalidate official acts performed before the removal.

(g) If a corporate fiduciary is replaced under this section, the corporate fiduciary is entitled to receive reasonable compensation for services rendered before the removal.

SECTION 14. IC 29-2-19 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 19. Funeral Planning Declaration

Sec. 1. As used in this chapter, "declarant" means an individual who signs a funeral planning declaration executed under this chapter.

Sec. 2. As used in this chapter, "declaration" means a funeral planning declaration executed under this chapter.

Sec. 3. As used in this chapter, "designee" means an individual directed by the terms of a declaration to:

(1) carry out the funeral plan of the declarant as set forth in the declaration; or

(2) make any arrangements concerning the disposition of the declarant's remains, funeral services, merchandise, and ceremonies that are delegated to the designee in the declaration.

Sec. 4. As used in this chapter, "disposition" has the meaning set forth in IC 25-15-2-7.

Sec. 5. As used in this chapter, "funeral services" has the meaning set forth in IC 25-15-2-17.

Sec. 6. As used in this chapter, "grave memorial" has the meaning set forth in IC 14-21-2-2.

Sec. 7. As used in this chapter, "merchandise" refers to personal property described in IC 30-2-13-8.

Sec. 8. (a) A person who is of sound mind and is at least eighteen (18) years of age may execute a funeral planning declaration substantially in the form set forth in section 13 of this chapter. A declaration may not be included in a will, a power of attorney, or a similar document.

(b) A declaration must meet the following conditions:

(1) Be voluntary.

(2) Be in writing.

(3) Direct an individual to serve as the declarant's designee.

(4) Be signed by the person making the declaration or by another person in the declarant's presence and at the direction of the declarant.

(5) Be dated.

(6) Be signed in the presence of at least two (2) competent witnesses who are at least eighteen (18) years of age.

(c) The following may not be a witness to a declaration under subsection (b)(6):

(1) The person who signed the declaration on behalf of and at the direction of the declarant.

(2) A parent, spouse, or child of the declarant.

(3) An individual who is entitled to any part of the declarant's estate whether the declarant dies testate or intestate, including an individual who could take from the declarant's estate if the declarant's will is declared invalid.

For purposes of subdivision (3), a person is not considered to be entitled to any part of the declarant's estate solely by virtue of being nominated as a personal representative or as the attorney for the estate in the declarant's will.

(d) A declaration is not binding upon a funeral home, a cemetery, any other person engaged in the business of providing funeral services, any other person selling merchandise or grave markers, or any other person providing a service or other property subject to the declaration until the person receives consideration for the service, merchandise, or other property. If any provision of a declaration conflicts with:

(1) IC 23-14-31;

(2) IC 23-14-33; or

(3) IC 25-15;

the provision contained in the declaration controls.

(e) Except as provided in subsection (f), a declarant may not direct an individual who is:

(1) a provider of funeral services;

(2) responsible for any aspect of the disposition of the declarant's remains; or

(3) associated with any entity that is responsible for providing funeral services or disposing of the declarant's remains;

to be the declarant's designee in a declaration executed under this chapter.

(f) Subsection (e) does not apply to an individual who is related to the declarant by birth, marriage, or adoption.

Sec. 9. A declaration may specify the declarant's preferences concerning any of the following:

(1) The disposition of the declarant's remains after the declarant's death.

(2) Who may direct the disposition of the declarant's remains.

(3) Who may provide funeral services after the declarant's death.

(4) The ceremonial arrangements to be performed after the declarant's death.

(5) The merchandise that the declarant prefers for the disposition of the declarant's remains and any ceremonial arrangements.

(6) Who may direct the ceremonial arrangements to be performed after the declarant's death.

(7) A grave memorial.

Sec. 10. The provisions of a declarant's most recent declaration prevail over any other document executed by the declarant concerning any preferences described in section 9 of this chapter. However, this section may not be construed to invalidate a power of attorney executed under IC 30-5-5 or an appointment of a health care representative under IC 16-36-1 with respect to any power or duty belonging to the attorney in fact or health care representative that is not related to a preference described in section 9 of this chapter.

Sec. 11. (a) A person who acts in good faith reliance on a declaration is immune from liability to the same extent as if the person had dealt directly with the declarant and the declarant had been a competent and living person.

(b) A person who deals with a declaration may presume, in the absence of actual knowledge to the contrary, that:

(1) the declaration was validly executed; and

(2) the declarant was competent at the time the declaration was executed.

(c) The directions of a declarant expressed in a declaration are binding as if the declarant were alive and competent.

Sec. 12. A declaration must be substantially in the form set forth in section 13 of this chapter, but the declaration may include additional, specific directions. The invalidity of any additional, specific direction does not affect the validity of the declaration.

Sec. 13. The following is the funeral planning declaration form:

FUNERAL PLANNING DECLARATION

Declaration made this _____ day of _____ (month, year). I, _____, being at least eighteen (18) years of age and of sound mind, willfully and voluntarily make known my instructions concerning funeral services, ceremonies, and the disposition of my remains after my death.

I hereby declare and direct that after my death _____(name of designee) shall, as my designee, carry out the instructions that are set forth in this declaration. If my designee is unwilling or unable to act, I nominate _____ as an alternate designee.

I hereby declare and direct that after my death the following actions be taken (indicate your choice by initialing or making your mark before signing this declaration):

(1) My body shall be:

(A) _____ Buried. I direct that my body be buried at _____.

(B) _____ Cremated. I direct that my cremated remains be disposed of as follows:

_____

_____

(C) _____ Entombed. I direct that my body be entombed at _____.

(D) _____ I intentionally make no decision concerning the disposition of my body, leaving the decision to my designee (as named above).

(2) My arrangements shall be made as follows:

(A) I direct that funeral services be obtained from:

_____

_____

(B) I direct that the following ceremonial arrangements be made:

_____

_____

(C) I direct the selection of a grave memorial that:

_____

_____

(D) I direct that the following merchandise and other property be selected for the disposition of my remains, my funeral or other ceremonial arrangements:

_____

_____

_____

_____

(E) _____I direct that my designee (as named above) make all arrangements concerning ceremonies and other funeral services.

(3) In addition to the instructions listed above, I request the following:

_____

_____

(4) If it is impossible to make an arrangement specified in subdivisions (1) through (3) because:

(A) a funeral home or other service provider is out of business, impossible to locate, or otherwise unable to provide the specified service; or

(B) the specified arrangement is impossible, impractical, or illegal;

I direct my designee to make alternate arrangements to the best of the designee's ability.

It is my intention that this declaration be honored by my family and others as the final expression of my intentions concerning my funeral and the disposition of my body after my death. I understand the full import of this declaration.

Signed _____

_____

City, County, and State of Residence

The declarant is personally known to me, and I believe the declarant to be of sound mind. I did not sign the declarant's signature above for or at the direction of the declarant. I am not a parent, spouse, or child of the declarant. I am not entitled to any part of the declarant's estate. I am competent and at least eighteen (18) years of age.

Witness _____ Date _____

Witness _____ Date _____

Sec. 14. A declaration may be revoked by the declarant in writing or by burning, tearing, canceling, obliterating, or destroying the declaration with the intent to revoke the declaration.

Sec. 15. Except as otherwise expressly provided in a declaration, a subsequent:

(1) dissolution of marriage;

(2) annulment of marriage; or

(3) legal separation of the declarant and the declarant's spouse;

automatically revokes a delegation of authority in a declaration to the declarant's spouse to direct the disposition of the declarant's body or to make all arrangements concerning funeral services and other ceremonies after the declarant's death.

Sec. 16. Except as otherwise provided in a declaration, section 17 of this chapter controls if a person to whom a declaration delegates the authority to make arrangements after a declarant's death is unable or unwilling to serve.

Sec. 17. The right to control the disposition of a decedent's body, to make arrangements for funeral services, and to make other ceremonial arrangements after an individual's death devolves on the following, in the priority listed:

(1) An individual granted the authority in a funeral planning declaration executed by the decedent under this chapter.

(2) An individual granted the authority in a health care power of attorney executed by the decedent under IC 30-5-5-16.

(3) The decedent's surviving spouse.

(4) A surviving adult child of the decedent.

(5) A surviving parent of the decedent.

(6) An individual in the next degree of kinship under

IC 29-1-2-1 to inherit the estate of the decedent.

Sec. 18. A person in Indiana may rely on a declaration or similar instrument that was executed in another state and that complies with the requirements of this chapter to the extent that an action requested by the declarant in the declaration or similar instrument does not violate any federal or Indiana law or any ordinance or regulation of a political subdivision.

Sec. 19. An action to contest the validity of any declaration made under this chapter must be:

(1) brought in the same manner as an action to contest the validity of a will under IC 29-1-7;

(2) filed in the circuit court of the county in which the declarant's remains are located;

(3) expedited on the docket of the circuit court as a matter requiring priority; and

(4) accompanied by a bond, cash deposit, or other surety sufficient to guarantee that the hospital, nursing home, funeral home, or other institution holding the declarant's remains is compensated for the storage charges incurred while the action is pending.

SECTION 15. IC 29-3-6-1, AS AMENDED BY P.L.95-2007, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) When a petition for appointment of a guardian or for the issuance of a protective order is filed with the court, notice of the petition and the hearing on the petition shall be given by ~~certified~~ **first class postage prepaid** mail as follows:

(1) If the petition is for the appointment of a successor guardian, notice shall be given unless the court, for good cause shown, orders that notice is not necessary.

(2) If the petition is for the appointment of a temporary guardian, notice shall be given as required by IC 29-3-3-4(a).

(3) If the subject of the petition is a minor, notice of the petition and the hearing on the petition shall be given to the following persons whose whereabouts can be determined upon reasonable inquiry:

(A) The minor, if at least fourteen (14) years of age, unless the minor has signed the petition.

(B) Any living parent of the minor, unless parental rights have been terminated by a court order.

(C) Any person alleged to have had the principal care and custody of the minor during the sixty (60) days preceding the filing of the petition.

(D) Any other person that the court directs.

(4) If it is alleged that the person is an incapacitated person, notice of the petition and the hearing on the petition shall be given to the following persons whose whereabouts can be determined upon reasonable inquiry:

(A) The alleged incapacitated person, the alleged incapacitated person's spouse, and the alleged incapacitated person's adult children, or if none, the alleged incapacitated person's parents.

(B) Any person who is serving as a guardian for, or who has the care and custody of, the alleged incapacitated person.

(C) In case no person other than the incapacitated person is notified under clause (A), at least one (1) of the persons most closely related by blood or marriage to the alleged incapacitated person.

(D) Any person known to the petitioner to be serving as the alleged incapacitated person's attorney-in-fact under a durable power of attorney.

(E) Any other person that the court directs.

Notice is not required under this subdivision if the person to be notified waives notice or appears at the hearing on the petition.

(b) Whenever a petition (other than one for the appointment of a guardian or for the issuance of a protective order) is filed with the court, notice of the petition and the hearing on the petition shall be given to the following persons, unless they appear or waive notice:

(1) The guardian.

(2) Any other persons that the court directs, including the following:

(A) Any department, bureau, agency, or political subdivision of the United States or of this state that makes or awards compensation, pension, insurance, or other allowance for the benefit of an alleged incapacitated person.

(B) Any department, bureau, agency, or political subdivision of this state that may be charged with the supervision, control, or custody of an alleged incapacitated person.

SECTION 16. IC 29-3-8-6.5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.5. (a) If:

(1) a guardian takes possession of property that is:

(A) jointly owned by or titled in the names of the protected person and another person with rights of survivorship; **or**

(B) owned as a multiple party account with another person as joint owner or beneficiary;

(2) the guardian:

(A) severs the joint ownership of the property; **or**

(B) uses the assets of the multiple party account; and

(3) the protected person subsequently dies while the other person is living;

the other person may elect to receive from the protected person's estate property in an amount determined under subsection (b).

(b) The amount of property the other person described in subsection (a) may elect to receive is determined in STEP THREE of the following formula:

STEP ONE: Subtract:

(A) the value of the severed **or used** property retained by the other person at the time ownership was severed **or used,** if any; from

(B) the value of the joint property **or multiple party account** at the time ownership was severed **or the assets were used.**

STEP TWO: Divide:

(A) the remainder determined under STEP ONE; by

(B) the value of the protected person's property, including the jointly held property **or multiple party account,** at the time ownership was severed **or the assets were used.**

STEP THREE: Multiply:

(A) the quotient determined under STEP TWO; by

(B) the value of the deceased protected person's net estate.

(c) As used in this section, "multiple party account" refers to both multiple party accounts described by IC 32-17-11 and transfer on death transfers completed under IC 32-17-14.

SECTION 17. IC 30-2-13-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) Except as provided in subsection (b), as used in this chapter, "purchaser" means a person or firm contracting with a seller for services or merchandise to be provided or delivered for a named individual.

(b) As used in section 13(b) of this chapter, "purchaser" means:

(1) an individual granted the authority in a funeral planning declaration executed by the decedent under IC 29-2-19;

~~(1)~~ **(2)** an individual described in subsection (a);

~~(2)~~ **(3)** the attorney in fact, appointed under IC 30-5, of an individual described in subsection (a);

~~(3)~~ **(4)** the guardian, appointed under IC 29-3, of an individual described in subsection (a); or

~~(4)~~ **(5)** if an individual described in subsection (a) is deceased:

(A) the surviving spouse of the individual;

(B) if there is no surviving spouse, the adult children of the individual;

(C) if there is no surviving spouse or surviving adult child, the surviving parent or parents of the individual; or

(D) if there is neither a surviving spouse nor adult children, nor a surviving parent, the personal representative (as defined in IC 29-1-1-3) of the individual.

SECTION 18. IC 30-2-13-38, AS AMENDED BY P.L.61-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 38. (a) A seller who violates a provision of this chapter commits an uncured deceptive act (as defined in IC 24-5-0.5-2).

(b) A person doing business as a sole proprietor, a firm, a limited liability company, a corporation, an association, or a partnership, but not acting as a seller that:

(1) sells or advertises prepaid services or merchandise or services or merchandise (as defined in section 8 of this chapter) and fails to obtain the certificate of authority required by section 33 of this chapter; or

(2) sells or advertises prepaid services or merchandise or services or merchandise (as defined in section 8 of this chapter) after the entity's certificate of authority has:

(A) expired; or

(B) been rescinded, revoked, or suspended by the board;

commits a Class A misdemeanor. Each act committed in violation of this subsection constitutes a separate offense.

(c) The following may maintain an action to enjoin an individual or entity from continuing to violate this section:

(1) The board.

(2) The attorney general.

(3) The prosecuting attorney of a county in which a violation occurs.

(d) A purchaser has a private right of action against a seller who commits an uncured deceptive act.

(e) A trustee or escrow agent, acting as a fiduciary, that disburses funds in a trust or escrow account established under this chapter without verifying that the seller has delivered the services or merchandise for which the funds were deposited through the use of documentation required under rules adopted by the state board of funeral and cemetery service established by IC 25-15-9-1 commits a Class A infraction.

(f) A person who knowingly or intentionally uses or disburses funds in a trust or escrow account established under this chapter for purposes other than the purposes required under this chapter commits a Class C felony.

SECTION 19. IC 30-2-14-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 31. (a) This section does not apply to ~~payments~~ **a payment** to which section 32 of this chapter applies.

(b) As used in this section, "payment" means a payment that a trustee may receive over a fixed number of years or during the life of one (1) or more individuals because of services rendered or property transferred to the payer in exchange for future payments, regardless of whether the trustee also has the option to receive the ~~amount~~ **payment** in a lump sum or other form of payment, ~~The term includes a~~ **whether the** payment **is** made in money or **other** property, **and whether the payment is made** from the payer's general assets or from a separate fund created by the payer. ~~including~~ **For purposes of subsection (h), the term also includes any payment from any separate fund, regardless of the reason for the payment.**

(c) As used in this section, "separate fund" includes a private or commercial annuity, an individual retirement account, and a pension, profit sharing, stock bonus, or stock ownership plan **(including an individual account under a plan and a separate share of any account described in this subsection).**

~~(c)~~ **(d)** To the extent that a payment is characterized as interest, ~~or~~

a dividend, or a payment made in lieu of interest or a dividend, a trustee shall allocate ~~it~~ **the payment** to income. The trustee shall allocate to principal the balance of the payment and any other payment received in the same accounting period that is not characterized as interest, a dividend, or an equivalent payment.

~~(d)~~ **(e)** If a payment is not characterized as interest, ~~or~~ a dividend, ~~and if the~~ **or an equivalent** payment **and** is made from ~~an individual account corresponding to an original participant,~~ **a separate fund,** the payment shall be allocated between income and principal ~~by:~~ **as follows:**

~~(1) determining the income occurring within the individual account by treating the account as though it were a trust; and~~

~~(2) considering the income to be distributed as a pro rata portion of all payments made from the individual account during the year.~~

(1) A trustee shall determine the internal income of each separate fund for the accounting period as if the separate fund were a trust subject to this chapter. The trustee shall allocate a payment from the separate fund to income to the extent of the internal income of the separate fund and allocate the balance of the payment to principal.

(2) If a trustee cannot determine the internal income of the separate fund but can determine the value of the separate fund, the internal income of the separate fund is deemed to equal five percent (5%) of the fund's value, according to the most recent statement of value preceding the beginning of the accounting period. If the trustee cannot determine the internal income of the separate fund or the fund's value, the internal income of the fund is deemed to equal the product of the interest rate and the present value of the expected future payments, as determined under section 7520 of the Internal Revenue Code, for the month preceding the accounting period for which the computation is made.

~~(e)~~ **(f)** If no part of a payment is characterized as interest, a dividend, or ~~allocated under subsection (d), and all or part of~~ **an equivalent payment, and** the payment is ~~required to be made, a~~ **made otherwise than from a separate fund, then the** trustee shall allocate to income ten percent (10%) of ~~the~~ **any** part **of the payment** that is required to be made during the accounting period and the balance to

principal, ~~If~~ **unless** no part of ~~a~~ **the** payment is required to be made or the payment received is the entire amount to which the trustee is entitled, **in which case** the trustee shall allocate the entire payment to principal. For purposes of this subsection, a payment is not "required to be made" to the extent that it is made because the trustee exercises a right of withdrawal.

~~(f)~~ **(g)** Notwithstanding any other provision of this section, when a private or commercial deferred annuity is held as an asset of a charitable remainder trust, an increase in the value of the obligation over the value of the obligation at the time of the acquisition by the trust is distributable as income. For purposes of this subsection, the increase in value is available for distribution only when the trustee exercises a right of withdrawal or otherwise receives cash on account of the obligation. If the obligation is surrendered wholly or partially before annuitization, the cash available shall be attributed first to the increase. The increase is distributable to the income beneficiary who is the income beneficiary at the time the cash is received.

~~(g) If, to obtain a gift or estate tax marital deduction for a trust, a trustee must allocate more of a payment to income than provided for by this section, the trustee shall allocate to income the additional amount necessary to obtain the deduction.~~

(h) Except as provided in subdivision (2), trusts described in subdivision (1) are subject to the following special rules regarding allocations and distributions of income provided in subdivision (3):

(1) This subsection applies to:

(A) a trust to which an election to qualify for a marital deduction under Section 2056(b)(7) of the Internal Revenue Code has been made; or

(B) a trust that qualifies for the marital deduction under Section 2056(b)(5) of the Internal Revenue Code.

(2) This subsection does not apply to a series of payments if and to the extent that the series of payments would, without the application of this subsection, qualify for the marital deduction under Section 2056(b)(7)(C) of the Internal Revenue Code.

(3) Except as provided in subdivision (2), a payment made from a separate fund to a trust described in subdivision (1) shall be allocated between income and principal in accordance with subsection (e)(1) and (e)(2) and not in accordance with

subsection (d) or (f), even if part or all of the payment is characterized as interest, a dividend, or an equivalent payment, and even if the payment is the entire amount to which the trustee is entitled. The trustee shall distribute to the surviving spouse the part of the payment allocated to income. Upon request of the surviving spouse, the trustee shall demand that the person administering the separate fund distribute all of the internal income of the fund to the trust. Upon request of the surviving spouse, the trustee shall allocate principal to income to the extent the internal income of the separate fund exceeds payments from the separate fund to the trust during the accounting period.

SECTION 20. IC 30-2-14-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 42. (a) A tax required to be paid by a trustee based on receipts allocated to income must be paid from income.

(b) A tax required to be paid by a trustee based on receipts allocated to principal must be paid from principal, even if the tax is called an income tax by the taxing authority.

(c) A tax required to be paid by a trustee on the trust's share of an entity's taxable income must be paid: ~~proportionately.~~

(1) from income to the extent that receipts from the entity are allocated to income; ~~and~~

(2) from principal to the extent that

~~(A)~~ receipts from the entity are allocated **only** to principal; ~~and~~

~~(B) the trust's share of the entity's taxable income exceeds the total receipts described in subdivision (1) and clause (A).~~

(3) proportionately from principal and income to the extent that receipts from the entity are allocated to both income and principal; and

(4) from principal to the extent that the tax exceeds the total receipts from the entity.

~~(d) For purposes of this section, receipts allocated to principal or income must be reduced by the amount distributed to a beneficiary from principal or income for which the trust receives a deduction in calculating the tax.~~

(d) After applying subsections (a) through (c), the trustee shall adjust income or principal receipts to the extent that the trust's taxes are reduced because the trust receives a deduction for

payments made to a beneficiary.

SECTION 21. IC 30-5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. "Attorney in fact" means the person designated to act for the principal under a power of attorney. **The term includes any of the following:**

(1) The original attorney in fact.

(2) A co-attorney in fact.

(3) A successor attorney in fact.

(4) A person to whom an attorney in fact has delegated authority.

SECTION 22. IC 30-5-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. "Person" means:

(1) an individual at least eighteen (18) years of age;

(2) a corporation;

(3) a trust;

(4) a limited liability company; ~~or~~

(5) a partnership;

(6) a business trust;

(7) an estate;

(8) an association;

(9) a joint venture;

(10) a government or political subdivision;

(11) an agency;

(12) an instrumentality; or

(13) any other legal or commercial entity.

SECTION 23. IC 30-5-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. "Power of attorney" **means a writing or other record that grants authority to an attorney in fact or agent to act in place of a principal, whether the term "power of attorney" is used. The term** refers to all types of powers of attorney, including durable powers of attorney, **except for the following:**

(1) A power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a credit in connection with a credit transaction.

(2) A proxy or other delegation to exercise voting rights or management rights with respect to an entity.

(3) A power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a

governmental purpose.

SECTION 24. IC 30-5-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. A power of attorney is valid if the power of attorney was valid at the time the power of attorney was executed under any of the following:

(1) This article.

(2) IC 30-2-11 **(repealed).**

(3) Common law.

(4) The law of another state or foreign country.

(5) The requirements for a military power of attorney under 10 U.S.C. 1044b.

SECTION 25. IC 30-5-3-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6. The meaning and effect of a power of attorney are determined by the law of the jurisdiction indicated in the power of attorney. In the absence of an indication of jurisdiction, the meaning and effect of a power of attorney are determined by the law of the jurisdiction in which the power of attorney was executed.**

SECTION 26. IC 30-5-3-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 7. This article modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 et seq.). However, this article does not:**

(1) modify, limit, or supersede 15 U.S.C. 7001(c); or

(2) authorize the electronic delivery of a notice described in 15 U.S.C. 7003(b).

SECTION 27. IC 30-5-4-2, AS AMENDED BY P.L.101-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Except as provided in subsection (b), a power of attorney is effective on the date the power of attorney is signed in accordance with section 1(4) of this chapter.

(b) A power of attorney may:

(1) specify the date on which the power will become effective; or

(2) become effective upon the occurrence of an event.

(c) If a power of attorney becomes effective upon the principal's incapacity and:

(1) the principal has not authorized a person to determine whether the principal is incapacitated; or

(2) the person authorized is unable or unwilling to make the determination;

the power of attorney becomes effective upon a determination that the principal is incapacitated that is set forth in a writing or other record by a physician, licensed psychologist, or judge.

(d) A person authorized by the principal in the power of attorney to determine that the principal is incapacitated may:

(1) act as the principal's personal representative under the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 201 et seq.) and any rules or regulations issued under that act; and

(2) obtain access to the principal's health care information and communicate with the principal's health care provider.

SECTION 28. IC 30-5-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Except as stated otherwise in the power of attorney, an attorney in fact fails to serve or ceases to serve when:

(1) the attorney in fact dies;

(2) the attorney in fact resigns;

(3) the attorney in fact is adjudged incapacitated by a court;

(4) the attorney in fact cannot be located upon reasonable inquiry;

(5) the attorney in fact, if at one time the principal's spouse, legally is no longer the principal's spouse; or

(6) a physician familiar with the condition of the current attorney in fact certifies in writing to the immediate successor attorney in fact that the current attorney in fact is unable to transact a significant part of the business required under the power of attorney.

(b) Except as stated otherwise in the power of attorney, if the replaced attorney in fact reappears or is subsequently able to transact business, the successor attorney in fact shall remain as the attorney in fact.

(c) Except as otherwise stated in the power of attorney, an attorney in fact designated as a successor has the powers granted under the power of attorney to the original attorney in fact.

(d) Unless a power of attorney provides a different method for an attorney in fact's resignation, an attorney in fact may resign by giving notice to the principal, and, if the principal is incapacitated:

(1) to:

(A) the principal's guardian, if a guardian has been appointed for the principal; and

(B) a co-attorney in fact or successor attorney in fact; or

(2) if there is no person described in subdivision (1), to:

(A) the principal's care giver;

(B) another person reasonably believed by the attorney in fact to have sufficient interest in the principal's welfare; or

(C) a governmental agency having authority to protect the welfare of the principal.

SECTION 29. IC 30-5-5-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 7.5. (a) Language conferring general authority with respect to transfer on death or payable on death transfers means the principal authorizes the attorney in fact to do the following:**

(1) Establish one (1) or more transfer on death transfers or payable on death transfers.

(2) Designate, amend, remove, modify, or change any designation of beneficiary in a transfer on death transfer or payable on death transfer, including those created by the principal before or after the execution of the power of attorney.

(3) Terminate any transfer on death transfer or payable on death transfer.

(4) Add to or withdraw from any transfer on death transfer or payable on death transfer.

(5) Exercise any right or authority that the principal may have in a transfer on death transfer or payable on death transfer during the principal's lifetime.

(b) The powers described in this section are equally exercisable with respect to transfer on death transfers and payable on death transfers that are established or operated in Indiana or another jurisdiction.

(c) A power of attorney that is executed before July 1, 2009, and that confers general authority with respect to all other matters under section 19 of this chapter also confers general authority with respect to transfer on death transfers and payable on death transfers as described in this section.

SECTION 30. IC 30-5-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) This section

does not prohibit an individual capable of consenting to the individual's own health care or to the health care of another from consenting to health care administered in good faith under the religious tenets and practices of the individual requiring health care.

(b) Language conferring general authority with respect to health care powers means the principal authorizes the attorney in fact to do the following:

(1) Employ or contract with servants, companions, or health care providers to care for the principal.

(2) If the attorney in fact is an individual, consent to or refuse health care for the principal who is an individual in accordance with IC 16-36-4 and IC 16-36-1 by properly executing and attaching to the power of attorney a declaration or appointment, or both.

(3) Admit or release the principal from a hospital or health care facility.

(4) Have access to records, including medical records, concerning the principal's condition.

(5) Make anatomical gifts on the principal's behalf.

(6) Request an autopsy.

(7) Make plans for the disposition of the principal's body, **including executing a funeral planning declaration on behalf of the principal in accordance with IC 29-2-19.**

SECTION 31. IC 30-5-9-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 11. An attorney in fact that violates this article is liable to the principal or the principal's successors in interest for damages and an amount required to reimburse the principal or the principal's successors in interest for the attorney's fees and costs paid as a result of the violation.**

SECTION 32. IC 30-5-10-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. Unless the power of attorney provides otherwise, an attorney in fact may exercise authority until the authority terminates under this chapter, even if time has passed since the execution of the power of attorney.**

SECTION 33. IC 32-17-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) As used in this

chapter, "multiple party account" means any of the following types of accounts:

(1) A joint account.

~~(2) A P.O.D. account.~~

~~(3)~~ **(2)** A trust account.

(b) The term does not include accounts established for deposit of funds of a partnership, joint venture, or other association for business purposes, or accounts controlled by one (1) or more persons as the duly authorized agent or trustee for a corporation, unincorporated association, charitable or civic organization, or a regular fiduciary or trust account where the relationship is established other than by deposit agreement.

SECTION 34. IC 32-17-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) As used in this chapter, "party" means a person who, by the terms of the account, has a present right, subject to request, to payment from a multiple party account. A ~~P.O.D. payee or~~ beneficiary of a trust account is a party only after the account becomes payable to the payee or beneficiary by reason of the payee's or beneficiary's surviving the original payee or trustee.

(b) Unless the context otherwise requires, the term includes a guardian, conservator, personal representative, or assignee, including an attaching creditor, of a party. The term also includes a person identified as a trustee of an account for another whether or not a beneficiary is named.

(c) The term does not include:

(1) any named beneficiary unless the beneficiary has a present right of withdrawal; or

(2) a person who is merely authorized to make a request as the agent of another.

SECTION 35. IC 32-17-11-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) The provisions of sections 17, 18, and 19 of this chapter concerning beneficial ownership as between parties, or as between parties and ~~P.O.D. payees or~~ beneficiaries of multiple party accounts:

(1) apply only to controversies between:

(A) the parties or the ~~P.O.D. payees or~~ beneficiaries of multiple party accounts; and

(B) creditors and other successors of:

(i) the parties; or

(ii) the ~~P.O.D. payees or~~ beneficiaries of multiple party accounts; and

(2) do not affect the power of withdrawal of the parties or the ~~P.O.D. payees or~~ beneficiaries of multiple party accounts as determined by the terms of account contracts.

(b) The provisions of sections 22 through 27 of this chapter govern the liability and set-off rights of financial institutions that make payments under sections 22 through 27 of this chapter.

SECTION 36. IC 32-17-11-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) Unless there is clear and convincing evidence of a different intent, during the lifetime of all parties, a joint account belongs to the parties in proportion to the net contributions by each party to the sums on deposit.

~~(b) A P.O.D. account belongs to the original payee during the original payee's lifetime and not to the P.O.D. payee or payees. If at least two (2) parties are named as original payees, subsection (a) governs the rights of the parties during their lifetimes.~~

~~(c)~~ **(b)** Unless:

(1) a contrary intent is manifested by the terms of the account or the deposit agreement; or

(2) there is other clear and convincing evidence of an irrevocable trust;

a trust account belongs beneficially to the trustee during the trustee's lifetime. If at least two (2) parties are named as trustee on the account, subsection (a) governs the beneficial rights of the trustees during their lifetimes. If there is an irrevocable trust, the account belongs beneficially to the beneficiary.

SECTION 37. IC 32-17-11-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. (a) Sums remaining on deposit at the death of a party to a joint account belong to the surviving party or parties as against the estate of the decedent unless there is clear and convincing evidence of a different intention at the time the account is created. If there are at least two (2) surviving parties, their respective ownerships during lifetime are:

(1) in proportion to their previous ownership interests under section 17 of this chapter; and

(2) augmented by an equal share for each survivor of any interest

the decedent may have owned in the account immediately before the person's death.

The right of survivorship continues between the surviving parties.

~~(b) If the account is a P.O.D. account, on death of the original payee or of the survivor of at least two (2) original payees, any sums remaining on deposit belong to the P.O.D. payee or payees who survive the original payee. If at least two (2) P.O.D. payees survive, there is no right of survivorship between the P.O.D. payees unless the terms of the account or deposit agreement expressly provide for survivorship.~~

~~(c)~~ **(b)** If the account is a trust account, on death of the trustee or the survivor of at least two (2) trustees, any sums remaining on deposit belong to the person or persons named as beneficiaries who survive the trustee, unless there is clear and convincing evidence of a contrary intent. If at least two (2) beneficiaries survive, there is no right of survivorship between the beneficiaries unless the terms of the account or deposit agreement expressly provide for survivorship.

~~(d)~~ **(c)** Except as provided in subsections (a) ~~through (c),~~ **and (b),** the death of any party to a multiple party account has no effect on beneficial ownership of the account other than to transfer the rights of the decedent as part of the decedent's estate.

~~(e)~~ **(d)** A right of survivorship arising:

(1) from the express terms of the account; or

(2) under:

(A) this section; **or**

(B) a beneficiary designation in a trust account; ~~or~~

~~(C) a P.O.D. payee designation;~~

cannot be changed by will.

SECTION 38. IC 32-17-11-21.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21.1. The liability of a surviving party ~~P.O.D. payee,~~ or beneficiary for creditor claims and statutory allowances is determined under IC 32-17-13.

SECTION 39. IC 32-17-11-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 26. (a) Payment made under section 22, 23, ~~24,~~ or 25 of this chapter discharges the financial institution from all claims for amounts paid whether or not the payment is consistent with the beneficial ownership of the account as between parties, ~~P.O.D. payees, or~~ beneficiaries, or their successors.

(b) The protection provided under this section does not extend to

payments made after a financial institution has received written notice from any party able to request present payment to the effect that withdrawals in accordance with the terms of the account should not be permitted.

(c) Unless a notice described in subsection (b) is withdrawn by the person giving it, the successor of any deceased party must concur in any demand for withdrawal if the financial institution is to be protected under this section.

(d) No other notice or any other information shown to have been available to a financial institution affects the institution's right to the protection provided under this section.

(e) The protection provided under this section does not affect the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of funds in or withdrawn from multiple party accounts.

SECTION 40. IC 32-17-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) As used in this chapter, "nonprobate transfer" means a valid transfer, effective at death, by a transferor:

(1) whose last domicile was in Indiana; and

(2) who immediately before death had the power, acting alone, to prevent transfer of the property by revocation or withdrawal and:

(A) use the property for the benefit of the transferor; or

(B) apply the property to discharge claims against the transferor's probate estate.

The term does not include transfer of a survivorship interest in a tenancy by the entireties real estate, transfer of a life insurance policy or annuity, or payment of the death proceeds of a life insurance policy or annuity.

(b) With respect to a security described in IC 32-17-9 "nonprobate transfer" means a transfer on death resulting from a registration in beneficiary form by an owner whose last domicile was in Indiana.

(c) With respect to a nonprobate transfer involving a multiple party account, a nonprobate transfer occurs if the last domicile of the depositor whose interest is transferred under IC 32-17-11 was in Indiana.

(d) With respect to a motor vehicle or a watercraft, a nonprobate transfer occurs if the transferee obtains a certificate of

title in Indiana for:

(1) the motor vehicle under IC 9-17-2-2(b); or

(2) the watercraft as required by IC 9-31-2-16(a)(1)(C).

(e) A transfer on death transfer completed under IC 32-17-14 is a nonprobate transfer.

SECTION 41. IC 32-17-14 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 14. Transfer on Death Property Act

Sec. 1. This chapter may be cited as the Transfer on Death Property Act.

Sec. 2. (a) Except as provided elsewhere in this chapter, this chapter applies to a transfer on death security, transfer on death securities account, and pay on death account created before July 1, 2009, unless the application of this chapter would:

(1) adversely affect a right given to an owner or beneficiary;

(2) give a right to any owner or beneficiary that the owner or beneficiary was not intended to have when the transfer on death security, transfer on death securities account, or pay on death account was created;

(3) impose a duty or liability on any person that was not intended to be imposed when the transfer on death security, transfer on death securities account, or pay on death account was created; or

(4) relieve any person from any duty or liability imposed:

(A) by the terms of the transfer on death security, transfer on death securities account, or pay on death account; or

(B) under prior law.

(b) Subject to section 32 of this chapter, this chapter applies to a transfer on death transfer if at the time the owner designated the beneficiary:

(1) the owner was a resident of Indiana;

(2) the property subject to the beneficiary designation was situated in Indiana;

(3) the obligation to pay or deliver arose in Indiana;

(4) the transferring entity was a resident of Indiana or had a place of business in Indiana; or

(5) the transferring entity's obligation to make the transfer was accepted in Indiana.

(c) Except for section 24 of this chapter, this chapter does not apply to property, money, or benefits paid or transferred at death under a life or accidental death insurance policy, annuity, contract, plan, or other product sold or issued by a life insurance company unless the provisions of this chapter are incorporated into the policy or beneficiary designation in whole or in part by express reference.

(d) Except for section 24 of this chapter, this chapter does not apply to a transfer on death transfer if the beneficiary designation or an applicable law expressly provides that this chapter does not apply to the transfer.

(e) Subject to IC 9-17-3-9(h) and IC 9-31-2-30(h), this chapter applies to a beneficiary designation for the transfer on death of a motor vehicle or a watercraft.

Sec. 3. The following definitions apply throughout this chapter:

(1) "Beneficiary" means a person designated or entitled to receive property because of another person's death under a transfer on death transfer.

(2) "Beneficiary designation" means a written instrument other than a will or trust that designates the beneficiary of a transfer on death transfer.

(3) "Joint owners" refers to persons who hold property as joint tenants with a right of survivorship. However, the term does not include a husband and wife who hold property as tenants by the entirety.

(4) "LDPS" means an abbreviation of lineal descendants per stirpes, which may be used in a beneficiary designation to designate a substitute beneficiary as provided in section 22 of this chapter.

(5) "Owner" refers to a person or persons who have a right to designate the beneficiary of a transfer on death transfer.

(6) "Ownership in beneficiary form" means holding property under a registration in beneficiary form or other written instrument that:

(A) names the owner of the property;

(B) directs ownership of the property to be transferred upon the death of the owner to the designated beneficiary; and

(C) designates the beneficiary.

(7) "Person" means an individual, a sole proprietorship, a partnership, an association, a fiduciary, a trustee, a corporation, a limited liability company, or any other business entity.

(8) "Proof of death" means a death certificate or a record or report that is prima facie proof or evidence of an individual's death.

(9) "Property" means any present or future interest in real property, intangible personal property (as defined in IC 6-4.1-1-5), or tangible personal property (as defined in IC 6-4.1-1-13). The term includes:

(A) a right to direct or receive payment of a debt;

(B) a right to direct or receive payment of money or other benefits due under a contract, account agreement, deposit agreement, employment contract, compensation plan, pension plan, individual retirement plan, employee benefit plan, or trust or by operation of law;

(C) a right to receive performance remaining due under a contract;

(D) a right to receive payment under a promissory note or a debt maintained in a written account record;

(E) rights under a certificated or uncertificated security;

(F) rights under an instrument evidencing ownership of property issued by a governmental agency; and

(G) rights under a document of title (as defined in IC 26-1-1-201).

(10) "Registration in beneficiary form" means titling of an account record, certificate, or other written instrument that:

(A) provides evidence of ownership of property in the name of the owner;

(B) directs ownership of the property to be transferred upon the death of the owner to the designated beneficiary; and

(C) designates the beneficiary.

(11) "Security" means a share, participation, or other interest in property, in a business, or in an obligation of an enterprise or other issuer. The term includes a certificated security, an uncertificated security, and a security account.

(12) "Transfer on death deed" means a deed that conveys an

interest in real property to a grantee by beneficiary designation.

(13) "Transfer on death transfer" refers to a transfer of property that takes effect upon the death of the owner under a beneficiary designation made under this chapter.

(14) "Transferring entity" means a person who:

(A) owes a debt or is obligated to pay money or benefits;

(B) renders contract performance;

(C) delivers or conveys property; or

(D) changes the record of ownership of property on the books, records, and accounts of an enterprise or on a certificate or document of title that evidences property rights.

The term includes a governmental agency, business entity, or transfer agent that issues certificates of ownership or title to property and a person acting as a custodial agent for an owner's property. However, the term does not include a governmental office charged with endorsing, entering, or recording the transfer of real property in the public records.

Sec. 4. (a) The following transfers of ownership are not considered transfer on death transfers for purposes of this chapter:

(1) Transfers by rights of survivorship in property held as joint tenants or tenants by the entirety.

(2) A transfer to a remainderman on the termination of a life tenancy.

(3) An inter vivos or a testamentary transfer under a trust established by an individual.

(4) A transfer made under the exercise or nonexercise of a power of appointment.

(5) A transfer made on the death of a person who did not have the right to designate the person's estate as the beneficiary of the transfer.

(b) A beneficiary designation made under this chapter must do the following:

(1) Designate the beneficiary of a transfer on death transfer.

(2) Make the transfer effective upon the death of the owner of the property being transferred.

(3) Comply with this chapter, the conditions of any governing instrument, and any other applicable law.

(c) For purposes of construing this chapter or a beneficiary designation made under this chapter, the death of the last surviving owner of property held by joint owners is considered the death of the owner.

(d) Except as otherwise provided in this chapter, a transfer on death direction is accomplished in a form substantially similar to the following:

(1) Insert Name of the Owner or Owners.

(2) Insert "Transfer on death to" or "TOD" or "Pay on death to" or "POD".

(3) Insert the Name of the Beneficiary or Beneficiaries.

(e) An owner may revoke or change a beneficiary designation at any time before the owner's death.

Sec. 5. A transfer on death transfer:

(1) is effective with or without consideration;

(2) is not considered testamentary;

(3) is not subject to the requirements for a will or for probating a will under IC 29-1; and

(4) may be subject to an agreement between the owner and a transferring entity to carry out the owner's intent to transfer the property under this chapter.

Sec. 6. For the purpose of discharging its duties under this chapter, the authority of a transferring entity acting as agent for an owner of property subject to a transfer on death transfer does not cease at the death of the owner. The transferring entity shall transfer the property to the designated beneficiary in accordance with the beneficiary designation and this chapter.

Sec. 7. (a) If any of the following are required, an agreement between the owner and the transferring entity is necessary to carry out a transfer on death transfer, which may be made in accordance with the rules, terms, and conditions set forth in the agreement:

(1) The submission to the transferring entity of a beneficiary designation under a governing instrument.

(2) Registration by a transferring entity of a transfer on death direction on any certificate or record evidencing ownership of property.

(3) Consent of a contract obligor for a transfer of performance due under the contract.

(4) Consent of a financial institution for a transfer of an

obligation of the financial institution.

(5) Consent of a transferring entity for a transfer of an interest in the transferring entity.

(b) When subsection (a) applies, a transferring entity is not required to accept an owner's request to assist the owner in carrying out a transfer on death transfer.

(c) If a beneficiary designation, revocation, or change is subject to acceptance by a transferring entity, the transferring entity's acceptance of the beneficiary designation, revocation, or change relates back to and is effective as of the time the request was received by the transferring entity.

Sec. 8. (a) If a transferring entity accepts a beneficiary designation or beneficiary assignment or registers property in beneficiary form, the acceptance or registration constitutes the agreement of the owner and the transferring entity that, subject to this section, the owner's property will be transferred to and placed in the name and control of the beneficiary in accordance with the beneficiary designation or transfer on death direction, the agreement between the parties, and this chapter.

(b) An agreement described in subsection (a) is subject to the owner's power to revoke or change a beneficiary designation before the owner's death.

(c) A transferring entity's duties under an agreement described in subsection (a) are subject to the following:

(1) Receiving proof of the owner's death.

(2) Complying with the transferring entity's requirements for proof that the beneficiary is entitled to receive the property.

Sec. 9. (a) Except as provided in subsection (c), a beneficiary designation that satisfies the requirements of subsection (b):

(1) authorizes a transfer of property under this chapter;

(2) is effective on the death of the owner of the property; and

(3) transfers the right to receive the property to the designated beneficiary who survives the death of the owner.

(b) A beneficiary designation is effective under subsection (a) if the beneficiary designation is:

(1) executed; and

(2) delivered;

in proper form to the transferring entity before the death of the owner.

(c) A transferring entity shall make a transfer described in subsection (a)(3) unless there is clear and convincing evidence of the owner's different intention at the time the beneficiary designation was created.

Sec. 10. (a) A written assignment of a contract right that:

(1) assigns the right to receive any performance remaining due under the contract to an assignee designated by the owner; and

(2) expressly states that the assignment does not take effect until the death of the owner;

transfers the right to receive performance due under the contract to the designated assignee beneficiary if the assignment satisfies the requirements of subsection (b).

(b) A written assignment described in subsection (a) is effective upon the death of the owner if the assignment is:

(1) executed; and

(2) delivered;

in proper form to the contract obligor before the death of the owner.

(c) A beneficiary assignment described in this section is not required to be supported by consideration or delivered to the assignee beneficiary.

(d) This section does not preclude other methods of assignment that are permitted by law and have the effect of postponing the enjoyment of the contract right until after the death of the owner.

Sec. 11. (a) A transfer on death deed transfers the interest provided to the beneficiary if the transfer on death deed is:

(1) executed in proper form; and

(2) recorded with the recorder of deeds in the county in which the real property is situated before the death of the owner.

(b) A transfer on death deed is void if it is not recorded with the recorder of deeds in the county in which the real property is situated before the death of the owner.

(c) A transfer on death deed is not required to be supported by consideration or delivered to the grantee beneficiary.

(d) A transfer on death deed may be used to transfer an interest in real property to either a revocable or an irrevocable trust.

(e) If the owner makes a transfer on death deed, the effect of the conveyance is determined as follows:

(1) If the owner's interest in the real property is as a tenant by the entirety, the conveyance is inoperable and void unless the other spouse joins in the conveyance.

(2) If the owner's interest in the real property is as a joint tenant with rights of survivorship, the conveyance severs the joint tenancy and the cotenancy becomes a tenancy in common.

(3) If the owner's interest in the real property is as a joint tenant with rights of survivorship and the property is subject to a beneficiary designation, a conveyance of any joint owner's interest has no effect on the original beneficiary designation for the nonsevering joint tenant.

(4) If the owner's interest is as a tenant in common, the owner's interest passes to the beneficiary as a transfer on death transfer.

(5) If the owner's interest is a life estate determined by the owner's life, the conveyance is inoperable and void.

(6) If the owner's interest is any other interest, the interest passes in accordance with this chapter and the terms and conditions of the conveyance establishing the interest. If a conflict exists between the conveyance establishing the interest and this chapter, the terms and conditions of the conveyance establishing the interest prevail.

(f) A beneficiary designation in a transfer on death deed may be worded in substance as "(insert owner's name) conveys and warrants (or quitclaims) to (insert owner's name), TOD to (insert beneficiary's name)". This example is not intended to be exhaustive.

(g) A transfer on death deed using the phrase "pay on death to" or the abbreviation "POD" may not be construed to require the liquidation of the real property being transferred.

(h) This section does not preclude other methods of conveying real property that are permitted by law and have the effect of postponing enjoyment of an interest in real property until after the death of the owner. This section applies only to transfer on death deeds and does not invalidate any deed that is otherwise effective by law to convey title to the interest and estates provided in the deed.

Sec. 12. (a) A deed of gift, bill of sale, or other writing intended

to transfer an interest in tangible personal property is effective on the death of the owner and transfers ownership to the designated transferee beneficiary if the document:

(1) expressly creates ownership in beneficiary form;

(2) is in other respects sufficient to transfer the type of property involved; and

(3) is executed by the owner and acknowledged before a notary public or other person authorized to administer oaths.

(b) A beneficiary transfer document described in this section is not required to be supported by consideration or delivered to the transferee beneficiary.

(c) This section does not preclude other methods of transferring ownership of tangible personal property that are permitted by law and have the effect of postponing enjoyment of the property until after the death of the owner.

Sec. 13. (a) A transferor of property, with or without consideration, may execute a written instrument directly transferring the property to a transferee to hold as owner in beneficiary form.

(b) A transferee under an instrument described in subsection (a) is considered the owner of the property for all purposes and has all the rights to the property provided by law to the owner of the property, including the right to revoke or change the beneficiary designation.

(c) A direct transfer of property to a transferee to hold as owner in beneficiary form is effective when the written instrument perfecting the transfer becomes effective to make the transferee the owner.

Sec. 14. (a) Property may be held or registered in beneficiary form by including in the name in which the property is held or registered a direction to transfer the property on the death of the owner to a beneficiary designated by the owner.

(b) Property is registered in beneficiary form by showing on the account record, security certificate, or instrument evidencing ownership of the property:

(1) the name of the owner and, if applicable, the estate by which two (2) or more joint owners hold the property; and

(2) an instruction substantially similar in form to "transfer on death to (insert name of beneficiary)".

An instruction to "pay on death to (insert name of the beneficiary)" and the use of the abbreviations "TOD" and "POD" are also permitted by this section.

(c) Only a transferring entity or a person authorized by the transferring entity may place a transfer on death direction described by this section on an account record, a security certificate, or an instrument evidencing ownership of property.

(d) A transfer on death direction described by this section is effective on the death of the owner and transfers the owner's interest in the property to the designated beneficiary if:

(1) the property is registered in beneficiary form before the death of the owner; or

(2) the transfer on death direction is delivered in proper form to the transferring entity before the owner's death.

(e) An account record, security certificate, or instrument evidencing ownership of property that contains a transfer on death direction written as part of the name in which the property is held or registered is conclusive evidence, in the absence of fraud, duress, undue influence, lack of capacity, or mistake, that the direction was:

(1) regularly made by the owner;

(2) accepted by the transferring entity; and

(3) not revoked or changed before the owner's death.

Sec. 15. (a) Before the death of the owner, a beneficiary has no rights in the property because of the beneficiary designation. The signature or agreement of the beneficiary is not required for any transaction relating to property transferred under this chapter. If a lienholder takes action to enforce a lien, by foreclosure or otherwise through a court proceeding, it is not necessary to join the beneficiary as a party defendant in the action unless the beneficiary has another interest in the real property that has vested.

(b) On the death of one (1) of two (2) or more joint owners, property with respect to which a beneficiary designation has been made belongs to the surviving joint owner or owners. If at least two (2) joint owners survive, the right of survivorship continues as between the surviving owners.

(c) On the death of a tenant by the entireties, property with respect to which a beneficiary designation has been made belongs

to the surviving tenant.

(d) On the death of the owner, property with respect to which a beneficiary designation has been made passes by operation of law to the beneficiary.

(e) If two (2) or more beneficiaries survive, there is no right of survivorship among the beneficiaries when the death of a beneficiary occurs after the death of the owner unless the beneficiary designation expressly provides for survivorship among the beneficiaries. Except as expressly provided otherwise, the surviving beneficiaries hold their separate interest in the property as tenants in common. The share of any beneficiary who dies after the owner dies belongs to the deceased beneficiary's estate.

(f) If no beneficiary survives the owner, the property belongs to the estate of the owner unless the beneficiary designation directs the transfer to a substitute beneficiary in the manner required by section 22 of this chapter.

Sec. 16. (a) A beneficiary designation may be revoked or changed during the lifetime of the owner.

(b) A revocation or change of a beneficiary designation involving property owned as tenants by the entirety must be made with the agreement of both tenants for so long as both tenants are alive. After an individual dies owning as a tenant by the entirety property that is subject to a beneficiary designation, the individual's surviving spouse may revoke or change the beneficiary designation.

(c) A revocation or change of a beneficiary designation involving property owned in a form of ownership (other than as tenants by the entirety) that restricts conveyance of the interest unless another person joins in the conveyance must be made with the agreement of each living owner required to join in a conveyance.

(d) A revocation or change of a beneficiary designation involving property owned by joint owners with a right of survivorship must be made with the agreement of each living owner.

(e) A subsequent beneficiary designation revokes a prior beneficiary designation unless the subsequent beneficiary designation expressly provides otherwise.

(f) A revocation or change in a beneficiary designation must comply with the terms of any governing instrument, this chapter,

and any other applicable law.

(g) A beneficiary designation may not be revoked or changed by a will unless the beneficiary designation expressly grants the owner the right to revoke or change the beneficiary designation by a will.

(h) A transfer during the owner's lifetime of the owner's interest in the property, with or without consideration, terminates the beneficiary designation with respect to the property transferred.

(i) The effective date of a revocation or change in a beneficiary designation is determined in the same manner as the effective date of a beneficiary designation.

(j) An owner may revoke a beneficiary designation made in a transfer on death deed by executing and recording with the recorder of deeds in the county in which the real property is situated either:

(1) a subsequent deed of conveyance revoking, omitting, or changing the beneficiary designation; or

(2) an affidavit acknowledged or proved under IC 32-21-2-3 that revokes or changes the beneficiary designation.

(k) A physical act, such as a written modification on or the destruction of a transfer on death deed after the transfer on death deed has been recorded, has no effect on the beneficiary designation.

(l) A transfer on death deed may not be revoked or modified by will or trust.

Sec. 17. (a) An attorney in fact, guardian, conservator, or other agent acting on the behalf of the owner of property may make, revoke, or change a beneficiary designation if:

(1) the action complies with the terms of this chapter and any other applicable law; and

(2) the action is not expressly forbidden by the document establishing the agent's right to act on behalf of the owner.

(b) An attorney in fact, guardian, conservator, or other agent may withdraw, sell, pledge, or otherwise transfer property that is subject to a beneficiary designation notwithstanding the fact that the effect of the transaction may be to extinguish a beneficiary's right to receive a transfer of the property at the death of the owner.

(c) The rights of a beneficiary to any part of property that is subject to a beneficiary designation after the death of the owner are determined under IC 29-3-8-6.5 if:

(1) a guardian or conservator takes possession of the property;

(2) the guardian sells, transfers, encumbers, or consumes the property during the protected person's lifetime; and

(3) the owner subsequently dies.

Sec. 18. If property subject to a beneficiary designation is lost, destroyed, damaged, or involuntarily converted during the owner's lifetime, the beneficiary succeeds to any right with respect to the loss, destruction, damage, or involuntary conversion that the owner would have had if the owner had survived. However, the beneficiary has no interest in any payment or substitute property received by the owner during the owner's lifetime.

Sec. 19. (a) A beneficiary of a transfer on death transfer takes the owner's interest in the property at the death of the owner subject to all conveyances, assignments, contracts, set offs, licenses, easements, liens, and security interests made by the owner or to which the owner was subject during the owner's lifetime.

(b) A beneficiary of a transfer on death transfer of an account with a bank, savings and loan association, credit union, broker, or mutual fund takes the owner's interest in the property at the death of the owner subject to all requests for payment of money issued by the owner before the owner's death, whether paid by the transferring entity before or after the owner's death, or unpaid. The beneficiary is liable to the payee of an unsatisfied request for payment to the extent that the request represents an obligation that was enforceable against the owner during the owner's lifetime.

(c) Each beneficiary's liability with respect to an unsatisfied request for payment is limited to the same proportionate share of the request for payment as the beneficiary's proportionate share of the account under the beneficiary designation. Each beneficiary has the right of contribution from the other beneficiaries with respect to a request for payment that is satisfied after the owner's death, to the extent that the request for payment would have been enforceable by the payee during the owner's lifetime.

Sec. 20. An individual who is a beneficiary of a transfer on death transfer is not entitled to a transfer unless the individual:

(1) survives the owner; and

(2) survives the owner by the time, if any, required by the terms of the beneficiary designation.

Sec. 21. (a) A trustee of a trust may be a designated beneficiary regardless of whether the trust is amendable, revocable, irrevocable, funded, unfunded, or amended after the designation is made.

(b) Unless a beneficiary designation provides otherwise, a trust that is revoked or terminated before the death of the owner is considered nonexistent at the owner's death.

(c) Unless a beneficiary designation provides otherwise, a legal entity or trust that does not:

(1) exist; or

(2) come into existence effective as of the owner's death;

is considered nonexistent at the owner's death.

Sec. 22. (a) Notwithstanding sections 9 and 20 of this chapter, a designated beneficiary's rights under this chapter are not extinguished when the designated beneficiary does not survive the owner if:

(1) subsection (b) applies in the case of a designated beneficiary who is a lineal descendant of the owner; or

(2) subsection (d) applies in the case of a designated beneficiary who is not a lineal descendant of the owner.

(b) If a designated beneficiary who is a lineal descendant of the owner:

(1) is deceased at the time the beneficiary designation is made;

(2) does not survive the owner; or

(3) is treated as not surviving the owner;

the beneficiary's right to a transfer on death transfer belongs to the beneficiary's lineal descendants per stirpes who survive the owner unless the owner provides otherwise under subsection (c).

(c) An owner may execute a beneficiary designation to which subsection (b) does not apply by:

(1) making the notation "No LDPS" after a beneficiary's name; or

(2) including other words negating an intention to direct the transfer to the lineal descendant substitutes of the nonsurviving beneficiary.

(d) An owner may execute a beneficiary designation that provides that the right to a transfer on death transfer belonging to a beneficiary who is not a lineal descendant of the owner and does not survive the owner belongs to the beneficiary's lineal

descendants per stirpes who survive the owner. An owner's intent to direct the transfer to the nonsurviving beneficiary's lineal descendants must be shown by either of the following on the beneficiary designation after the name of the beneficiary:

(1) The words "and lineal descendants per stirpes".

(2) The notation "LDPS".

(e) When two (2) or more individuals receive a transfer on death transfer as substitute beneficiaries under subsection (b) or (d), the individuals are entitled to equal shares of the property if they are of the same degree of kinship to the nonsurviving beneficiary. If the substitute beneficiaries are of unequal degrees of kinship, an individual of a more remote degree is entitled by representation to the share that would otherwise belong to the individual's parent.

(f) If:

(1) a designated beneficiary of a transfer on death transfer does not survive the owner;

(2) either subsection (b) or (d) applies; and

(3) no lineal descendant of the designated beneficiary survives the owner;

the right to receive the property transferred belongs to the other surviving beneficiaries. If no other beneficiary survives the owner, the property belongs to the owner's estate.

Sec. 23. (a) If, after an owner makes a beneficiary designation, the owner's marriage is dissolved or annulled, any provision of the beneficiary designation in favor of the owner's former spouse is revoked on the date the marriage is dissolved or annulled. Revocation under this subsection is effective regardless of whether the beneficiary designation refers to the owner's marital status. The beneficiary designation is given effect as if the former spouse had not survived the owner.

(b) Subsection (a) does not apply to a provision of a beneficiary designation that:

(1) has been made irrevocable, or revocable only with the spouse's consent;

(2) is made after the marriage is dissolved or annulled; or

(3) expressly states that the dissolution or annulment of the marriage does not affect the designation of a spouse or a relative of the spouse as a beneficiary.

(c) A provision of a beneficiary designation that is revoked

solely by subsection (a) is revived by the owner's remarriage to the former spouse or by a nullification of the dissolution or annulment of the marriage.

(d) This section does not apply to any employee benefit plan governed by the Employee Retirement Income Security Act of 1974.

Sec. 24. (a) A beneficiary designation or a revocation of a beneficiary designation that is procured by fraud, duress, undue influence, or mistake or because the owner lacked capacity is void.

(b) A beneficiary designation made under this chapter is subject to IC 29-1-2-12.1.

Sec. 25. (a) No law intended to protect a spouse or child from disinheritance by the will of a testator applies to a transfer on death transfer.

(b) A beneficiary designation designating the children of the owner or children of any other person as a class and not by name includes all children of the person regardless of whether the child is born or adopted before or after the beneficiary designation is made.

(c) Except as provided in subsection (d), a child of the owner born or adopted after the owner makes a beneficiary designation that names another child of the owner as the beneficiary is entitled to receive a fractional share of the property that would otherwise be transferred to the named beneficiary. The share of the property to which each child of the owner is entitled to receive is expressed as a fraction in which the numerator is one (1) and the denominator is the total number of the owner's children.

(d) A beneficiary designation or a governing instrument may provide that subsection (c) does not apply to an owner's beneficiary designation. In addition, a transferring entity is not obligated to apply subsection (c) to property registered in beneficiary form.

(e) If a beneficiary designation does not name any child of the owner as the designated beneficiary with respect to a particular property interest, a child of the owner born or adopted after the owner makes the beneficiary designation is not entitled to any share of the property interest subject to the designation.

Sec. 26. (a) If an agreement between the owner and a transferring entity is required to carry out a transfer on death transfer as described in section 7 of this chapter, a transferring

entity may not adopt rules for the making, execution, acceptance, and revocation of a beneficiary designation that are inconsistent with this chapter. A transferring entity may adopt the rules imposed by subsection (b) in whole or in part by incorporation by reference.

(b) Except as otherwise provided in a beneficiary designation, a governing instrument, or any other applicable law, the following rules apply to a beneficiary designation:

(1) A beneficiary designation or a request for registration of property in beneficiary form must be made in writing, signed by the owner, dated, and, in the case of a transfer on death deed, compliant with all requirements for the recording of deeds.

(2) A security that is not registered in the name of the owner may be registered in beneficiary form on instructions given by a broker or person delivering the security.

(3) A beneficiary designation may designate one (1) or more primary beneficiaries and one (1) or more contingent beneficiaries.

(4) On property registered in beneficiary form, a primary beneficiary is the person shown immediately following the transfer on death direction. Words indicating that the person is a primary beneficiary are not required. The name of a contingent beneficiary in the registration must have the words "contingent beneficiary" or words of similar meaning to indicate the contingent nature of the interest being transferred.

(5) Multiple surviving beneficiaries share equally in the property being transferred unless a different percentage or fractional share is stated for each beneficiary. If a percentage or fractional share is designated for multiple beneficiaries, the surviving beneficiaries share in the proportion that their designated shares bear to each other.

(6) A transfer of unequal shares to multiple beneficiaries for property registered in beneficiary form may be expressed in numerical form following the name of the beneficiary in the registration.

(7) A transfer on death transfer of property also transfers any interest, rent, royalties, earnings, dividends, or credits earned

or declared on the property but not paid or credited before the owner's death.

(8) If a distribution by a transferring entity under a transfer on death transfer results in fractional shares in a security or other property that is not divisible, the transferring entity may distribute the fractional shares in the name of all beneficiaries as tenants in common or as the beneficiaries may direct, or the transferring entity may sell the property that is not divisible and distribute the proceeds to the beneficiaries in the proportions to which they are entitled.

(9) On the death of the owner, the property, minus all amounts and charges owed by the owner to the transferring entity, belongs to the surviving beneficiaries and, in the case of substitute beneficiaries permitted under section 22 of this chapter, the lineal descendants of designated beneficiaries who did not survive the owner are entitled to the property as follows:

(A) If there are multiple primary beneficiaries and a primary beneficiary does not survive the owner and does not have a substitute under section 22 of this chapter, the share of the nonsurviving beneficiary is allocated among the surviving beneficiaries in the proportion that their shares bear to each other.

(B) If there are no surviving primary beneficiaries and there are no substitutes for the nonsurviving primary beneficiaries under section 22 of this chapter, the property belongs to the surviving contingent beneficiaries in equal shares or according to the percentages or fractional shares stated in the registration.

(C) If there are multiple contingent beneficiaries and a contingent beneficiary does not survive the owner and does not have a substitute under section 22 of this chapter, the share of the nonsurviving contingent beneficiary is allocated among the surviving contingent beneficiaries in the proportion that their shares bear to each other.

(10) If a trustee designated as a beneficiary:

(A) does not survive the owner;

(B) resigns; or

(C) is unable or unwilling to execute the trust as trustee

and no successor trustee is appointed in the twelve (12) months following the owner's death;

the transferring entity may make the distribution as if the trust did not survive the owner.

(11) If a trustee is designated as a beneficiary and no trust instrument or probated will creating an express trust is presented to the transferring entity, the transferring entity may make the distribution as if the trust did not survive the owner.

(12) If the transferring entity is not presented evidence during the twelve (12) months after the owner's death that there are lineal descendants of a nonsurviving beneficiary for whom LDPS distribution applies who survived the owner, the transferring entity may make the transfer as if the nonsurviving beneficiary's descendants also failed to survive the owner.

(13) If a beneficiary cannot be located at the time the transfer is made to located beneficiaries, the transferring entity shall hold the missing beneficiary's share. If the missing beneficiary's share is not claimed by the beneficiary or by the beneficiary's personal representative or successor during the twelve (12) months after the owner's death, the transferring entity shall transfer the share as if the beneficiary did not survive the owner.

(14) A transferring entity has no obligation to attempt to locate a missing beneficiary, to pay interest on the share held for a missing beneficiary, or to invest the share in any different property.

(15) Cash, interest, rent, royalties, earnings, or dividends payable to a missing beneficiary may be held by the transferring entity at interest or reinvested by the transferring entity in the account or in a dividend reinvestment account associated with a security held for the missing beneficiary.

(16) If a transferring entity is required to make a transfer on death transfer to a minor or an incapacitated adult, the transfer may be made under the Indiana Uniform Transfers to Minors Act, the Indiana Uniform Custodial Trust Act, or a similar law of another state.

(17) A written request for the execution of a transfer on death transfer may be made by any beneficiary, a beneficiary's legal representative or attorney in fact, or the owner's personal representative.

(18) A transfer under a transfer on death deed occurs automatically upon the owner's death subject to the requirements of subdivision (20) and does not require a request for the execution of the transfer.

(19) A written request for the execution of a transfer on death transfer must be accompanied by the following:

(A) A certificate or instrument evidencing ownership of the contract, account, security, or property.

(B) Proof of the deaths of the owner and any nonsurviving beneficiary.

(C) An inheritance tax waiver from states that require it.

(D) In the case of a request by a legal representative, a copy of the instrument creating the legal authority or a certified copy of the court order appointing the legal representative.

(E) Any other proof of the person's entitlement that the transferring entity may require.

(20) On the death of an owner whose transfer on death deed has been recorded, the beneficiary shall file an affidavit in the office of the recorder of the county in which the real property is located. The affidavit must contain the following:

(A) The legal description of the property.

(B) A certified copy of the death certificate certifying the owner's death.

(C) The name and address of each designated beneficiary who survives the owner or is in existence on the date of the owner's death.

(D) The name of each designated beneficiary who has not survived the owner's death or is not in existence on the date of the owner's death.

(E) A cross-reference to the recorded transfer on death deed.

(c) A beneficiary designation is presumed to be valid. A party may rely on the presumption of validity unless the party has actual knowledge that the beneficiary designation was not validly

executed. A person who acts in good faith reliance on a transfer on death deed is immune from liability to the same extent as if the person had dealt directly with the named owner and the named owner had been competent and not incapacitated.

Sec. 27. (a) An owner who makes arrangements for a transfer on death transfer under this chapter gives to the transferring entity the protections provided in this section for executing the owner's beneficiary designation.

(b) A transferring entity may execute a transfer on death transfer with or without a written request for execution.

(c) A transferring entity may rely and act on:

(1) a certified or authenticated copy of a death certificate issued by an official or an agency of the place where the death occurred as showing the fact, place, date, and time of death and the identity of the decedent; and

(2) a certified or authenticated copy of a report or record of any governmental agency that a person is missing, detained, dead, or alive, and the dates, circumstances, and places disclosed by the record or report.

(d) A transferring entity has no duty to verify the information contained within a written request for the execution of a beneficiary designation. The transferring entity may rely and act on a request made by a beneficiary or a beneficiary's attorney in fact, guardian, conservator, or other agent.

(e) A transferring entity has no duty to:

(1) except as provided in subsection (g), give notice to any person of the date, manner, and persons to whom a transfer will be made under beneficiary designation;

(2) attempt to locate any beneficiary or lineal descendant substitute;

(3) determine whether a nonsurviving beneficiary or descendant had a lineal descendant who survived the owner;

(4) locate a trustee or custodian;

(5) obtain the appointment of a successor trustee or custodian;

(6) discover the existence of a trust instrument or will that creates an express trust; or

(7) determine any fact or law that would:

(A) cause the beneficiary designation to be revoked in whole or in part as to any person because of a change in

marital status or other reason; or

(B) cause a variation in the distribution provided in the beneficiary designation.

(f) A transferring entity has no duty to withhold making a transfer based on knowledge of any fact or claim adverse to the transfer to be made unless before making the transfer the transferring entity receives a written notice that:

(1) in manner, place, and time affords a reasonable opportunity to act on the notice before making the transfer; and

(2) does the following:

(A) Asserts a claim of beneficial interest in the transfer adverse to the transfer to be made.

(B) Gives the name of the claimant and an address for communications directed to the claimant.

(C) Identifies the deceased owner.

(D) States the nature of the claim as it affects the transfer.

(g) If a transferring entity receives a timely notice meeting the requirements of subsection (f), the transferring entity may discharge any duty to the claimant by sending a notice by certified mail to the claimant at the address provided by the claimant's notice of claim. The notice must advise the claimant that a transfer to the claimant's asserted claim will be made at least forty-five (45) days after the date of the mailing unless the transfer is restrained by a court order. If the transferring entity mails the notice described by this subsection to the claimant, the transferring entity shall withhold making the transfer for at least forty-five (45) days after the date of the mailing. Unless the transfer is restrained by court order, the transferring entity may make the transfer at least forty-five (45) days after the date of the mailing.

(h) Neither notice that does not comply with the requirements of subsection (f) nor any other information shown to have been available to a transferring entity, its transfer agent, or its employees affects the transferring entity's right to the protections provided by this chapter.

(i) A transferring entity is not responsible for the application or use of property transferred to a fiduciary entitled to receive the property.

(j) Notwithstanding the protections provided a transferring

entity by this chapter, a transferring entity may require parties engaged in a dispute over the propriety of a transfer to:

(1) adjudicate their respective rights; or

(2) furnish an indemnity bond protecting the transferring entity.

(k) A transfer by a transferring entity made in accordance with this chapter and under the beneficiary designation in good faith and reliance on information the transferring entity reasonably believes to be accurate discharges the transferring entity from all claims for the amounts paid and the property transferred.

(l) All protections provided by this chapter to a transferring entity are in addition to the protections provided by any other applicable Indiana law.

Sec. 28. (a) The protections provided to a transferring entity or to a purchaser or lender for value by this chapter do not affect the rights of beneficiaries or others involved in disputes that:

(1) are with parties other than a transferring entity or purchaser or lender for value; and

(2) concern the ownership of property transferred under this chapter.

(b) Unless the payment or transfer can no longer be challenged because of adjudication, estoppel, or limitations, a transferee of money or property under a transfer on death transfer that was improperly distributed or paid is liable for:

(1) the return of the money or property, including income earned on the money or property, to the transferring entity; or

(2) the delivery of the money or property, including income earned on the money or property, to the rightful transferee.

(c) If a transferee of money or property under a transfer on death transfer that was improperly distributed or paid does not have the property, the transferee is liable for an amount equal to the sum of:

(1) the value of the property as of the date of the disposition; and

(2) the income and gain that the transferee received from the property and its proceeds.

(d) If a transferee of money or property under a transfer on death transfer that was improperly distributed or paid encumbers

the property, the transferee shall satisfy the debt incurred in an amount sufficient to release any security interest, lien, or other encumbrance on the property.

(e) A purchaser for value of property or a lender who acquires a security interest in the property from a beneficiary of a transfer on death transfer:

(1) in good faith; or

(2) without actual knowledge that:

(A) the transfer was improper; or

(B) information in an affidavit provided under section 26(b)(20) of this chapter was not true;

takes the property free of any claims of or liability to the owner's estate, creditors of the owner's estate, persons claiming rights as beneficiaries of the transfer on death transfer, or heirs of the owner's estate. A purchaser or lender for value has no duty to verify sworn information relating to the transfer on death transfer.

(f) The protection provided by subsection (e) applies to information that relates to the beneficiary's ownership interest in the property and the beneficiary's right to sell, encumber, and transfer good title to a purchaser or lender but does not relieve a purchaser or lender from the notice provided by instruments of record with respect to the property.

(g) A transfer on death transfer that is improper under section 22, 23, 24, or 25 of this chapter imposes no liability on the transferring entity if the transfer is made in good faith. The remedy of a rightful transferee must be obtained in an action against the improper transferee.

Sec. 29. (a) This chapter does not limit the rights of an owner's creditors against beneficiaries and other transferees that may be available under any other applicable Indiana law.

(b) The liability of a beneficiary for creditor claims and statutory allowances is determined under IC 32-17-13.

Sec. 30. Except as otherwise provided by law, a transfer on death transfer and the obligation of a transferring entity to execute the transfer on death transfer that are subject to this chapter under section 2(b) of this chapter remain subject to this chapter notwithstanding a change in the:

(1) beneficiary designation;

(2) residency of the owner;

(3) residency or place of business of the transferring entity; or

(4) location of the property.

Sec. 31. (a) The probate court shall hear and determine questions and issue appropriate orders concerning the determination of the beneficiary who is entitled to receive a transfer on death transfer and the proper share of each beneficiary.

(b) The probate court shall hear and determine questions and issue appropriate orders concerning any action to:

(1) obtain the distribution of any money or property from a transferring entity; or

(2) with respect to money or property that was improperly distributed to any person, obtain the return of:

(A) any money or property and income earned on the money or property; or

(B) an amount equal to the sum of the value of the money or property plus income and gain realized from the money or property.

Sec. 32. (a) Except for transfer on death deeds, a beneficiary designation that purports to have been made and is valid under:

(1) the Uniform Probate Code as enacted by another state;

(2) the Uniform TOD Security Registration Law as enacted by another state; or

(3) a similar law of another state;

is governed by the law of that state.

(b) A transfer on death transfer subject to a law described in subsection (a) may be executed and enforced in Indiana.

(c) Except for transfer on death deeds, the meaning and legal effect of a transfer on death transfer is determined by the law of the state selected in a governing instrument or beneficiary designation.

SECTION 42. IC 32-21-2-3, AS AMENDED BY P.L.194-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) For a conveyance, a mortgage, or an instrument of writing to be recorded, it must be:

(1) acknowledged by the grantor; or

(2) proved before a:

(A) judge;

(B) clerk of a court of record;

(C) county auditor;
(D) county recorder;
(E) notary public;
(F) mayor of a city in Indiana or any other state;
(G) commissioner appointed in a state other than Indiana by the governor of Indiana;
(H) minister, charge d'affaires, or consul of the United States in any foreign country;
(I) clerk of the city county council for a consolidated city, city clerk for a second class city, or clerk-treasurer for a third class city;
(J) clerk-treasurer for a town; or
(K) person authorized under IC 2-3-4-1.

(b) In addition to the requirements under subsection (a), a conveyance may not be recorded after June 30, 2007, unless it meets the requirements of this subsection. ~~If~~ **The conveyance must include** the mailing address ~~on the conveyance~~ **to which statements should be mailed under IC 6-1.1-22-8.1. If the mailing address for statements under IC 6-1.1-22-8.1** is not a street address or a rural route address of the grantee, the conveyance must also include a street address or rural route address of the grantee after the mailing address **for statements mailed under IC 6-1.1-22-8.1. A conveyance complies with this subsection if it contains the address or addresses required by this subsection at the end of the conveyance and immediately preceding or following the statements required by IC 36-2-11-15.**

SECTION 43. IC 34-9-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) This section applies when a person:

(1) receives personal injuries caused by the wrongful act or omission of another; and
(2) subsequently dies from causes other than those personal injuries.

(b) The personal representative of the decedent who was injured may maintain an action against the wrongdoer to recover all damages resulting before the date of death from those injuries that the decedent would have been entitled to recover had the decedent lived. The damages:

(1) inure to the exclusive benefit of the decedent's estate; **and**

(2) are subject to IC 6-4.1.

SECTION 44. IC 34-24-1-1, AS AMENDED BY P.L.114-2008, SECTION 27, AND AS AMENDED BY P.L.119-2008, SECTION 13, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The following may be seized:

(1) All vehicles (as defined by IC 35-41-1), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the following:

(A) A controlled substance for the purpose of committing, attempting to commit, or conspiring to commit any of the following:

(i) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).

(ii) Dealing in methamphetamine (IC 35-48-4-1.1).

(iii) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(iv) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(v) Dealing in a schedule V controlled substance (IC 35-48-4-4).

(vi) Dealing in a counterfeit substance (IC 35-48-4-5).

(vii) Possession of cocaine or a narcotic drug (IC 35-48-4-6).

(viii) Possession of methamphetamine (IC 35-48-4-6.1).

(ix) Dealing in paraphernalia (IC 35-48-4-8.5).

(x) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

(B) Any stolen (IC 35-43-4-2) or converted property (IC 35-43-4-3) if the retail or repurchase value of that property is one hundred dollars ($100) or more.

(C) Any hazardous waste in violation of ~~*IC 13-30-10-4.*~~ *IC 13-30-10-1.5.*

(D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass destruction (as defined in IC 35-41-1-29.4) used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism (as defined by IC 35-41-1-26.5).

(2) All money, negotiable instruments, securities, weapons,

communications devices, or any property used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism or commonly used as consideration for a violation of IC 35-48-4 (other than items subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):

(A) furnished or intended to be furnished by any person in exchange for an act that is in violation of a criminal statute;

(B) used to facilitate any violation of a criminal statute; or

(C) traceable as proceeds of the violation of a criminal statute.

(3) Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal statute.

(4) A vehicle that is used by a person to:

(A) commit, attempt to commit, or conspire to commit;

(B) facilitate the commission of; or

(C) escape from the commission of;

murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense under IC 35-47 as part of or in furtherance of an act of terrorism.

(5) Real property owned by a person who uses it to commit any of the following as a Class A felony, a Class B felony, or a Class C felony:

(A) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).

(B) Dealing in methamphetamine (IC 35-48-4-1.1).

(C) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(D) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(E) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

(6) Equipment and recordings used by a person to commit fraud under IC 35-43-5-4(10).

(7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.

(8) Property (as defined by IC 35-41-1-23) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business

influence violation (IC 35-45-6-2).

(9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.

(10) Any equipment, ~~*used or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4-4.*~~ *including computer equipment and cellular telephones, used for or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4.*

(11) Destructive devices used, possessed, transported, or sold in violation of IC 35-47.5.

(12) Tobacco products that are sold in violation of IC 24-3-5, tobacco products that a person attempts to sell in violation of IC 24-3-5, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.

(13) Property used by a person to commit counterfeiting or forgery in violation of IC 35-43-5-2.

(14) After December 31, 2005, if a person is convicted of an offense specified in IC 25-26-14-26(b) or IC 35-43-10, the following real or personal property:

(A) Property used or intended to be used to commit, facilitate, or promote the commission of the offense.

(B) Property constituting, derived from, or traceable to the gross proceeds that the person obtained directly or indirectly as a result of the offense.

(15) Except as provided in subsection (e), a motor vehicle used by a person who operates the motor vehicle:

(A) while intoxicated, in violation of IC 9-30-5-1 through IC 9-30-5-5, if in the previous five (5) years the person has two (2) or more prior unrelated convictions:

(i) for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or

(ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction; or

(B) on a highway while the person's driver's license is suspended in violation of IC 9-24-19-2 through IC 9-24-19-4,

if in the previous five (5) years the person has two (2) or more prior unrelated convictions:

(i) for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or

(ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction.

If a court orders the seizure of a motor vehicle under this subdivision, the court shall transmit an order to the bureau of motor vehicles recommending that the bureau not permit a motor vehicle to be registered in the name of the person whose motor vehicle was seized until the person possesses a current driving license (as defined in IC 9-13-2-41).

(16) The following real or personal property:

(A) Property used or intended to be used to commit, facilitate, or promote the commission of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or IC 30-2-13-38(f).

(B) Property constituting, derived from, or traceable to the gross proceeds that a person obtains directly or indirectly as a result of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or IC 30-2-13-38(f).

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Equipment under subsection (a)(10) may not be seized unless it can be proven by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).

(d) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been

used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

(1) IC 35-48-4-1 (dealing in or manufacturing cocaine or a narcotic drug).

(2) IC 35-48-4-1.1 (dealing in methamphetamine).

(3) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).

(4) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

(5) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Class B felony.

(6) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a Class A felony, Class B felony, or Class C felony.

(7) IC 35-48-4-6.1 (possession of methamphetamine) as a Class A felony, Class B felony, or Class C felony.

(8) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as a Class C felony.

(e) A motor vehicle operated by a person who is not:

(1) an owner of the motor vehicle; or

(2) the spouse of the person who owns the motor vehicle;

is not subject to seizure under subsection (a)(15) unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a)(15).

SECTION 45. IC 34-30-2-125.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 125.4. IC 29-2-19-11 (Concerning a person who relies on a funeral planning declaration).**

SECTION 46. IC 34-30-2-134.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 134.8. IC 32-17-14-26(c) (Concerning a person acting in good faith reliance on a transfer on death deed).**

SECTION 47. IC 35-41-4-2, AS AMENDED BY P.L.173-2006, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Except as otherwise provided in this section, a prosecution for an offense is barred unless it is commenced:

(1) within five (5) years after the commission of the offense, in the case of a Class B, Class C, or Class D felony; or

(2) within two (2) years after the commission of the offense, in the case of a misdemeanor.

(b) A prosecution for a Class B or Class C felony that would otherwise be barred under this section may be commenced within one (1) year after the earlier of the date on which the state:

(1) first discovers evidence sufficient to charge the offender with the offense through DNA (deoxyribonucleic acid) analysis; or

(2) could have discovered evidence sufficient to charge the offender with the offense through DNA (deoxyribonucleic acid) analysis by the exercise of due diligence.

(c) A prosecution for a Class A felony may be commenced at any time.

(d) A prosecution for murder may be commenced:

(1) at any time; and

(2) regardless of the amount of time that passes between:

(A) the date a person allegedly commits the elements of murder; and

(B) the date the alleged victim of the murder dies.

(e) A prosecution for the following offenses is barred unless commenced before the date that the alleged victim of the offense reaches thirty-one (31) years of age:

(1) IC 35-42-4-3(a) (Child molesting).

(2) IC 35-42-4-5 (Vicarious sexual gratification).

(3) IC 35-42-4-6 (Child solicitation).

(4) IC 35-42-4-7 (Child seduction).

(5) IC 35-46-1-3 (Incest).

(f) A prosecution for forgery of an instrument for payment of money, or for the uttering of a forged instrument, under IC 35-43-5-2, is barred unless it is commenced within five (5) years after the maturity of the instrument.

(g) If a complaint, indictment, or information is dismissed because of an error, defect, insufficiency, or irregularity, a new prosecution may be commenced within ninety (90) days after the dismissal even if the period of limitation has expired at the time of dismissal, or will expire within ninety (90) days after the dismissal.

(h) The period within which a prosecution must be commenced does not include any period in which:

(1) the accused person is not usually and publicly resident in

Indiana or so conceals himself or herself that process cannot be served;

(2) the accused person conceals evidence of the offense, and evidence sufficient to charge the person with that offense is unknown to the prosecuting authority and could not have been discovered by that authority by exercise of due diligence; or

(3) the accused person is a person elected or appointed to office under statute or constitution, if the offense charged is theft or conversion of public funds or bribery while in public office.

(i) For purposes of tolling the period of limitation only, a prosecution is considered commenced on the earliest of these dates:

(1) The date of filing of an indictment, information, or complaint before a court having jurisdiction.

(2) The date of issuance of a valid arrest warrant.

(3) The date of arrest of the accused person by a law enforcement officer without a warrant, if the officer has authority to make the arrest.

(j) A prosecution is considered timely commenced for any offense to which the defendant enters a plea of guilty, notwithstanding that the period of limitation has expired.

(k) The following apply to the specified offenses:

(1) A prosecution for an offense under IC 30-2-9-7(b) (misuse of funeral trust funds) is barred unless commenced within five (5) years after the date of death of the settlor (as described in IC 30-2-9).

(2) A prosecution for an offense under IC 30-2-10-9(b) (misuse of funeral trust funds) is barred unless commenced within five (5) years after the date of death of the settlor (as described in IC 30-2-10).

(3) A prosecution for an offense under IC 30-2-13-38(f) (misuse of funeral trust or escrow account funds) is barred unless commenced within five (5) years after the date of death of the purchaser (as defined in IC 30-2-13-9).

(l) A prosecution for an offense under IC 23-14-48-9 is barred unless commenced within five (5) years after the earlier of the date on which the state:

(1) first discovers evidence sufficient to charge the offender with the offense; or

(2) could have discovered evidence sufficient to charge the

offender with the offense by the exercise of due diligence.

SECTION 48. IC 35-45-6-1, AS AMENDED BY P.L.3-2008, SECTION 253, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Documentary material" means any document, drawing, photograph, recording, or other tangible item containing compiled data from which information can be either obtained or translated into a usable form.

(c) "Enterprise" means:

(1) a sole proprietorship, corporation, limited liability company, partnership, business trust, or governmental entity; or

(2) a union, an association, or a group, whether a legal entity or merely associated in fact.

(d) "Pattern of racketeering activity" means engaging in at least two (2) incidents of racketeering activity that have the same or similar intent, result, accomplice, victim, or method of commission, or that are otherwise interrelated by distinguishing characteristics that are not isolated incidents. However, the incidents are a pattern of racketeering activity only if at least one (1) of the incidents occurred after August 31, 1980, and if the last of the incidents occurred within five (5) years after a prior incident of racketeering activity.

(e) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit a violation of, or aiding and abetting in a violation of any of the following:

(1) A provision of IC 23-19, or of a rule or order issued under IC 23-19.

(2) A violation of IC 35-45-9.

(3) A violation of IC 35-47.

(4) A violation of IC 35-49-3.

(5) Murder (IC 35-42-1-1).

(6) Battery as a Class C felony (IC 35-42-2-1).

(7) Kidnapping (IC 35-42-3-2).

(8) Human and sexual trafficking crimes (IC 35-42-3.5).

(9) Child exploitation (IC 35-42-4-4).

(10) Robbery (IC 35-42-5-1).

(11) Carjacking (IC 35-42-5-2).

(12) Arson (IC 35-43-1-1).

(13) Burglary (IC 35-43-2-1).
(14) Theft (IC 35-43-4-2).
(15) Receiving stolen property (IC 35-43-4-2).
(16) Forgery (IC 35-43-5-2).
(17) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(10)).
(18) Bribery (IC 35-44-1-1).
(19) Official misconduct (IC 35-44-1-2).
(20) Conflict of interest (IC 35-44-1-3).
(21) Perjury (IC 35-44-2-1).
(22) Obstruction of justice (IC 35-44-3-4).
(23) Intimidation (IC 35-45-2-1).
(24) Promoting prostitution (IC 35-45-4-4).
(25) Professional gambling (IC 35-45-5-3).
(26) Maintaining a professional gambling site (IC 35-45-5-3.5(b)).
(27) Promoting professional gambling (IC 35-45-5-4).
(28) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).
(29) Dealing in or manufacturing methamphetamine (IC 35-48-4-1.1).
(30) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
(31) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
(32) Dealing in a schedule V controlled substance (IC 35-48-4-4).
(33) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
(34) Money laundering (IC 35-45-15-5).
(35) A violation of IC 35-47.5-5.
(36) A violation of any of the following:
(A) IC 23-14-48-9.
(B) IC 30-2-9-7(b).
(C) IC 30-2-10-9(b).
(D) IC 30-2-13-38(f).

SECTION 49. [EFFECTIVE JULY 1, 2009] **IC 30-2-13-38 and IC 35-45-6-1, both as amended by this act, apply only to crimes committed after June 30, 2009.**

SECTION 50. [EFFECTIVE JULY 1, 2009] **IC 35-41-4-2, as amended by this act, applies only to crimes committed after June**

30, 2009.

SECTION 51. [EFFECTIVE JULY 1, 2009] **IC 30-2-14-31, as amended by this act, applies to a trust described in IC 30-2-14-31(h), as amended by this act, on and after the following dates:**

(1) If the trust is not funded as of July 1, 2009, the date of the decedent's death.

(2) If the trust is initially funded in the calendar year beginning January 1, 2009, the date of the decedent's death.

(3) If the trust is not described in subdivision (1) or (2), January 1, 2009.

SECTION 52. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 32-17-9; IC 32-17-11-10; 32-17-11-11; IC 32-17-11-24.

SECTION 53. **An emergency is declared for this act.**

P.L.144-2009

[H.1300. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 27-1-3-31 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 31. (a) Not later than September 1, 2009, each insurer that issues a policy of accident and sickness insurance (as defined in IC 27-8-5-1) and each health maintenance organization shall submit to the commissioner specified data and information in a format prescribed by the commissioner. If data or information from a health care provider is determined to be necessary to complete the study under subsection (b), the health care provider shall submit the data or information to the**

commissioner.

(b) The commissioner shall study the data and information submitted under subsection (a) and make actuarial determinations of the savings and costs of implementation of direct reimbursement by the insurers and health maintenance organizations to out-of-network health care providers for health care services rendered to insureds and enrollees.

(c) The commissioner shall specify the data and information to be submitted under subsection (a) to reflect the following:

(1) The costs incurred or savings experienced by the insurer or health maintenance organization in implementing direct reimbursement to the health care providers.

(2) Operational costs incurred or savings experienced in implementing direct reimbursement to the health care providers.

(3) The number of additional health care providers, by specialty, that would be reimbursed by the insurer or health maintenance organization after the insurer or health maintenance organization implemented direct reimbursement.

(4) Any other costs or savings that an insurer, a health maintenance organization, the commissioner, or the chairperson of the health finance commission established by IC 2-5-23-3 determines to be relevant to direct reimbursement.

(d) The commissioner shall report the results of the study and actuarial determinations made under subsection (b) to the health finance commission in an electronic format under IC 5-14-6 before October 15, 2009.

(e) Data and information submitted, and results of the study and actuarial determinations made, under this section that identify an individual insurer, health maintenance organization, health care provider, or individual are confidential. However, upon request of the chairperson of the health finance commission, the commissioner shall:

(1) remove identifying information from; and

(2) provide, to the legislative services agency and members of the health finance commission;

the data and information submitted under subsection (a).

(f) This section expires December 31, 2009.

SECTION 2. IC 27-8-11-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 11. (a) As used in this section, "noncontracted provider" means a provider that has not entered into an agreement with an insurer under section 3 of this chapter.**

(b) After September 30, 2009, if an insurer makes a payment to an insured for a health care service rendered by a noncontracted provider, the insurer shall include with the payment instrument written notice to the insured that includes the following:

(1) A statement specifying the claims covered by the payment instrument.

(2) The name and address of the provider submitting each claim.

(3) The amount paid by the insurer for each claim.

(4) Any amount of a claim that is the insured's responsibility.

(5) A statement in at least 24 point bold type that:

(A) instructs the insured to use the payment to pay the noncontracted provider if the insured has not paid the noncontracted provider in full;

(B) specifies that paying the noncontracted provider is the insured's responsibility; and

(C) states that the failure to make the payment violates the law and may result in collection proceedings or criminal penalties.

SECTION 3. IC 27-13-36-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 12. (a) As used in this section, "nonparticipating provider" means a provider that has not entered into an agreement with a health maintenance organization to serve as a participating provider.**

(b) After September 30, 2009, if a health maintenance organization makes a payment to an enrollee for a health care service rendered by a nonparticipating provider, the health maintenance organization shall include with the payment instrument written notice to the enrollee that includes the following:

(1) A statement specifying the claims covered by the payment instrument.

(2) The name and address of the provider submitting each claim.

(3) The amount paid by the health maintenance organization for each claim.

(4) Any amount of a claim that is the enrollee's responsibility.

(5) A statement in at least 24 point bold type that:

(A) instructs the enrollee to use the payment to pay the nonparticipating provider if the enrollee has not paid the nonparticipating provider in full;

(B) specifies that paying the nonparticipating provider is the enrollee's responsibility; and

(C) states that the failure to make the payment violates the law and may result in collection proceedings or criminal penalties.

SECTION 4. [EFFECTIVE UPON PASSAGE] **(a) The health finance commission established by IC 2-5-23-3 shall, during the 2009 interim, study:**

(1) the effect on insurers, health care providers, insureds, and other patients of a provision in an agreement with a health care provider under IC 27-8-11-3 requiring the health care provider to accept as patients more insureds than:

(A) the number of insureds specified in the agreement; or

(B) if there is not a number of insureds specified in the agreement, the number that, in the health care provider's professional judgment, is the greatest number of insureds that the health care provider is able to accept without endangering the health care provider's patients' access to or continuity of care;

(2) the effect on health maintenance organizations, participating providers, enrollees, and other patients of a provision in a contract between a health maintenance organization and a participating provider requiring the participating provider to accept as patients more enrollees than:

(A) the number of enrollees specified in the contract; or

(B) if there is not a number of enrollees specified in the contract, the number that, in the participating provider's professional judgment, is the greatest number of enrollees that the participating provider is able to accept without

endangering the participating provider's patients' access to or continuity of care; and

(3) any other issue related to a provision described in subdivision (1) or (2), as determined by the health finance commission or the legislative council.

(b) The health finance commission shall, not later than November 1, 2009, report the health finance commission's findings and recommendations concerning the study conducted under subsection (a) to the legislative council in an electronic format under IC 5-14-6.

(c) The health finance commission shall, during the 2009 interim, study whether an insurer or health maintenance organization described in IC 27-1-3-31, as added by this act, should be required to directly reimburse an out-of-network health care provider for health care services rendered to an insured or enrollee, considering the report of the insurance commissioner's study and actuarial determinations reported to the health finance commission under IC 27-1-3-31, as added by this act.

(d) This SECTION expires December 31, 2009.

SECTION 5. **An emergency is declared for this act.**

P.L.145-2009

[H.1323. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-13-2-92.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 92.2. "Lawful intervention technique", for purposes of IC 9-21-1, has the meaning set forth in IC 9-21-1-0.5.**

SECTION 2. IC 9-21-1-0.5 IS ADDED TO THE INDIANA CODE

AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. As used in this chapter, "lawful intervention technique" means a method by which a pursuing motor vehicle causes, or attempts to cause, a fleeing motor vehicle to stop. The term includes a precision immobilization technique (PIT) maneuver.**

SECTION 3. IC 9-21-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) This section applies to the person who drives an authorized emergency vehicle when:

(1) responding to an emergency call;

(2) in the pursuit of an actual or suspected violator of the law; or

(3) responding to, but not upon returning from, a fire alarm.

(b) The person who drives an authorized emergency vehicle may do the following:

(1) Park or stand, notwithstanding other provisions of this article.

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as necessary for safe operation.

(3) Exceed the maximum speed limits if the person who drives the vehicle does not endanger life or property.

(4) Disregard regulations governing direction of movement or turning in specified directions.

(5) Execute a lawful intervention technique if the person has completed a training course that instructs participants in the proper execution of lawful intervention techniques.

(c) This section applies to an authorized emergency vehicle only when the vehicle is using audible or visual signals as required by law. An authorized emergency vehicle operated as a police vehicle is not required to be equipped with or display red and blue lights visible from in front of the vehicle.

(d) This section does not do the following:

(1) Relieve the person who drives an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons.

(2) Protect the person who drives an authorized emergency vehicle from the consequences of the person's reckless disregard for the safety of others.

SECTION 4. IC 9-21-12-17, AS AMENDED BY P.L.107-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]: Sec. 17. (a) Except as provided in subsection (b), before crossing any railroad track at grade, the driver of a school bus or special purpose bus ~~carrying a passenger~~ shall stop the bus within fifty (50) feet but not less than fifteen (15) feet from the nearest rail. While the bus is stopped, the driver shall:

(1) listen through an open door;

(2) look in both directions along the track for an approaching train; and

(3) look for signals indicating the approach of a train.

The driver may not proceed until it is safe to proceed. When it is safe to proceed, the driver shall select a gear that will allow the driver to cross the tracks without changing gears. The driver may not shift gears while crossing the tracks.

(b) The driver is not required to stop when a police officer is directing the flow of traffic across railroad tracks.

(c) Upon conviction of a violation of this section, a driver shall have the driver's operator's license suspended for a period of not less than sixty (60) days in addition to the penalties provided by section 11 of this chapter.

SECTION 5. IC 9-24-11-3, AS AMENDED BY P.L.184-2007, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. **(a) This section applies to a probationary operator's license issued before July 1, 2009.**

~~(a)~~ **(b)** A license issued to an individual less than eighteen (18) years of age is a probationary license.

~~(b)~~ **(c)** An individual holds a probationary license subject to the following conditions:

(1) Except as provided in IC 31-37-3, the individual may not operate a motor vehicle during the curfew hours specified in IC 31-37-3-2.

(2) During the ninety (90) days following the issuance of the probationary license, the individual may not operate a motor vehicle in which there are passengers unless another individual who:

(A) is at least twenty-one (21) years of age and ~~(B)~~ holds a valid operator's license issued under this article; **or**

(B) is the individual's parent, guardian, or stepparent who is at least twenty-one (21) years of age;

is present in the front seat of the motor vehicle.

(3) The individual may operate a motor vehicle only if the individual and each occupant of the motor vehicle has a safety belt properly fastened about the occupant's body at all times when the motor vehicle is in motion.

~~(c)~~ **(d)** An individual who holds a probationary license issued under this section may receive an operator's license, a chauffeur's license, a public passenger chauffeur's license, or a commercial driver's license when the individual is at least eighteen (18) years of age.

~~(d)~~ **(e)** Except as provided in subsection ~~(e),~~ **(f),** a probationary license issued under this section:

(1) expires at midnight of the twenty-first birthday of the holder; and

(2) may not be renewed.

~~(e)~~ **(f)** A probationary license issued under this section to an individual who complies with IC 9-24-9-2.5(5) through IC 9-24-9-2.5(9) expires:

(1) at midnight one (1) year after issuance if there is no expiration date on the authorization granted to the individual to remain in the United States; or

(2) if there is an expiration date on the authorization granted to the individual to remain in the United States, the earlier of the following:

(A) At midnight of the date the authorization to remain in the United States expires.

(B) At midnight of the twenty-first birthday of the holder.

SECTION 6. IC 9-24-11-3.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.3. (a) This section applies to a probationary operator's license issued after June 30, 2009.**

(b) A license issued to or held by an individual less than eighteen (18) years of age is a probationary license.

(c) An individual holds a probationary license subject to the following conditions:

(1) Except as provided in subsection (e), the individual may not operate a motor vehicle from 10 p.m. until 5 a.m. of the following morning during the first one hundred eighty (180) days after issuance of the probationary license.

(2) Except as provided in subsection (e), after one hundred eighty (180) days after issuance of the probationary license, and until the individual becomes eighteen (18) years of age, an individual may not operate a motor vehicle:

(A) between 1 a.m. and 5 a.m. on a Saturday or Sunday;

(B) after 11 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday; or

(C) before 5 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.

(3) Except as provided in subsection (f), during the one hundred eighty (180) days after the issuance of the probationary license, the individual may not operate a motor vehicle in which there are passengers unless another individual:

(A) who:

(i) is at least twenty-five (25) years of age; and

(ii) holds a valid operator's, chauffeur's, public passenger chauffeur's, or commercial driver's license issued under this article; or

(B) who is a certified driver education instructor;

is present in the front seat of the motor vehicle.

(4) The individual may operate a motor vehicle only if the individual and each occupant of the motor vehicle have:

(A) a safety belt; or

(B) if the occupant is a child who must be properly fastened and restrained in a child restraint system according to the manufacturer's instructions under IC 9-19-11, a child restraint system;

properly fastened about the occupant's body at all times when the motor vehicle is in motion.

(d) An individual who holds a probationary license to which this section applies may not operate a motor vehicle while using a telecommunications device unless the telecommunications device is being used to make a 911 emergency call.

(e) An individual may operate a motor vehicle during the period referred to in subsection (c)(1) or (c)(2) if the individual operates the motor vehicle while:

(1) participating in, going to, or returning from:

(A) lawful employment;

(B) a school sanctioned activity; or

(C) a religious event; or

(2) accompanied by a licensed driver at least twenty-five (25) years of age.

(f) An individual subject to this section may operate a motor vehicle and transport:

(1) a child of the individual;

(2) a sibling of the individual;

(3) a child and a sibling of the individual; or

(4) the parent, guardian, or stepparent of the individual;

without another accompanying individual present in the motor vehicle.

P.L.146-2009

[H.1339. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-13-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. **(a) Except as provided in subsection (b),** "antique motor vehicle" means a motor vehicle or motor scooter that is at least twenty-five (25) years old.

(b) "Antique motor vehicle", for purposes of IC 9-19-11-1(6), means a passenger motor vehicle or truck that was manufactured without a safety belt as a part of the standard equipment installed by the manufacturer at each designated seating position, before the requirement of the installation of safety belts in the motor vehicle according to the standards stated in the Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208).

SECTION 2. IC 9-13-2-161 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 161. (a) "School bus"

means, except as provided in ~~subsection~~ **subsections** (b) **and (c),** a:

(1) bus;

(2) hack;

(3) conveyance;

(4) commercial motor vehicle; or

(5) motor vehicle;

used to transport preschool, elementary, or secondary school children to and from school and to and from school athletic games or contests or other school functions. The term does not include a privately owned automobile with a capacity of not more than five (5) passengers that is used for the purpose of transporting school children to and from school.

(b) "School bus", for purposes of IC 9-21, means a motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school, including project headstart, or privately owned and operated for compensation for the transportation of children to and from school, including project headstart.

(c) "School bus", for purposes of IC 9-19-11-1(1), means a motor vehicle:

(1) that meets the federal school bus safety requirements under 49 U.S.C. 30125; or

(2) that meets the federal school bus safety requirements under 49 U.S.C. 30125 except the:

(A) stop signal arm required under federal motor vehicle safety standard (FMVSS) no. 131; and

(B) flashing lamps required under federal motor vehicle safety standard (FMVSS) no. 108.

SECTION 3. IC 9-19-11-2, AS AMENDED BY P.L.2-2005, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A person who

~~(1) holds an Indiana driver's license; and~~

~~(2)~~ operates a motor vehicle in which there is a child less than eight (8) years of age who is not properly fastened and restrained according to the child restraint system manufacturer's instructions by a child restraint system

commits a Class D infraction. ~~unless it is reasonably determined that the child will not fit in a child restraint system.~~ **A person may not be found to have violated this subsection if the person carries a**

certificate from a physician, physician's assistant, or advanced practice nurse stating that it would be impractical to require that a child be fastened and restrained by a child restraint system because of:

(1) a physical condition, including physical deformity; or

(2) a medical condition;

of the child and presents the certificate to the police officer or the court.

(b) Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system account established by section 9 of this chapter.

SECTION 4. IC 9-19-11-3.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3.7. Notwithstanding sections 2 ~~3, 3.3,~~ and 3.6 of this chapter, a person may operate a motor vehicle in which there is a child who weighs more than forty (40) pounds and who is properly restrained and fastened by a lap safety belt if:

(1) the motor vehicle is not equipped with lap and shoulder safety belts; or

(2) not including the operator's seat and the front passenger seat:

(A) the motor vehicle is equipped with one (1) or more lap and shoulder safety belts; and

(B) all the lap and shoulder safety belts are being used to properly restrain other children who are less than sixteen (16) years of age.

SECTION 5. IC 20-27-8-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 10.5. (a) Not later than September 1, 2009, the department shall:**

(1) develop;

(2) provide to the general assembly and the public; and

(3) implement;

a plan to promote safe driving practices for drivers of special purpose buses.

(b) The plan developed under subsection (a) must provide clear, concise information concerning statutes and rules that affect special purpose buses and special purpose bus drivers.

(c) The department shall update the plan developed under subsection (a) as necessary.

(d) The department shall distribute the plan developed under subsection (a) in the most cost effective manner, as determined by the department.

SECTION 6. IC 20-27-9-5, AS AMENDED BY P.L.99-2007, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) A special purpose bus may be used:

(1) by a school corporation to provide regular transportation of a student between one (1) school and another school but not between the student's residence and the school;

(2) to transport students and their supervisors, including coaches, managers, and sponsors to athletic or other extracurricular school activities and field trips;

(3) by a school corporation to provide transportation between an individual's residence and the school for an individual enrolled in a special program for the habilitation or rehabilitation of persons with a developmental or physical disability; and

(4) to transport homeless students under IC 20-27-12.

(b) The mileage limitation of section 3 of this chapter does not apply to special purpose buses.

(c) The operator of a special purpose bus must be at least twenty-one (21) years of age, be authorized by the school corporation, and meet the following requirements:

(1) If the special purpose bus has a capacity of less than sixteen (16) passengers, the operator must:

(A) hold a valid:

(i) operator's;

(ii) chauffeur's; ~~or~~

(iii) public passenger chauffeur's; **or**

(iv) commercial driver's;

license; **and**

(B) meet the requirements for a school bus driver set forth in IC 20-27-8-4.

(2) If the special purpose bus has a capacity of more than fifteen (15) passengers, the operator must meet the requirements for a school bus driver set out in IC 20-27-8.

(d) A special purpose bus is not required to be constructed, equipped, or painted as specified for school buses under this article or

by the rules of the committee.

(e) An owner or operator of a special purpose bus, other than a special purpose bus owned or operated by a school corporation or a nonpublic school, is subject to IC 8-2.1.

SECTION 7. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 9-19-11-3; IC 9-19-11-3.3.

P.L.147-2009
[H.1376. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-13-2-1.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.4. "Adapted vehicle" means a new or used vehicle especially designed or modified for use by an individual who is disabled or aged.**

SECTION 2. IC 9-13-2-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8.5. "Automotive mobility dealer" means a person that:**

(1) engages exclusively in the business of selling, offering to sell, or soliciting or advertising the sale of adapted vehicles;

(2) possesses adapted vehicles exclusively for the purpose of resale, either on the automotive mobility dealer's own account or on behalf of another as the primary or incidental business of the automotive mobility dealer; or

(3) engages in the business of:

(A) selling, installing, or servicing;

(B) offering to sell, install, or service; or

(C) soliciting or advertising the sale, installation, or

servicing of;

equipment or modifications specifically designed to facilitate use or operation of a vehicle by an individual who is disabled or aged.

SECTION 3. IC 9-13-2-42, AS AMENDED BY P.L.131-2008, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 42. (a) "Dealer" means, except as otherwise provided in this section, a person who sells to the general public, including a person who sells directly by the Internet or other computer network, at least twelve (12) vehicles each year for delivery in Indiana. The term includes a person who sells off-road vehicles. A dealer must have an established place of business that meets the minimum standards prescribed by the bureau under rules adopted under IC 4-22-2.

(b) The term does not include the following:

(1) A receiver, trustee, or other person appointed by or acting under the judgment or order of a court.

(2) A public officer while performing official duties.

(3) A person who is a dealer solely because of activities as a transfer dealer.

(4) An automotive mobility dealer.

(c) "Dealer", for purposes of IC 9-31, means a person that sells to the general public for delivery in Indiana at least six (6):

(1) boats; or

(2) trailers:

(A) designed and used exclusively for the transportation of watercraft; and

(B) sold in general association with the sale of watercraft;

per year.

SECTION 4. IC 9-13-2-97 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 97. (a) "Manufacturer" means, except as provided in subsection (b), a person engaged in the business of constructing or assembling vehicles, of a type required to be registered under IC 9-18, at an established place of business. The term does not include a converter manufacturer, **an automotive mobility dealer,** or **a** recreational vehicle manufacturer.

(b) "Manufacturer", for purposes of IC 9-23, means a person who is engaged in the business of manufacturing or assembling new motor

vehicles or major component parts of motor vehicles, or both, and sells new motor vehicles to dealers, wholesale dealers, distributors, or the general public. The term includes the following:

(1) A factory branch office of the manufacturer.

(2) An authorized representative of the manufacturer.

(3) A partnership, a firm, an association, a joint venture, a limited liability company, a corporation, or a trust, resident or nonresident, that is controlled by the manufacturer.

The term does not include a converter manufacturer, **an automotive mobility dealer,** or **a** recreational vehicle manufacturer.

SECTION 5. IC 9-17-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. A manufacturer, **a** converter manufacturer, **an automotive mobility dealer, a** dealer, or other person may not sell or otherwise dispose of a new motor vehicle to another person, to be used by the other person for purposes of display or resale, without delivering to the other person a manufacturer's certificate of origin under this chapter that indicates the assignments of the certificate of origin necessary to show the ownership of the title to a person who purchases the motor vehicle.

SECTION 6. IC 9-17-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. A manufacturer, **a** converter manufacturer, **an automotive mobility dealer,** or **a** dealer must have:

(1) a certificate of title;

(2) an assigned certificate of title;

(3) a manufacturer's certificate of origin; ~~or~~

(4) an assigned manufacturer's certificate of origin; **or**

(5) other proof of ownership or evidence of right of possession as determined by the secretary of state;

for a motor vehicle, semitrailer, or recreational vehicle in the manufacturer's, converter manufacturer's, **automotive mobility dealer's,** or dealer's possession.

SECTION 7. IC 9-17-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. A manufacturer, **a** converter manufacturer, **an automotive mobility dealer,** or **a** dealer shall deliver an assigned certificate of title or certificate of origin to a person entitled to the certificate of title or certificate of origin.

SECTION 8. IC 9-17-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) Before obtaining a

manufacturer's, **a** converter manufacturer's, **an automotive mobility dealer's,** or **a** dealer's license from the bureau, a person must agree to allow a police officer or an authorized representative of the bureau to inspect:

(1) certificates of origin, certificates of title, assignments of certificates of origin and certificates of title, or other proof of ownership **or evidence of right of possession** as determined by the ~~bureau,~~ **secretary of state;** and

(2) motor vehicles, semitrailers, or recreational vehicles that are held for resale by the manufacturer, converter manufacturer, **automotive mobility dealer,** or dealer;

in the manufacturer's, converter manufacturer's, **automotive mobility dealer's,** or dealer's place of business during reasonable business hours.

(b) A certificate of title, a certificate of origin, and any other proof of ownership described under subsection (a):

(1) must be readily available for inspection by or delivery to the proper persons; and

(2) may not be removed from Indiana.

SECTION 9. IC 9-23-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a)** The following persons must be licensed under this article to engage in the business of buying or selling motor vehicles:

(1) An automobile auctioneer.

(2) A converter manufacturer.

(3) A dealer.

(4) A distributor.

(5) A distributor branch.

(6) A distributor representative.

(7) A factory branch.

(8) A factory representative.

(9) A manufacturer.

(10) A transfer dealer.

(11) A wholesale dealer.

(12) An automotive mobility dealer.

(b) An automotive mobility dealer who engages in the business of:

(1) selling, installing, or servicing;

(2) offering to sell, install, or service; or

(3) soliciting or advertising the sale, installation, or servicing of;

equipment or modifications specifically designed to facilitate use or operation of a vehicle by an individual who is disabled or aged must be licensed under this article.

SECTION 10. IC 9-23-2-2, AS AMENDED BY P.L.184-2007, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) An application for a license under this chapter must:

(1) be accompanied by the fee required under IC 9-29-8;

(2) be on a form prescribed by the secretary of state; ~~and~~

(3) contain the information the secretary of state considers necessary to enable the secretary of state to determine fully the following information:

(A) The qualifications and eligibility of the applicant to receive the license.

(B) The location of each of the applicant's places of business in Indiana.

(C) The ability of the applicant to conduct properly the business for which the application is submitted**; and**

(4) contain evidence of the bond required in subsection (e).

(b) An application for a license as a dealer must show whether the applicant proposes to sell new or used motor vehicles, or both.

(c) An applicant who proposes to use the Internet or other computer network in aid of its sale of motor vehicles to consumers in Indiana, which activities may result in the creation of business records outside Indiana, shall provide the division with the name, address, and telephone number of the person who has control of those business records. The secretary of state may not issue a license to a dealer who transacts business in this manner who does not have an established place of business in Indiana.

(d) This subsection applies to an application for a license as a dealer in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000). The application must include an affidavit from:

(1) the person charged with enforcing a zoning ordinance described in this subsection; or

(2) the zoning enforcement officer under IC 36-7-4, if one exists; who has jurisdiction over the real property where the applicant wants to operate as a dealer. The affidavit must state that the proposed location is zoned for the operation of a dealer's establishment. The applicant may file the affidavit at any time after the filing of the application. However, the secretary of state may not issue a license until the applicant files the affidavit.

(e) A licensee shall maintain a bond satisfactory to the secretary of state in the amount of twenty-five thousand dollars ($25,000), which must:

(1) be in favor of the state; and

(2) secure payment of fines, penalties, costs, and fees assessed by the secretary of state after notice, opportunity for a hearing, and opportunity for judicial review, in addition to securing the payment of damages to a person aggrieved by a violation of this chapter by the licensee after a judgment has been issued.

(f) Service shall be made in accordance with the Indiana Rules of Trial Procedure.

SECTION 11. IC 9-23-2-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5.5. The secretary of state shall, by rule adopted under IC 4-22-2, establish requirements for an initial application for and renewal of an automotive mobility dealer's license. The rules must include a requirement that each initial or renewal application for an automotive mobility dealer's license include proof that the applicant is accredited through the Quality Assurance Program of the National Mobility Equipment Dealers Association.**

SECTION 12. IC 9-23-2-5.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5.7. An automotive mobility dealer licensed under this chapter is entitled to:**

(1) display;

(2) inventory;

(3) advertise;

(4) offer for sale; or

(5) do any combination of subdivisions (1) through (4) concerning;

any adapted vehicle.

SECTION 13. IC 9-23-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. It is an unfair practice for a dealer to sell any new motor vehicle having a trade name, trade or service mark, or related characteristics for which the dealer does not have a franchise in effect at the time of the sale. However, vehicles having more than one (1) or more trade name, service mark, or related characteristic as a result of modification or further manufacture by a manufacturer, ~~or~~ converter manufacturer, **or an automotive mobility dealer** licensed under this article may be sold by a franchisee appointed by that manufacturer, ~~or~~ converter manufacturer, **or automotive mobility dealer.**

SECTION 14. IC 9-23-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. Notwithstanding the terms, provisions, or conditions of any agreement or franchise, the manufacturer, ~~or the~~ converter manufacturer, **or automotive mobility dealer** is liable for all damage to a new motor vehicle before delivery to a carrier or transporter.

SECTION 15. IC 9-23-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. If a manufacturer, **a** converter manufacturer, **an automotive mobility dealer,** or **a** dealer violates or aids, induces, or causes a violation of this title, the manufacturer's, converter manufacturer's, **automotive mobility dealer's,** or dealer's license may be suspended or revoked in the manner provided for the suspension or revocation of licenses of persons operating motor vehicles.

SECTION 16. IC 9-29-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. The fee for a factory representative, **a** distributor representative, **a** wholesale dealer, **a** transfer dealer, ~~or~~ **a** converter manufacturer, **or an automotive mobility dealer** under IC 9-23-2 is twenty dollars ($20). **The fee for an automotive mobility dealer who:**

(1) buys or sells vehicles, or both;

(2) sells, installs, or services, offers to sell, install, or service, or solicits or advertises the sale, installation, or servicing of equipment or modifications specifically designed to facilitate use or operation of a vehicle by an individual who is disabled or aged; or

(3) performs acts described in both subdivisions (1) and (2); is twenty dollars ($20).

SECTION 17. IC 9-29-8-7, AS AMENDED BY P.L.106-2008, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. All money collected by the secretary of state from manufacturers, factory branches, distributors, distributor branches, dealers, automobile auctioneers, factory representatives, distributor representatives, wholesale dealers, transfer dealers, converter manufacturers, **automotive mobility dealers,** or brokers for licenses and permit fees under IC 9-23-2 shall be deposited as follows:

(1) Thirty percent (30%) to the dealer compliance account established by IC 9-23-2-18.

(2) ~~Seventy percent (70%)~~ **Forty percent (40%)** to the motor vehicle highway account.

(3) Twenty percent (20%) to the state police department for use in enforcing odometer laws.

(4) Ten percent (10%) to the attorney general for use in enforcing odometer laws.

SECTION 18. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 9-23-2-5.5, as added by this act, the secretary of state shall carry out the duties imposed on the secretary of state under IC 9-23-2-5.5, as added by this act, under interim written guidelines approved by the secretary of state.**

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 9-23-2-5.5, as added by this act.

(2) December 31, 2010.

SECTION 19. **An emergency is declared for this act.**

P.L.148-2009
[H.1398. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 5-22-5-8, AS AMENDED BY P.L.6-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) This section does not apply to a political subdivision, **except a school corporation (as defined in IC 20-18-2-16(a)).**

(b) As used in this section, "blended biodiesel" has the meaning set forth in IC 6-3.1-27-2.

(c) As used in this section, "diesel fueled vehicle" refers to a vehicle that is capable of using diesel to fuel its primary motor.

~~(c)~~ **(d)** As used in this section, "ethanol" means agriculturally derived ethyl alcohol.

~~(d) As used in this section, "gasohol" means gasoline that contains:~~

~~(1) at least ten percent (10%) ethanol; or~~

~~(2) ethyl tertiary butyl ether (ETBE) additives derived from ethanol.~~

(e) As used in this section, "E85" has the meaning set forth in IC 6-6-1.1-103.

~~(e)~~ **(f)** As used in this section, "gasoline fueled vehicle" refers to a vehicle that is capable of using gasoline to fuel its primary motor.

(g) As used in this section "mid-level blend fuel" means a fuel blend consisting of:

(1) at least twenty percent (20%) but not more than seventy-three percent (73%) ethanol; and

(2) gasoline as the balance.

~~(f)~~ **(h)** As used in this section, "vehicle" includes the following:

(1) An automobile.

(2) A truck.

(3) A tractor.

~~(g)~~ **(i)** Except as provided by ~~subsection (i),~~ **subsections (k) and (l),** a governmental body shall whenever possible purchase ~~gasohol~~ **mid-level blend fuel or E85** to fuel the gasoline fueled vehicles owned or operated by the governmental body.

~~(h)~~ **(j)** Except as provided by ~~subsection (i),~~ **subsections (k) and (l),** a governmental body shall whenever possible purchase blended biodiesel fuel to fuel the diesel fueled vehicles owned or operated by the governmental body.

~~(i)~~ **(k)** The following vehicles are exempt from the requirements of subsections ~~(g)~~ **(i)** and ~~(h).~~ **(j):**

(1) A vehicle that is leased by the governmental body for thirty (30) days or less.

~~(2) A vehicle whose official operating manual, as issued by the manufacturer of the vehicle, contains a statement that the use of gasohol or blended biodiesel fuel will damage the engine of the vehicle.~~

~~(3)~~ **(2)** A vehicle that:

(A) is primarily powered by an electric motor; or

(B) can use only propane, compressed or liquified natural gas, or methanol as its fuel source.

(l) The following vehicles are exempt from the requirements of subsection (i) or (j), whichever is appropriate:

(1) A gasoline fueled vehicle in which the use of mid-level blend fuel or E85 has not been approved by the manufacturer.

(2) A diesel fueled vehicle in which the use of blended biodiesel fuel has not been approved by the manufacturer.

(3) A gasoline fueled vehicle in which the use of mid-level blend fuel is prohibited by the federal Clean Air Act (42 U.S.C. 7401 et seq.).

SECTION 2. IC 6-2.5-7-5, AS AMENDED BY P.L.146-2008, SECTION 315, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Each retail merchant who dispenses gasoline or special fuel from a metered pump shall, in the manner prescribed in IC 6-2.5-6, report to the department the following information:

(1) The total number of gallons of gasoline sold from a metered pump during the period covered by the report.

(2) The total amount of money received from the sale of gasoline described in subdivision (1) during the period covered by the report.

(3) That portion of the amount described in subdivision (2) which represents state and federal taxes imposed under this article, IC 6-6-1.1, or Section 4081 of the Internal Revenue Code.

(4) The total number of gallons of special fuel sold from a metered pump during the period covered by the report.

(5) The total amount of money received from the sale of special fuel during the period covered by the report.

(6) That portion of the amount described in subdivision (5) that represents state and federal taxes imposed under this article, IC 6-6-2.5, or Section 4041 of the Internal Revenue Code.

(7) The total number of gallons of E85 sold from a metered pump during the period covered by the report.

(b) Concurrently with filing the report, the retail merchant shall remit the state gross retail tax in an amount which equals six and fifty-four hundredths percent (6.54%) of the gross receipts, including state gross retail taxes but excluding Indiana and federal gasoline and special fuel taxes, received by the retail merchant from the sale of the gasoline and special fuel that is covered by the report and on which the retail merchant was required to collect state gross retail tax. The retail merchant shall remit that amount regardless of the amount of state gross retail tax which the merchant has actually collected under this chapter. However, the retail merchant is entitled to deduct and retain the amounts prescribed in subsection (c), IC 6-2.5-6-10, and IC 6-2.5-6-11.

(c) A retail merchant is entitled to deduct from the amount of state gross retail tax required to be remitted under subsection (b) the amount determined under STEP THREE of the following formula:

STEP ONE: Determine:

(A) the sum of the prepayment amounts made during the period covered by the retail merchant's report; minus

(B) the sum of prepayment amounts collected by the retail merchant, in the merchant's capacity as a qualified distributor, during the period covered by the retail merchant's report.

STEP TWO: Subject to ~~subsection (d),~~ **subsections (d) and (f),** for **qualified** reporting periods **beginning after June 30, 2009,**

and ending before July 1, 2020, determine the product of:

(A) eighteen cents ($0.18); multiplied by

(B) the number of gallons of E85 sold at retail by the retail merchant during the period covered by the retail merchant's report.

STEP THREE: Add the amounts determined under STEPS ONE and TWO.

For purposes of this section, a prepayment of the gross retail tax is presumed to occur on the date on which it is invoiced.

(d) The total amount of deductions allowed under subsection (c) STEP TWO may not exceed ~~one million dollars ($1,000,000)~~ **the amount of money that the budget agency determines is available in the retail merchant E85 deduction reimbursement fund established under IC 15-15-12-30.5 for the deductions** for all retail merchants in ~~all~~ **a particular qualified** reporting ~~periods.~~ **period.** A retail merchant is not required to apply for an allocation of deductions under subsection (c) STEP TWO. ~~If the department determines that the sum of:~~

~~(1) the deductions that would otherwise be reported under subsection (c) STEP TWO for a reporting period; plus~~

~~(2) the total amount of deductions granted under subsection (c) STEP TWO in all preceding reporting periods;~~

~~will exceed one million dollars ($1,000,000),~~ **Before August 1 of each year, the budget agency shall estimate whether the amount of deductions from the immediately preceding qualified reporting period that are subject to reimbursement under IC 15-15-12-30.5(f) and the deductions expected to be reported under subsection (c) STEP TWO for the qualified reporting periods beginning after December 31 and ending before April 1 of the following year will exceed the amount of money available in the retail merchant E85 deduction reimbursement fund for the deductions. If the budget agency determines that the amount of money in the retail merchant E85 deduction reimbursement fund is insufficient to cover the amount of the deductions expected to be reported,** the ~~department~~ **budget agency** shall publish in the Indiana Register a notice that the deduction program under subsection (c) STEP TWO is ~~terminated after the date specified~~ **suspended with respect to the qualified reporting periods occurring in the following calendar**

year ~~in the notice~~ and that no ~~additional~~ deductions will be granted for retail transactions occurring ~~after the date specified in the notice.~~ **in the qualified reporting periods occurring in the following calendar year.**

(e) As used in this section, "qualified reporting period" refers to a reporting period beginning after December 31 and ending before April 1 of each year.

(f) The budget agency may suspend the deduction program under subsection (c) STEP TWO for a particular year at any time during a qualified reporting period if the budget agency determines that the amount of money in the retail merchant E85 deduction reimbursement fund and the amount of money that will be transferred to the fund on July 1 will not be sufficient to reimburse the deductions expected to occur before the deduction program for the year ends on March 31. The budget agency shall immediately provide notice to the participating retail merchants of the decision to suspend the deduction program for that year.

SECTION 3. IC 15-11-11-6.5, AS ADDED BY P.L.91-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.5. As used in this chapter, "unit" means a city, town, county, ~~or~~ township, **school corporation (as defined in IC 20-18-2-16(a)), or state educational institution (as defined in IC 21-7-13-32).**

SECTION 4. IC 15-15-12-29, AS ADDED BY P.L.2-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 29. (a) The council shall pay all expenses incurred under this chapter with money from the assessments remitted to the council under this chapter.

(b) The council may invest all money the council receives under this chapter, including gifts or grants that are given for the express purpose of implementing this chapter, in the same way allowed by law for public funds.

(c) The council may expend money from assessments and from investment income not needed for expenses for market development, promotion, and research.

(d) The council may not use money received, collected, or accrued under this chapter for any purpose other than the ~~implementation of~~ **purposes authorized by** this chapter. **The amount of money expended on administering this chapter in a state fiscal year may**

not exceed ten percent (10%) of the total amount of assessments, grants, and gifts received by the council in that state fiscal year.

SECTION 5. IC 15-15-12-30.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 30.5. (a) The retail merchant E85 deduction reimbursement fund is established. The fund consists of:**

(1) assessments transferred by the council for deposit in the fund under section 32.5 of this chapter;

(2) gifts; and

(3) grants.

(b) Except as provided in subsection (g), money in the fund may only be used for the purposes described in subsection (d).

(c) On May 1, the budget agency shall determine the sum of all retail merchant deductions allowed under IC 6-2.5-7-5(d) in the immediately preceding qualified reporting period (as defined in IC 6-2.5-7-5(e)).

(d) The budget agency shall transfer the amount determined under subsection (c) from the fund for deposit. The amount transferred under this subsection shall be deposited in the same manner as state gross retail and use taxes are required to be deposited under IC 6-2.5-10-1.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) If the amount of money in the fund on May 1 is insufficient to reimburse the state for all retail merchant deductions allowed under IC 6-2.5-7-5(d) in the immediately preceding qualified reporting period (as defined in IC 6-2.5-7-5(e)), the budget agency shall deduct from any amounts transferred for deposit into the fund in the remainder of that calendar year an amount sufficient to cure the insufficiency. The budget agency shall transfer any amounts deducted under this subsection for deposit in the same manner as state gross retail and use taxes are required to be deposited under IC 6-2.5-10-1.

(g) If the retail merchant E85 deduction program is terminated, any balance in the fund must be transferred to the council.

SECTION 6. IC 15-15-12-32.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2009]: **Sec. 32.5. (a) On July 1, 2010, the council shall transfer five hundred thousand dollars ($500,000) to the budget agency for deposit in the retail merchant E85 deduction reimbursement fund established by section 30.5 of this chapter.**

(b) On July 1, 2011, and each year thereafter, the council shall transfer to the budget agency for deposit in the retail merchant E85 deduction reimbursement fund established by section 30.5 of this chapter an amount equal to the difference between:

(1) five hundred thousand dollars ($500,000); minus

(2) the balance remaining in the fund on June 30.

However, the amount transferred under this subsection may not exceed five hundred thousand dollars ($500,000).

SECTION 7. IC 15-15-12-33, AS ADDED BY P.L.2-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 33. (a) If a producer has sold corn and the state assessment was deducted from the sale price of the corn, the producer may secure a refund equal to the amount deducted upon filing a written application.

(b) A producer's application for a refund under this section must be made to the council not more than one hundred eighty (180) days after the state assessment is deducted from the sale price of the producer's corn.

(c) The council shall provide application forms to a first purchaser for purposes of this section upon request and make application forms available on the council's Internet web site. Before July 1, 2009, a first purchaser shall provide an application form to each producer along with each settlement form that shows a deduction. After June 30, 2009, a first purchaser shall make application forms available in plain view at the first purchaser's place of business.

(d) Proof that an assessment has been deducted from the sale price of a producer's corn must be attached to each application for a refund submitted under this section by a producer. The proof that an assessment was deducted may be in the form of a duplicate or an original copy of the purchase invoice or settlement sheet from the first purchaser. The ~~claim~~ **refund** form and proof of assessment may be mailed or faxed to the council. The refund form must clearly state how to request a refund, the address where the form may be mailed, and the fax number where the form may be faxed.

(e) If a refund is due under this section, the council shall remit the refund to the producer not later than thirty (30) days after the date the producer's **completed** application and proof of assessment are received.

SECTION 8. IC 15-15-12-34, AS ADDED BY P.L.2-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 34. The checkoff ~~assessment and remittance record~~ **refund** form must:

~~(1) be in a format that allows a corn producer to submit the same form for an assessment refund;~~

~~(2)~~ **(1)** contain the address and fax number of the location to which the assessment refund form may be sent;

~~(3)~~ **(2)** contain information concerning procedures to claim an assessment refund; and

~~(4)~~ **(3)** contain any other information determined necessary by the council.

SECTION 9. IC 15-15-12-35, AS ADDED BY P.L.2-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 35. (a) A first purchaser shall keep detailed records of all assessments collected and remitted under this chapter for at least three (3) years.

(b) Upon request, a first purchaser shall supply the council with any information from records kept under subsection (a).

(c) The council may periodically audit a first purchaser's checkoff assessment and remittance records kept under subsection (a). An audit must be conducted by:

(1) a qualified public accountant of the council's choosing; **or**

(2) an auditor who is familiar with the:

(A) storage;

(B) conditioning;

(C) shipping; and

(D) handling;

of agricultural commodities.

~~and~~ The costs of the audit shall be paid by the council.

SECTION 10. IC 21-31-9-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. (a) As used in this section, "blended biodiesel" has the meaning set forth in IC 6-3.1-27-2.**

(b) As used in this section, "diesel fueled vehicle" refers to a

vehicle that is capable of using diesel to fuel its primary motor.

(c) As used in this section, "ethanol" means agriculturally derived ethyl alcohol.

(d) As used in this section, "E85" has the meaning set forth in IC 6-6-1.1-103.

(e) As used in this section, "gasoline fueled vehicle" refers to a vehicle that is capable of using gasoline to fuel its primary motor.

(f) As used in this section, "mid-level blend fuel" means a fuel blend consisting of:

(1) at least twenty percent (20%) but not more than seventy-three percent (73%) ethanol; and

(2) gasoline as the balance.

(g) As used in this section, "vehicle" includes the following:

(1) An automobile.

(2) A truck.

(3) A tractor.

(h) Except as provided by subsections (j) and (k), a state educational institution shall whenever possible purchase mid-level blend fuel or E85 to fuel the gasoline fueled vehicles owned or operated by the state educational institution.

(i) Except as provided by subsections (j) and (k), a state educational institution shall whenever possible purchase blended biodiesel fuel to fuel the diesel fueled vehicles owned or operated by the state educational institution.

(j) The following vehicles are exempt from the requirements of subsections (h) and (i):

(1) A vehicle that is leased by the state educational institution for thirty (30) days or less.

(2) A vehicle that:

(A) is primarily powered by an electric motor; or

(B) can use only propane, compressed or liquified natural gas, or methanol as its fuel source.

(k) The following vehicles are exempt from the requirements of subsection (h) or (i), whichever is appropriate:

(1) A gasoline fueled vehicle in which the use of mid-level blend fuel or E85 has not been approved by the manufacturer.

(2) A diesel fueled vehicle in which the use of blended biodiesel fuel has not been approved by the manufacturer.

(3) A gasoline fueled vehicle in which the use of mid-level

blend fuel is prohibited by the federal Clean Air Act (42 U.S.C. 7401 et seq.).

SECTION 11. IC 6-2.5-7-5.5 IS REPEALED [EFFECTIVE JULY 1, 2009].

SECTION 12. IC 15-15-12-30 IS REPEALED [EFFECTIVE AUGUST 1, 2009].

SECTION 13. [EFFECTIVE AUGUST 1, 2009] **(a) On August 1, 2009, the budget agency shall transfer any remaining balance in the Indiana corn market development account established under IC 15-15-12-30 (before its repeal) to the retail merchant E85 deduction reimbursement fund established by IC 15-15-12-30.5, as added by this act.**

(b) This SECTION expires January 1, 2010.

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

P.L.149-2009

[H.1460. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning business and other associations.

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

SECTION 1. IC 23-19-4-11, AS ADDED BY P.L.27-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) Subject to Section 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(h)) or Section 222 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-18a), a rule adopted or order issued under this article may establish minimum financial requirements for broker-dealers registered or required to be registered under this article and investment advisers registered or required to be registered under this article.

(b) Subject to Section 15(h) of the Securities Exchange Act of 1934

(15 U.S.C. 78o(h)) or Section 222(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-18a(b)), a broker-dealer registered or required to be registered under this article and an investment adviser registered or required to be registered under this article shall file such financial reports as are required by a rule adopted or order issued under this article. If the information contained in a record filed under this subsection is or becomes inaccurate or incomplete in a material respect, the registrant shall promptly file a correcting amendment.

(c) Subject to Section 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(h)) or Section 222 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-18a):

(1) a broker-dealer registered or required to be registered under this article and an investment adviser registered or required to be registered under this article shall make and maintain the accounts, correspondence, memoranda, papers, books, and other records required by rule adopted or order issued under this article;

(2) broker-dealer records required to be maintained under subdivision (1) may be maintained in any form of data storage acceptable under Section 17(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(a)) if they are readily accessible to the commissioner; and

(3) investment adviser records required to be maintained under subdivision (1) may be maintained in any form of data storage required by rule adopted or order issued under this article.

(d) The records of a broker-dealer registered or required to be registered under this article and of an investment adviser registered or required to be registered under this article are subject to such reasonable periodic, special, or other audits or inspections by a representative of the commissioner, within or outside this state, as the commissioner considers necessary or appropriate in the public interest and for the protection of investors. An audit or inspection may be made at any time and without prior notice. The commissioner may copy, and remove for audit or inspection copies of, all records the commissioner reasonably considers necessary or appropriate to conduct the audit or inspection. The commissioner may assess a reasonable charge for conducting an audit or inspection under this subsection.

(e) Subject to Section 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(h)) or Section 222 of the Investment Advisers Act of

1940 (15 U.S.C. 80b-18a), a rule adopted or order issued under this article may require a broker-dealer or investment adviser that has custody of or discretionary authority over funds or securities of a customer or client to obtain insurance or post a bond or other satisfactory form of security in an amount not to exceed fifty thousand dollars ($50,000). The commissioner may determine the requirements of the insurance, bond, or other satisfactory form of security. Insurance or a bond or other satisfactory form of security may not be required of a broker-dealer registered under this article whose net capital exceeds, or of an investment adviser registered under this article whose minimum financial requirements exceed, the amounts required by rule or order under this article. The insurance, bond, or other satisfactory form of security must permit an action by a person to enforce any liability on the insurance, bond, or other satisfactory form of security if instituted within the time limitations in IC 23-19-5-9(g).

(f) Subject to Section 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(h)) or Section 222 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-18a), an agent may not have custody of funds or securities of a customer except under the supervision of a broker-dealer and an investment adviser representative may not have custody of funds or securities of a client except under the supervision of an investment adviser or a federal covered investment adviser. A rule adopted or order issued under this article may prohibit, limit, or impose conditions on a broker-dealer regarding custody of funds or securities of a customer and on an investment adviser regarding custody of securities or funds of a client.

(g) With respect to an investment adviser registered or required to be registered under this article, a rule adopted or order issued under this article may require that information or other records be furnished or disseminated to clients or prospective clients in this state as necessary or appropriate in the public interest and for the protection of investors and advisory clients.

(h) A rule adopted or order issued under this article may require an individual registered under section 2 or 4 of this chapter to participate in a continuing education program approved by the Securities and Exchange Commission and administered by a self-regulatory organization or, in the absence of such a program, a rule adopted or order issued under this article may require continuing education for an

individual registered under section 4 of this chapter.

(i) **Subject to section 11.5 of this chapter,** the commissioner may annually select as many as twenty-five percent (25%) of all Indiana home and branch offices of registered broker-dealers for completion of compliance reports. **Subject to section 11.5 of this chapter,** each broker-dealer office that is selected shall file its compliance report according to rules adopted by the commissioner under this article not more than ninety (90) days after being notified of selection under this subsection. No charges or other examination fees may be assessed against a registered broker-dealer as a result of the examination of a compliance report filed under this subsection unless the examination results in an investigation or examination made under IC 23-19-6-2(a).

SECTION 2. IC 23-19-4-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 11.5. (a) As used in this section, "office of supervisory jurisdiction" has the meaning set forth in the National Association of Securities Dealers Conduct Rule 3010(g) (as in effect on January 1, 2009).**

(b) A broker-dealer registered or required to be registered under this article may not be selected for completion of a compliance report under section 11(i) of this chapter in consecutive years unless the commissioner has reason to believe that the broker-dealer has committed a violation of this article.

(c) The commissioner may not select for completion of a compliance report under section 11(i) of this chapter any office that:

(1) reports to an office of supervisory jurisdiction located within Indiana;

(2) reflects the address of the office of supervisory jurisdiction described in subdivision (1) on all of the office's business cards, stationery, advertisements, and other communications to the public; and

(3) is included in the definition of branch office under the National Association of Securities Dealers Conduct Rule 3010(g) because the office:

(A) handles funds or securities as described under the National Association of Securities Dealers Conduct Rule 3010(g)(2)(A)(ii)(c); or

(B) uses the residential address on all business cards,

stationery, advertisements, or other communications to the public under the National Association of Securities Dealers Conduct Rule 3010(g)(2)(A)(ii)(d).

P.L.150-2009
[H.1483. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-13-2-60, AS AMENDED BY P.L.210-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 60. **(a)** "Farm wagon" means **either of the following:**

(1) A wagon, other than an implement of agriculture, **that is** used primarily for transporting farm products and farm supplies in connection with a farming operation.

(2) A three (3), four (4), or six (6) wheeled motor vehicle with a folding hitch on the front of the motor vehicle, manufactured with seating for not more than four (4) individuals, that is used primarily:

(A) to transport an individual from one (1) farm field to another, whether or not the motor vehicle is operated on a highway in order to reach the other farm field;

(B) for the transportation of an individual upon farm premises; or

(C) for both purposes set forth in clauses (A) and (B).

(b) The term includes a motor vehicle described in subsection (a)(2) that is used for the incidental transportation of farm supplies or farm implements at the same time it is used for the transportation of an individual.

SECTION 2. IC 9-13-2-69.7 IS ADDED TO THE INDIANA CODE

AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 69.7. "Golf cart" means a four (4) wheeled motor vehicle originally and specifically designed and intended to transport one (1) or more individuals and golf clubs for the purpose of playing the game of golf on a golf course.**

SECTION 3. IC 9-13-2-94.5, AS AMENDED BY P.L.9-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 94.5. "Low speed vehicle" means a four (4) wheeled electrically powered motor vehicle:

(1) with a maximum design speed of not more than thirty-five (35) miles per hour;

(2) with operational and equipment specifications described in 49 CFR 571.500;

(3) that is equipped with:

(A) headlamps;

(B) front and rear turn signal lamps, tail lamps, and stop lamps;

(C) reflex reflectors;

(D) exterior or interior mirrors;

(E) brakes as specified in IC 9-19-3-1;

(F) a windshield;

(G) a vehicle identification number; and

(H) a safety belt installed at each designated seating position; and

(4) that has not been privately assembled as described in IC 9-17-4-1.

The term does not include a golf cart.

SECTION 4. IC 9-13-2-198 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 198. **Except as provided in section 60(a)(2) of this chapter,** "wagon" means a vehicle that is:

(1) without motive power;

(2) designed to be pulled by a motor vehicle;

(3) constructed so that no part of the weight of the wagon rests upon the towing vehicle;

(4) equipped with a flexible tongue; and

(5) capable of being steered by the front two (2) wheels.

SECTION 5. IC 9-17-1-1 IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2009]: Sec. 1. This article does not apply to farm wagons, **a golf cart,** or ~~to~~ a motor vehicle that was designed to have a maximum design speed of not more than twenty-five (25) miles per hour and that was built, constructed, modified, or assembled by a person other than the manufacturer.

SECTION 6. IC 9-18-1-1, AS AMENDED BY P.L.1-2006, SECTION 160, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This article does not apply to the following:

(1) Farm wagons.

(2) Farm tractors.

(3) A new motor vehicle if the new motor vehicle is being operated in Indiana solely to remove it from an accident site to a storage location because:

(A) the new motor vehicle was being transported on a railroad car or semitrailer; and

(B) the railroad car or semitrailer was involved in an accident that required the unloading of the new motor vehicle to preserve or prevent further damage to it.

(4) An implement of agriculture designed to be operated primarily in a farm field or on farm premises.

(5) Off-road vehicles.

(6) Golf carts.

SECTION 7. IC 9-19-1-1, AS AMENDED BY P.L.210-2005, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided in subsection (b) and as otherwise provided in this chapter, this article does not apply to the following with respect to equipment on vehicles:

(1) Implements of agriculture designed to be operated primarily in a farm field or on farm premises.

(2) Road machinery.

(3) Road rollers.

(4) Farm tractors.

(5) Vehicle chassis that:

(A) are a part of a vehicle manufacturer's work in process; and

(B) are driven under this subdivision only for a distance of less than one (1) mile.

(6) Golf carts.

(b) A farm type dry or liquid fertilizer tank trailer or spreader that is drawn or towed on a highway by a motor vehicle other than a farm tractor at a speed greater than thirty (30) miles per hour is considered a trailer for equipment requirement purposes and all equipment requirements concerning trailers apply.

SECTION 8. IC 9-20-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) This section does not apply to farm wagons **(as defined in IC 9-13-2-60(a)(1)). However, a farm wagon (as defined in IC 9-13-2-60(a)(2)) that is operated on a highway may not be used to tow another vehicle.**

(b) The draw bar or other connection between any two (2) vehicles, one (1) of which is towing or drawing the other upon a highway, may not exceed fifteen (15) feet in length from one (1) vehicle to the other.

(c) Each trailer and semitrailer hauled by a motor propelled vehicle must be attached to the vehicle and to each other with the forms of coupling devices that will prevent the trailer or semitrailer from being deflected more than six (6) inches from the path of the towing vehicle or to each other, by suitable safety chains or devices, one (1) on each side of the coupling and at the extreme outer edge of the vehicle. Each chain or device and connection used must be of sufficient strength to haul the trailer when loaded.

(d) A vehicle, including a combination of vehicles engaged in interstate commerce, and any safety equipment on the vehicle, including safety chains, cables, or other devices, that is otherwise in compliance with:

(1) the United States Department of Transportation Federal Highway Administration motor carrier safety regulations;

(2) the motor vehicle safety standards of the National Highway Safety Bureau of the United States Department of Transportation; or

(3) the successor of either or both of those agencies;

is considered to be in compliance with this section.

SECTION 9. IC 9-20-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. **(a)** A farm wagon **(as defined in IC 9-13-2-60(a)(1))** is not subject to IC 9-20-9-8 with regard to trailers in tow.

(b) A farm wagon (as defined in IC 9-13-2-60(a)(2)) may not be used to tow a trailer.

SECTION 10. IC 9-21-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. Except as provided in sections 2, ~~and~~ 3, **and 3.3** of this chapter, this article applies throughout Indiana.

SECTION 11. IC 9-21-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A local authority, with respect to private roads and highways under the authority's jurisdiction, in accordance with section 2 of this chapter, and within the reasonable exercise of the police power, may do the following:

(1) Regulate the standing or parking of vehicles.

(2) Regulate traffic by means of police officers or traffic control signals.

(3) Regulate or prohibit processions or assemblages on the highways.

(4) Designate a highway as a one-way highway and require that all vehicles operated on the highway be moved in one (1) specific direction.

(5) Regulate the speed of vehicles in public parks.

(6) Designate a highway as a through highway and require that all vehicles stop before entering or crossing the highway.

(7) Designate an intersection as a stop intersection and require all vehicles to stop at one (1) or more entrances to the intersection.

(8) Restrict the use of highways as authorized in IC 9-21-4-7.

(9) Regulate the operation of bicycles and require the registration and licensing of bicycles, including the requirement of a registration fee.

(10) Regulate or prohibit the turning of vehicles at intersections.

(11) Alter the prima facie speed limits authorized under IC 9-21-5.

(12) Adopt other traffic regulations specifically authorized by this article.

(13) Adopt traffic regulations governing traffic control on public school grounds when requested by the governing body of the school corporations.

(14) Regulate or prohibit the operation of low speed vehicles **or golf carts** on highways.

(b) An ordinance or regulation adopted under subsection (a)(4), (a)(5), (a)(6), (a)(7), (a)(8), (a)(10), (a)(11), (a)(12), (a)(13), or (a)(14),

is effective when signs giving notice of the local traffic regulations are posted upon or at the entrances to the highway or part of the highway that is affected.

SECTION 12. IC 9-21-1-3.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.3. (a) A city or a town may adopt by ordinance additional traffic regulations concerning the use of golf carts on a highway under the jurisdiction of the city or the town. An ordinance adopted under this subsection may not conflict with or duplicate state law.**

(b) A fine assessed for a violation of a traffic ordinance adopted by a city or a town under this section shall be deposited into the general fund of the city or town.

(c) A person who violates subsection (a) commits a Class C infraction.

SECTION 13. IC 9-21-8-45 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 45. **(a)** A farm wagon may not be operated on an interstate highway.

(b) In addition to the prohibition set forth in subsection (a), a farm wagon (as defined in IC 9-13-2-60(a)(2)) may not be operated on a highway designated as a part of the state highway system under IC 8-23-4-2, except that a farm wagon may cross a state highway, other than a limited access highway, at right angles for the purpose of getting from one (1) farm field to another when the operation can be done safely. The operator shall bring the farm wagon to a complete stop before proceeding across the state highway and shall yield the right-of-way to all traffic.

SECTION 14. IC 9-21-9-0.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 0.5. **(a)** This chapter does not apply to the following:

(1) An electric personal assistive mobility device.

(2) A low speed vehicle.

(3) Except as provided in subsection (b), a golf cart.

(b) An ordinance adopted in accordance with IC 9-21-1-3(a)(14) or IC 9-21-1-3.3(a) may require a golf cart to display a slow moving vehicle emblem in accordance with section 3 of this chapter or a red or amber flashing lamp in accordance with section 4 of this chapter. A fine assessed for a violation of an ordinance under this section shall be deposited in the general fund of the city or

town.

SECTION 15. IC 9-22-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter does not apply to the following:

(1) A vehicle in operable condition specifically adapted or constructed for operation on privately owned raceways.

(2) A vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment.

(3) A vehicle located on a vehicle sale lot.

(4) A vehicle located upon property licensed or zoned as an automobile scrapyard.

(5) A vehicle registered and licensed under IC 9-18-12 as an antique vehicle.

(6) A golf cart.

SECTION 16. IC 9-22-3-0.5, AS ADDED BY P.L.219-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 0.5. For purposes of this chapter,"motor vehicle" does not include:

(1) an off-road vehicle; **or**

(2) a golf cart.

SECTION 17. IC 9-22-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. **(a) This section does not apply to a person who sells, exchanges, or transfers golf carts.**

(b) A seller that is:

(1) a dealer; or

(2) another person who sells, exchanges, or transfers at least five

(5) vehicles each year;

may not sell, exchange, or transfer a rebuilt vehicle without disclosing in writing to the purchaser, customer, or transferee, before consummating the sale, exchange, or transfer, the fact that the vehicle is a rebuilt vehicle if the dealer or other person knows or should reasonably know the vehicle is a rebuilt vehicle.

SECTION 18. IC 9-24-1-7, AS AMENDED BY P.L.210-2005, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. **(a)** Sections 1 through 5 of this chapter do not apply to the following individuals:

(1) An individual in the service of the armed forces of the United

States while operating an official motor vehicle in that service.

(2) An individual while operating:

(A) a road roller;

(B) road construction or maintenance machinery, except where the road roller or machinery is required to be registered under Indiana law;

(C) a ditch digging apparatus;

(D) a well drilling apparatus;

(E) a concrete mixer; or

(F) a farm tractor, **a farm wagon (as defined in IC 9-13-2-60(a)(2)),** or an implement of agriculture designed to be operated primarily in a farm field or on farm premises;

that is being temporarily drawn, moved, or propelled on ~~an Indiana~~ **a** public highway. **However, to operate a farm wagon (as defined in IC 9-13-2-60(a)(2)) on a highway, an individual must be at least fifteen (15) years of age.**

(3) A nonresident who:

(A) is at least sixteen (16) years and one (1) month of age; and

(B) has in the nonresident's immediate possession a valid operator's license that was issued to the nonresident in the nonresident's home state or country;

while operating a motor vehicle in Indiana only as an operator.

(4) A nonresident who:

(A) is at least eighteen (18) years of age; and

(B) has in the nonresident's immediate possession a valid chauffeur's license that was issued to the nonresident in the nonresident's home state or country;

while operating a motor vehicle upon a public highway, either as an operator or a chauffeur.

(5) A nonresident who:

(A) is at least eighteen (18) years of age; and

(B) has in the nonresident's immediate possession a valid license issued by the nonresident's home state for the operation of any motor vehicle upon a public highway when in use as a public passenger carrying vehicle;

while operating a motor vehicle upon a public highway.

(6) A nonresident whose home state or country does not require the licensing of operators or chauffeurs and who has not been

licensed as an operator or a chauffeur in the nonresident's home state or country as an operator if the nonresident is at least sixteen (16) years and thirty (30) days of age and less than eighteen (18) years of age or as a chauffeur if the nonresident is at least eighteen (18) years of age, for not more than sixty (60) days in any one (1) year if the following conditions exist:

(A) The unlicensed nonresident is the owner of the motor vehicle or the authorized driver of the vehicle.

(B) The vehicle has been registered for the current year in the state or country of which the owner is a resident.

(C) The motor vehicle at all times displays a registration plate issued in the home state or country of the owner.

(D) The nonresident owner or driver has in the owner's or driver's immediate possession a registration card evidencing ownership and registration in the owner's or driver's home state or country or is able at any required time or place to do the following:

(i) Prove lawful possession or the right to operate the motor vehicle.

(ii) Establish the nonresident's proper identity.

(7) An individual who is legally licensed to operate a motor vehicle in the state of the individual's residence and who is employed in Indiana, subject to the restrictions imposed by the state of the individual's residence.

(8) A new resident of Indiana who possesses an unexpired driver's license issued by the resident's former state of residence, for a period of sixty (60) days after becoming a resident of Indiana.

(9) An individual who is an engineer, a conductor, a brakeman, or another member of the crew of a locomotive or a train that is being operated upon rails, including the operation of the locomotive or the train on a crossing over a street or a highway. An individual described in this subdivision is not required to display a license to a law enforcement officer in connection with the operation of a locomotive or a train in Indiana.

(b) An ordinance adopted under IC 9-21-1-3((a)(14) or IC 9-21-1-3.3(a) must require that an individual who operates a golf cart in the city or town hold a driver's license.

SECTION 19. IC 9-26-6-0.5 IS ADDED TO THE INDIANA CODE

AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. Section 1 of this chapter applies to a person removing a wrecked or damaged golf cart from a street or highway.**

SECTION 20. IC 14-8-2-116.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 116.5. "Golf cart", for purposes of IC 14-8-2-185 and IC 14-19-1-0.5, has the meaning set forth in IC 9-13-2-69.7.**

SECTION 21. IC 14-8-2-185, AS AMENDED BY P.L.225-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 185. (a) "Off-road vehicle", for purposes of IC 14-16-1 and IC 14-19-1-0.5, means a motor driven vehicle capable of cross-country travel:

(1) without benefit of a road; and

(2) on or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain.

(b) The term includes the following:

(1) A multiwheel drive or low pressure tire vehicle.

(2) An amphibious machine.

(3) A ground effect air cushion vehicle.

(4) Other means of transportation deriving motive power from a source other than muscle or wind.

(c) The term does not include the following:

(1) A farm vehicle being used for farming, **including, but not limited to, a farm wagon (as defined in IC 9-13-2-60(a)(2)).**

(2) A vehicle used for military or law enforcement purposes.

(3) A construction, mining, or other industrial related vehicle used in performance of the vehicle's common function.

(4) A snowmobile (as defined by section 261 of this chapter).

(5) A registered aircraft.

(6) Any other vehicle properly registered by the bureau of motor vehicles.

(7) Any watercraft that is registered under Indiana statutes.

(8) A golf cart vehicle.

P.L.151-2009
[H.1554. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

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

SECTION 1. IC 4-4-32.2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 32.2. Alternative Fuel Fueling Station Grant Program

Sec. 1. As used in this chapter, "alternative fuel" means liquefied petroleum gas, a compressed natural gas product, or a combination of liquefied petroleum gas and a compressed natural gas product, not including a biodiesel fuel or biodiesel blend, used in an internal combustion engine or a motor to propel a motor vehicle. The term includes all forms of fuel commonly or commercially known or sold as butane, propane, or compressed natural gas.

Sec. 2. As used in this chapter, "alternative fuel compatible", with respect to a fueling station, means capable of storing and delivering alternative fuel in conformance with any governmental or other nationally recognized standards that apply to the storage and handling of alternative fuel, as determined under standards adopted by the office under section 12(1) of this chapter.

Sec. 3. As used in this chapter, "fueling station" refers to tangible property (other than a building and its structural components) that:

(1) consists of:

(A) a tank or other storage unit;

(B) a pump or other dispensing equipment; and

(C) other components; and

(2) is used by:

(A) a person engaged in the business of selling motor fuel

at retail, to enable motor fuel to be dispensed directly into the fuel tank of a customer's motor vehicle;

(B) a person engaged in a business, other than a business described in clause (A), to enable motor fuel to be dispensed directly into the fuel tank of a motor vehicle, if the fueling station is accessible to members of the public; or

(C) a unit to enable motor fuel to be dispensed directly into the fuel tank of a motor vehicle, regardless of whether the fueling station is accessible to members of the public.

Sec. 4. As used in this chapter, "location" refers to one (1) or more parcels of land that:

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

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

Sec. 5. (a) As used in this chapter, "motor fuel" has the meaning set forth in IC 6-6-4.1-1(g).

(b) The term includes alternative fuel.

Sec. 6. As used in this chapter, "motor vehicle" has the meaning set forth in IC 15-11-11-4.

Sec. 7. As used in this chapter, "office" refers to the Indiana office of energy development.

Sec. 8. As used in this chapter, "qualified investment" refers to an ordinary and usual expense that is incurred after June 30, 2009, to purchase any part of an alternative fuel compatible fueling station for the purpose of:

(1) installing a new alternative fuel compatible fueling station at a location on which a fueling station is not located; or

(2) replacing an existing fueling station that is not an alternative fuel compatible fueling station with a fueling station that is an alternative fuel compatible fueling station.

Sec. 9. As used in this chapter, "unit" means a county, city, town, township, or school corporation.

Sec. 10. (a) Subject to subsections (b) and (c), the office may award a grant under this chapter to a person or unit that:

(1) makes a qualified investment; and

(2) places the alternative fuel compatible fueling station for which the qualified investment was made into service;

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

(b) A recipient of a grant awarded under this chapter must comply with any guidelines developed by the office in connection with grants awarded under this chapter.

(c) The office may not award more than one (1) grant under this chapter for a single location.

Sec. 11. (a) Subject to subsection (b) and section 13 of this chapter, the office shall determine the amount of each grant awarded under this chapter.

(b) The amount of a grant awarded under this chapter for a location may not exceed the lesser of the following:

(1) The amount of the grant recipient's qualified investment for the location.

(2) Twenty thousand dollars ($20,000).

(c) The amount of a grant awarded under this chapter for a location may be less than the amount of the grant recipient's qualified investment for the location.

Sec. 12. The office shall do the following:

(1) Adopt guidelines to determine standards for awarding grants under this chapter, including standards for determining whether a fueling station complies with applicable governmental or other nationally recognized standards that apply to the storage and handling of alternative fuel.

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

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

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

Sec. 13. The total amount of grants awarded under this chapter for all state fiscal years may not exceed one million dollars ($1,000,000).

Sec. 14. (a) The alternative fuel fueling station grant fund is established to provide grants under this chapter. The fund shall be administered by the office.

(b) The fund consists of:

(1) money appropriated to the fund by the general assembly;

(2) money received from state or federal grants or programs for alternative fuels projects; and

(3) donations, gifts, and money received from any other source, including transfers from other funds or accounts.

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

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

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

Sec. 15. A grant awarded under this chapter is not subject to taxation under IC 6-3-1 through IC 6-3-7.

Sec. 16. A grant awarded under this chapter does not reduce the basis of the qualified property for purposes of determining any gain or loss on the property when the grant recipient disposes of the property.

SECTION 2. IC 4-4-32.3 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 32.3. Alternative Fuel Vehicle Grant Program for Local Units

Sec. 1. As used in this chapter, "alternative fuel" means liquefied petroleum gas, a compressed natural gas product, or a combination of liquefied petroleum gas and a compressed natural gas product, not including a biodiesel fuel or biodiesel blend, used in an internal combustion engine or a motor to propel a motor vehicle (as defined in IC 15-11-11-4). The term includes all forms of fuel commonly or commercially known or sold as butane, propane, or compressed natural gas.

Sec. 2. As used in this chapter, "alternative fuel conversion kit" means any equipment used to convert a motor vehicle (as defined in IC 15-11-11-4) that is not an alternative fuel vehicle into an alternative fuel vehicle, in conformance with any applicable governmental or other nationally recognized safety or design standards, as determined under standards adopted by the office under section 8(1) of this chapter.

Sec. 3. As used in this chapter, "alternative fuel vehicle" means

any motor vehicle (as defined in 15-11-11-4) that is designed to operate:

(1) on alternative fuel alone; or

(2) on alternative fuel alternately with another fuel source;

in conformance with any applicable governmental or other nationally recognized safety or design standards, as determined under standards adopted by the office under section 8(1) of this chapter.

Sec. 4. As used in this chapter, "office" refers to the Indiana office of energy development.

Sec. 5. As used in this chapter, "qualified purchase" refers to the purchase by a unit after June 30, 2009, of any of the following:

(1) One (1) or more alternative fuel vehicles.

(2) One (1) or more alternative fuel conversion kits, including any installation costs.

Sec. 6. As used in this chapter, "unit" means a county, city, town, township, or school corporation.

Sec. 7. (a) Subject to subsections (d) and (e), the office may award a grant under this chapter to a unit that makes a qualified purchase.

(b) Subject to subsection (c) and section 9 of this chapter, the amount of a grant that may be awarded under this chapter to a unit equals the amount determined under STEP FOUR of the following formula:

STEP ONE: Determine the product of:

(A) two thousand dollars ($2,000); multiplied by

(B) the number of alternative fuel vehicles purchased by the unit.

STEP TWO: For each alternative fuel conversion kit purchased by the unit, determine the lesser of:

(A) two thousand dollars ($2,000); or

(B) the actual cost of the alternative fuel conversion kit.

STEP THREE: Determine the sum of all amounts determined under STEP TWO.

STEP FOUR: Add the amounts determined under STEPS ONE and THREE.

(c) In the guidelines adopted by the office under section 8(1) of this chapter, the office may limit the:

(1) number of alternative fuel vehicles; or

(2) number of alternative fuel conversion kits;

for which a unit may receive a grant under this chapter.

(d) A recipient of a grant awarded under this chapter must comply with any guidelines developed by the office in connection with grants awarded under this chapter.

(e) The office may not award more than one (1) grant under this chapter to any one (1) unit.

Sec. 8. The office shall do the following:

(1) Adopt guidelines to determine standards for awarding grants under this chapter, including standards for determining whether an alternative fuel vehicle or an alternative fuel conversion kit complies with applicable governmental or other nationally recognized standards.

(2) Prepare and supervise the issuance of information to units concerning the grant program established under this chapter.

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

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

Sec. 9. The total amount of grants awarded under this chapter for all units may not exceed one million dollars ($1,000,000).

Sec. 10. (a) The local unit alternative fuel vehicle grant fund is established to provide grants under this chapter. The fund shall be administered by the office.

(b) The fund consists of:

(1) money appropriated to the fund by the general assembly;

(2) money received from state or federal grants or programs for alternative fuels projects; and

(3) donations, gifts, and money received from any other source, including transfers from other funds or accounts.

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

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

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

SECTION 3. IC 5-22-5-8.5 IS ADDED TO THE INDIANA CODE

AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8.5. (a) As used in this section, "clean energy vehicle" means any of the following:**

(1) A vehicle that operates on one (1) or more of the following energy sources:

(A) A rechargeable energy storage system.

(B) Hydrogen.

(C) Compressed air.

(D) Compressed or liquid natural gas.

(E) Solar energy.

(F) Liquefied petroleum gas.

(G) Any other alternative fuel (as defined in IC 6-3.1-31.9-1).

(2) A vehicle that operates on gasoline and one (1) or more of the energy sources listed in subdivision (1).

(3) A vehicle that operates on diesel fuel and one (1) or more of the energy sources listed in subdivision (1).

(b) As used in this section, "state entity" means the following:

(1) A state agency.

(2) Any other authority, board, branch, commission, committee, department, division, or other instrumentality of the executive (including the administrative), legislative, or judicial department of state government.

The term includes a state elected official's office and excludes a state educational institution.

(c) As used in this section, "vehicle" includes the following:

(1) An automobile.

(2) A truck.

(3) A tractor.

(d) Except as provided in subsection (e), if a state entity purchases or leases a vehicle after December 31, 2009, it must purchase or lease a clean energy vehicle unless the Indiana department of administration determines that the purchase or lease of a clean energy vehicle:

(1) is inappropriate because of the purposes for which the vehicle will be used; or

(2) would cost at least ten percent (10%) more than the purchase or lease of a vehicle that:

(A) is not a clean energy vehicle; and

(B) is designed and equipped comparably to the clean energy vehicle.

(e) The requirements of subsection (d) do not apply to the:

(1) purchase or lease of vehicles by or for the state police department; and

(2) short term or temporary lease of vehicles.

(f) The Indiana department of administration shall, before January 1, 2010, adopt rules or guidelines to provide a preference for the purchase or lease by state entities of clean energy vehicles manufactured wholly or partially in Indiana or containing parts manufactured in Indiana.

(g) Before August 1 of 2010 and each year thereafter, each state entity shall submit to the Indiana department of administration information regarding the use of clean energy vehicles by the state entity. The information must specify the following for the preceding state fiscal year:

(1) The amount of alternative fuels purchased by the state entity.

(2) The amount of conventional fuels purchased by the state entity.

(3) The average price per gallon paid by the state entity for each type of fuel purchased by the state entity.

(4) The total number of vehicles purchased or leased by the state agency that were clean energy vehicles and the total number of vehicles purchased or leased by the state agency that were not clean energy vehicles.

(5) Any other information required by the Indiana department of administration.

(h) Before September 1 of 2010 and each year thereafter, the Indiana department of administration shall submit to the general assembly in an electronic format under IC 5-14-6 and to the governor a report that lists the information required under subsection (g) for each state entity and for all state agencies in the aggregate.

SECTION 4. IC 8-1-8.8-10, AS AMENDED BY P.L.175-2007, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) As used in this chapter, "renewable energy resources" means alternative sources of renewable energy, including the following:

(1) Energy from wind.

(2) Solar energy.

(3) Photovoltaic cells and panels.

(4) Dedicated crops grown for energy production.

(5) Organic waste biomass, including any of the following organic matter that is available on a renewable basis:

(A) Agricultural crops.

(B) Agricultural wastes and residues.

(C) Wood and wood wastes, including the following:

(i) Wood residues.

(ii) Forest thinnings.

(iii) Mill residue wood.

(iv) Waste from clean construction and demolition.

(D) Animal wastes.

(E) Aquatic plants.

(6) Hydropower from existing dams.

(7) Fuel cells.

(8) Energy from waste to energy facilities. ~~producing steam not used for the production of electricity.~~

(9) Energy storage systems.

(b) Except for energy described in subsection (a)(8), the term does not include energy from the incinerations, burning, or heating of any of the following:

(1) Tires.

(2) General household, institutional, commercial, industrial lunchroom, office, or landscape waste.

(c) The term excludes treated or painted lumber.

SECTION 5. IC 8-1-13.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 13.1. Alternative Energy Projects by Rural Electric Membership Corporations

Sec. 1. The general assembly makes the following findings:

(1) Alternative energy projects result in quantifiable reductions in, or the avoidance of, regulated air pollutants and carbon emissions produced by traditional electric generating facilities that use fossil fuels as their fuel source.

(2) Corporations and cooperatively owned power suppliers

should plan and implement alternative energy projects on behalf of and at the request of their members.

(3) Incentives that encourage corporations and their cooperatively owned power suppliers to:

(A) develop alternative energy projects; and

(B) apply for, and contribute matching funds to, state or federal grants and programs for alternative energy projects;

are in the public interest of the state and its citizens and are crucial to the state's economic development efforts.

Sec. 2. As used in this chapter, "alternative energy project" means a project that:

(1) develops or makes use of:

(A) clean coal and energy projects (as defined in IC 8-1-8.8-2);

(B) renewable energy resources (as defined in IC 8-1-8.8-10) for the production of electricity;

(C) integrated gasification combined cycle (IGCC) technology to produce synthesis gas that is used:

(i) to generate electricity; or

(ii) as a substitute for natural gas;

regardless of the fuel source used to produce the synthesis gas;

(D) methane recovered from landfills for the production of electricity;

(E) demand side management, energy efficiency, or conservation programs; or

(F) coal bed methane.

(2) results in quantifiable reductions in, or the avoidance of:

(A) the use of electricity produced by traditional electric generating facilities that use fossil fuels as their fuel source; or

(B) regulated air pollutants and carbon emissions produced by traditional electric generating facilities that use fossil fuels as their fuel source; and

(3) is implemented under a plan approved by:

(A) the office; and

(B) a corporation's or a cooperatively owned power supplier's board of directors.

Sec. 3. As used in this chapter, "cooperatively owned power supplier" means:

(1) an energy utility (as defined in IC 8-1-2.5-2) that is a general district corporation organized under IC 8-1-13; or

(2) an energy utility that is organized under IC 23-17 and whose membership includes one (1) or more corporations organized under IC 8-1-13.

Sec. 4. As used in this chapter, "corporation" means a corporation organized under IC 8-1-13 as a local district corporation (as defined in IC 8-1-13-23(b)).

Sec. 5. As used in this chapter, "director" refers to the director of the office of alternative energy incentives serving under section 9(b) of this chapter.

Sec. 6. As used in this chapter, "fund" refers to the alternative energy incentive fund established by section 10 of this chapter.

Sec. 7. As used in this chapter, "office" refers to the office of alternative energy incentives established by section 9 of this chapter.

Sec. 8. As used in this chapter, "retail energy service" has the meaning set forth in IC 8-1-2.5-3.

Sec. 9. (a) The office of alternative energy incentives is established within the Indiana office of energy development.

(b) The:

(1) director of the Indiana office of energy development; or

(2) designee of the Indiana office of energy development, who must be qualified by knowledge of or experience in the electric utility industry;

shall serve as the director of the office.

(c) The director:

(1) serves at the pleasure of and is responsible to the director of the Indiana office of energy development, if the director is a designee of the director of the Indiana office of energy development;

(2) may receive compensation in an amount determined by the director of the Indiana office of energy development, subject to the approval of the budget agency, if the director is a designee of the director of the Indiana office of energy development;

(3) serves as the chief executive and administrative officer of

the office; and

(4) may, to the extent appropriate, delegate the director's authority under this chapter, subject to the approval of:

(A) the director of the Indiana office of energy development, if the director is a designee of the director of the Indiana office of energy development; and

(B) the budget agency.

(d) The director of the Indiana office of energy development may:

(1) establish; and

(2) appoint members to;

an advisory board to advise the office in the administration of this chapter.

Sec. 10. (a) The alternative energy incentive fund is established for the purpose of providing funds to corporations for use in the development of alternative energy projects. The fund shall be administered by the office.

(b) The fund consists of:

(1) money appropriated to the fund by the general assembly;

(2) money received from state or federal grants or programs for alternative energy projects; and

(3) donations, gifts, and money received from any other source, including transfers from other funds or accounts.

(c) Money in the fund is continuously appropriated for the purposes of this section.

(d) Money in the fund may be spent only in accordance with this chapter and to carry out the purposes of this chapter.

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

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

(g) Money in the fund at the end of a state fiscal year does not

revert to the state general fund.

Sec. 11. The office shall establish an account within the fund for each corporation.

Sec. 12. (a) Beginning in 2009, not later than August 1 of each year, a corporation may apply to the office to have access to a percentage of the total funds that are, as of July 1 of the year, in the account established for the corporation under section 11 of this chapter, as follows:

(1) A corporation may have access to not more than forty percent (40%) of the total funds in the corporation's account if the corporation certifies to the office that alternative energy projects accounted for five percent (5%) or less of the corporation's total sales from the provision of retail energy service during the preceding calendar year.

(2) A corporation may have access to not more than seventy percent (70%) of the total funds in the corporation's account if the corporation certifies to the office that alternative energy projects accounted for:

(A) more than five percent (5%); and

(B) not more than ten percent (10%);

of the corporation's total sales from the provision of retail energy service during the preceding calendar year.

(3) A corporation may have access to one hundred percent (100%) of the total funds in the corporation's account if the corporation certifies to the office that:

(A) alternative energy projects accounted for at least ten percent (10%) of the corporation's total sales from the provision of retail energy service during the preceding calendar year;

(B) at least fifty percent (50%) of the sales attributed to alternative energy projects under clause (A) were made to Indiana customers; and

(C) at least fifty percent (50%) of the alternative energy projects that:

(i) under clause (A) accounted for at least ten percent (10%) of the corporation's total sales from the provision of retail energy service during the preceding calendar year; and

(ii) are energy production or generating facilities;

are located in Indiana.

(b) A corporation that seeks access to a percentage of the total funds in the corporation's account under subsection (a) shall submit:

(1) an application to the office on a form prescribed by the office; and

(2) any documentation required by the office to support the corporation's certification of the percentage of its total sales from the provision of retail energy service that is attributable to alternative energy projects during the preceding calendar year.

An application submitted under this section must be signed under penalty of perjury by an officer of the corporation or another person authorized to bind the corporation.

(c) The application form prescribed by the office and described in subsection (b)(1) must require the applicant to identify:

(1) each planned or existing alternative energy project in which the applicant plans to invest money drawn from the applicant's account under this section;

(2) the amount of money the applicant plans to invest in each alternative energy project identified under subdivision (1); and

(3) any other corporations, cooperatively owned power suppliers, or other persons that have invested or will invest money in each alternative energy project identified under subdivision (1), to the extent known by the applicant.

(d) Upon receiving an application and any supporting documents from a corporation under subsection (b), the office shall review the application and documents for accuracy and completeness. If the office determines that the application and documents are accurate, complete, and properly verified, the office shall notify the corporation as soon as practicable, but in any case not later than thirty (30) days after the date of the corporation's application, that the corporation may have access to the percentage of funds for which the corporation qualifies under subsection (a). If the office determines that the application and documents are inaccurate or incomplete, or are not properly verified, the office shall immediately notify the corporation of any additional information or verifications required. If there is disagreement

between a corporation and the office about:

(1) the accuracy or completeness of an application or any documents submitted in conjunction with an application; or

(2) the determination of, or the method used to determine, the percentage of a corporation's total sales from the provision of retail energy service that is attributable to alternative energy projects;

the corporation may request a hearing or any other procedure for resolving disputes established by the office in rules adopted under section 15 of this chapter.

(e) A corporation may receive the percentage of funds for which it qualifies under subsection (a) for a particular year in one (1) or more installments. However, any money received by a corporation under this section may be used only for one (1) or more alternative energy projects in accordance with section 14 of this chapter.

Sec. 13. (a) Two (2) or more corporations that are members of the same cooperatively owned power supplier may:

(1) develop alternative energy projects jointly; and

(2) share money drawn from their respective accounts in the fund with the corporations' cooperatively owned power supplier, as long as the cooperatively owned power supplier uses the money for one (1) or more alternative energy projects in accordance with section 14 of this chapter.

(b) For purposes of determining the percentage of a corporation's total sales from the provision of retail energy service that is attributable to alternative energy projects under section 12 of this chapter, any joint project described in subsection (a)(1) shall be allocated among the participating corporations according to each corporation's respective investment in the joint project.

Sec. 14. (a) A corporation's board of directors is entitled to determine how money drawn from the corporation's account under section 12 of this chapter is used, subject to the following:

(1) Money drawn from the corporation's account under section 12 of this chapter must be used for an alternative energy project that is approved by:

(A) the office; and

(B) the corporation's board.

(2) If the money will be used to develop or invest in an alternative energy project that involves:

(A) the construction of a new energy production or generating facility; or

(B) the expansion or extension of an existing energy production or generating facility;

the facility to be constructed, expanded, or extended as part of the alternative energy project must be located in Indiana.

(3) Money drawn from the corporation's account under section 12 of this chapter may not be used to purchase electricity produced from an alternative energy project, unless the alternative energy project:

(A) is located in Indiana; and

(B) first came online after July 1, 2009.

(4) If the money will be used for a demand side management, energy efficiency, or conservation program, the money must be dedicated to Indiana customers participating in the demand side management, energy efficiency, or conservation program.

(b) Subject to subsection (a), money drawn from the corporation's account under section 12 of this chapter may be used for:

(1) reimbursement to the corporation for money invested by the corporation:

(A) within the thirty-six (36) month period immediately preceding the date funds are applied for by the corporation under section 12 of this chapter; and

(B) for the expansion or extension of an alternative energy project; and

(2) contributions of matching funds to state or federal programs for alternative energy projects.

Sec. 15. (a) The office may adopt rules under IC 4-22-2 to implement this chapter. Any rules adopted by the office under this section must include:

(1) requirements for plans for alternative energy projects submitted by corporations and cooperatively owned power suppliers to the office under this chapter;

(2) standards by which the office evaluates plans described in subdivision (1);

(3) standards or methodologies for determining the percentage of a corporation's total sales from the provision of

retail energy service that is attributable to alternative energy projects under section 12 of this chapter;

(4) standards and procedures to ensure that a corporation does not receive money from the fund for an investment in, or a purchase of electricity from, an alternative energy project if money has been received from the fund by another applicant for the same or an equivalent investment or purchase;

(5) procedures for resolving disputes that arise between a corporation and the office concerning:

(A) the accuracy or completeness of an application or any documents submitted to the office by a corporation under section 12(b) of this chapter; or

(B) the determination of, or the method used to determine, the percentage of a corporation's total sales from the provision of retail energy service that is attributable to alternative energy projects under section 12 of this chapter; and

(6) any other standards, methodologies, or requirements necessary to implement this chapter.

(b) In adopting rules under this section, the office may consult with the Indiana office of energy development.

Sec. 16. This chapter shall not be construed to constrain a corporation's access to and immediate use of federal economic stimulus funds for alternative energy projects. Notwithstanding any provision of this chapter, any money that may become available to a corporation in connection with federal economic stimulus programs may not become part of the fund or an account established under this chapter without the consent of the corporation, which shall have access to federal economic stimulus funds:

(1) for the same uses; and

(2) in accordance with the same processes;

as any other energy utility (as defined in IC 8-1-2.5-2) may have access to or use federal economic stimulus money.

SECTION 6. **An emergency is declared for this act**.

P.L.152-2009
[H.1561. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-28-33 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 33. High Speed Internet Service Deployment and Adoption Initiative

Sec. 1. As used in this chapter, "GIS" refers to the statewide geographic information system created under section 3 of this chapter.

Sec. 2. As used in this chapter, "high speed Internet service" means a connection to the Internet that provides capacity for transmission at an average speed of at least three hundred eighty-four (384) kilobits per second downstream, regardless of the technology or medium used to provide the connection.

Sec. 3. (a) The corporation shall develop a high speed Internet service deployment and adoption initiative that includes the creation of a statewide geographic information system (GIS) of available telecommunications and information technology services, including high speed Internet service.

(b) The corporation shall map the availability of broadband service by census blocks established by the Bureau of the Census and depicted in the GIS. A map created under this subsection may:

(1) include the percentage of households that have access to broadband service; and

(2) use the Federal Communications Commission benchmark rates for broadband service to identify different speed tiers.

(c) After creating the map under subsection (b), the corporation shall update the GIS at least every six (6) months. This subsection

expires December 31, 2010.

(d) The corporation shall share the map created under subsection (b) and the GIS, including updates, with the Indiana Geographic Information Council (as referred to in IC 4-23-7.3-6) as a data layer to the statewide base map (as defined in IC 4-23-7.3-11).

Sec. 4. (a) A person or entity that provides data or other information to the corporation for inclusion in the GIS may designate the data or information as confidential for any purpose, including for purposes of IC 5-14-3-4.

(b) The corporation shall, upon request, enter into a nondisclosure agreement with a person or entity described in subsection (a) concerning proprietary information submitted to the corporation by the person or entity.

Sec. 5. The corporation may enter into a contract to develop all or part of the initiative described in section 3 of this chapter.

Sec. 6. The corporation may apply for state broadband data and development grants under the federal Broadband Data Improvement Act and the American Recovery and Reinvestment Act of 2009.

Sec. 7. This chapter may not be construed as authorizing the corporation to regulate communications service providers (as defined in IC 8-1-32.5-4).

Sec. 8. In implementing this chapter, the corporation shall consult with the Indiana finance authority to avoid unnecessary duplication of efforts under this chapter and IC 8-1-33.

Sec. 9. The corporation shall establish the following priorities in developing and implementing the high speed Internet service deployment and adoption initiative:

(1) First, extending the deployment of high speed Internet service to areas where:

(A) Internet connections are unavailable; or

(B) the only available Internet connections provide capacity for transmission at an average speed of less than two hundred (200) kilobits per second downstream.

(2) Second, extending the deployment of high speed Internet service to areas where the only available Internet connections provide capacity for transmission at an average speed of:

(A) not less than two hundred (200) kilobits; and

(B) not more than one and five-tenths (1.5) megabits; per second downstream.

(3) Third, supporting programs to promote broadband adoption throughout Indiana.

Sec. 10. The corporation is designated as the single eligible entity to receive a grant under 47 U.S.C. 1304.

SECTION 2. IC 8-1-33-8, AS ADDED BY P.L.235-2005, SECTION 105, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. As used in this chapter, "broadband services" includes services, including voice, video, and data, that provide capacity for transmission of more than ~~two~~ **three** hundred ~~(200)~~ **eighty-four (384)** kilobits per second in at least one (1) direction regardless of the technology or medium used, including wireless, copper wire, fiber optic cable, or coaxial cable. If voice transmission capacity is offered in conjunction with other services using transmission of more than ~~two~~ **three** hundred ~~(200)~~ **eighty-four (384)** kilobits per second, the voice transmission capacity may be less than ~~two~~ **three** hundred ~~(200)~~ **eighty-four (384)** kilobits per second. The authority shall annually reconsider the ~~two~~ **three** hundred ~~(200)~~ **eighty-four (384)** kilobits threshold under this section with a bias toward raising the threshold in a manner consistent with technological advances.

SECTION 3. **An emergency is declared for this act.**

P.L.153-2009
[H.1572. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning Medicaid.

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

SECTION 1. IC 2-5-23-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. ~~Beginning May 1, 1997,~~ **(a)** The health policy advisory committee is established. At the request of the chairman **of the commission,** the health policy advisory committee shall provide information and otherwise assist the commission to perform the duties of the commission under this chapter.

(b) The health policy advisory committee members are ex officio and may not vote.

(c) The health policy advisory committee members shall be appointed from the general public and must include one (1) individual who represents each of the following:

(1) The interests of public hospitals.

(2) The interests of community mental health centers.

(3) The interests of community health centers.

(4) The interests of the long term care industry.

(5) The interests of health care professionals licensed under IC 25, but not licensed under IC 25-22.5.

(6) The interests of rural hospitals. An individual appointed under this subdivision must be licensed under IC 25-22.5.

(7) The interests of health maintenance organizations (as defined in IC 27-13-1-19).

(8) The interests of for-profit health care facilities (as defined in IC 27-8-10-1).

(9) A statewide consumer organization.

(10) A statewide senior citizen organization.

(11) A statewide organization representing people with disabilities.

(12) Organized labor.

(13) The interests of businesses that purchase health insurance policies.

(14) The interests of businesses that provide employee welfare benefit plans (as defined in 29 U.S.C. 1002) that are self-funded.

(15) A minority community.

(16) The uninsured. An individual appointed under this subdivision must be and must have been chronically uninsured.

(17) An individual who is not associated with any organization, business, or profession represented in this subsection other than as a consumer.

(d) The chairman of the commission shall annually select a member of the health policy advisory committee to serve as chairperson.

(e) The health policy advisory committee shall meet at the call of the chairperson of the health policy advisory committee.

(f) The health policy advisory committee shall submit an annual report not later than September 15 of each year to the commission that summarizes the committee's actions and the committee's findings and recommendations on any topic assigned to the committee. The report must be in an electronic format under IC 5-14-6.

SECTION 2. IC 12-13-5-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 14. (a) As used in this section, "commission" refers to the select joint commission on Medicaid oversight (IC 2-5-26-3).**

(b) A contractor for the division, office, or secretary that has responsibility for processing eligibility intake for the federal Supplemental Nutrition Assistance program (SNAP), the Temporary Assistance for Needy Families (TANF) program, and the Medicaid program shall do the following:

(1) Review the eligibility intake process for:

(A) document management issues, including:

(i) unattached documents;

(ii) number of documents received by facsimile;

(iii) number of documents received by mail;

(iv) number of documents incorrectly classified;

(v) number of documents that are not indexed or not correctly attached to cases;

(vi) number of complaints from clients regarding lost documents; and

(vii) number of complaints from clients resolved regarding lost documents;

(B) direct client assistance at county offices, including the:

(i) number of clients helped directly in completing eligibility application forms;

(ii) wait times at local offices;

(iii) amount of time an applicant is given as notice before a scheduled applicant appointment;

(iv) amount of time an applicant waits for a scheduled appointment; and

(v) timeliness of the tasks sent by the contractor to the state for further action, as specified through contracted performance standards; and

(C) call wait times and abandonment rates.

(2) Provide an update on employee training programs.

(3) Provide a copy of the monthly key performance indicator report.

(4) Provide information on error reports and contractor compliance with the contract.

(5) Provide oral and written reports to the commission concerning matters described in subdivision (1):

(A) in a manner and format to be agreed upon with the commission; and

(B) whenever the commission requests.

(6) Report on information concerning assistance provided by voluntary community assistance networks (V-CANs).

(7) Report on the independent performance audit conducted on the contract.

(c) Solely referring an individual to a computer or telephone does not constitute the direct client assistance referred to in subsection (b)(1)(B).

SECTION 3. IC 23-2-4-1, AS AMENDED BY P.L.27-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 1. As used in this chapter, the term:

"Application fee" means the fee charged an individual, in addition to the entrance fee or any other fee, to cover the provider's reasonable

costs in processing the individual's application to become a resident.

"Commissioner" means the securities commissioner as provided in IC 23-19-6-1(a).

"Continuing care agreement" means **the following:**

(1) For continuing care retirement communities registered before July 1, 2009, an agreement by a provider to furnish to ~~at least one (1)~~ **an** individual, for the payment of an entrance fee **of at least twenty-five thousand dollars ($25,000)** and periodic charges:

(A) accommodations in a living unit of a ~~home and:~~ **continuing care retirement community;**

~~(1)~~ **(B)** meals and related services;

~~(2)~~ **(C)** nursing care services;

~~(3)~~ **(D)** medical services;

~~(4)~~ **(E)** other health related services; or

~~(5)~~ **(F)** any combination of these services;

for the life of the individual or for more than one (1) month, **unless the agreement is canceled.**

(2) For continuing care retirement communities registered after June 30, 2009, an agreement by a provider to furnish to an individual, for the payment of an entrance fee of at least twenty-five thousand dollars ($25,000) and periodic charges:

(A) accommodations in a living unit of a continuing care retirement community;

(B) meals and related services;

(C) nursing care services;

(D) medical services;

(E) other health related services; or

(F) any combination of these services;

for the life of the individual, unless the agreement is terminated as specified under this chapter.

"Continuing care retirement community" includes both of the following:

(1) An independent living facility.

(2) A health facility licensed under IC 16-28.

"Contracting party" means a person or persons who enter into a continuing care agreement with a provider.

"Entrance fee" means the sum of money or other property paid or

transferred, or promised to be paid or transferred, to a provider in consideration for one (1) or more individuals becoming a resident of a ~~home~~ **continuing care retirement community** under a continuing care agreement.

~~"Home" means a facility where the provider undertakes, pursuant to a continuing care agreement, to provide continuing care to five (5) or more residents.~~

"Living unit" means a room, apartment, cottage, or other area within a ~~home~~ **continuing care retirement community** set aside for the use of one (1) or more identified residents.

"Long term financing" means financing for a period in excess of one (1) year.

"Omission of a material fact" means the failure to state a material fact required to be stated in any disclosure statement or registration in order to make the disclosure statement or registration, in light of the circumstances under which they were made, not misleading.

"Person" means an individual, a corporation, a partnership, an association, a limited liability company, or other legal entity.

"Provider" means a person that agrees to provide ~~continuing~~ care ~~to an individual~~ under a continuing care agreement.

"Refurbishment fee" means the fee charged an individual, in addition to the entrance fee or any other fee, to cover the provider's reasonable costs in refurbishing a previously occupied living unit specifically designated for occupancy by that individual.

"Resident" means an individual who is entitled to receive benefits under a continuing care agreement.

"Solicit" means any action of a provider in seeking to have an individual residing in Indiana pay an application fee and enter into a continuing care agreement, including:

(1) personal, telephone, or mail communication or any other communication directed to and received by any individual in Indiana; and

(2) advertising in any media distributed or communicated by any means to individuals residing in Indiana.

"Termination" refers to the cancellation of a continuing care agreement under this chapter.

SECTION 4. IC 23-2-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 2. This

chapter applies to any person who:

(1) enters into a continuing care agreement in Indiana to provide care at a ~~home~~ **continuing care retirement community** located either inside Indiana or outside Indiana;

(2) enters into a continuing care agreement outside Indiana to provide care at a ~~home~~ **continuing care retirement community** located in Indiana;

(3) extends the term of an existing continuing care agreement in Indiana to provide care at a ~~home~~ **continuing care retirement community** located either inside Indiana or outside Indiana;

(4) extends the term of an existing continuing care agreement outside Indiana to provide care at a ~~home~~ **continuing care retirement community** located in Indiana; or

(5) solicits the execution of a continuing care agreement by persons in Indiana.

SECTION 5. IC 23-2-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 3. (a) A provider shall register each ~~home~~ **continuing care retirement community** with the commissioner **if:**

(1) before opening the continuing care retirement community, the provider:

(A) enters into;

(B) extends; or

(C) solicits;

a continuing care agreement; or

(2) while operating the continuing care retirement community, the provider has entered into a continuing care agreement with at least twenty-five percent (25%) of the individuals living in the continuing care retirement community.

(b) If a provider fails to register a ~~home,~~ **continuing care retirement community,** the provider may not:

(1) enter into, or extend the term of, a continuing care agreement to provide continuing care to any person at that ~~home,~~ **continuing care retirement community;**

(2) provide services at that ~~home~~ **continuing care retirement community** under a continuing care agreement; or

(3) solicit the execution, by persons residing within Indiana, of a

continuing care agreement to provide continuing care at that ~~home.~~ **continuing care retirement community.**

~~(b)~~ **(c)** The provider's application for registration must be filed with the commissioner by the provider on forms prescribed by the commissioner, and must be accompanied by an application fee of two hundred fifty dollars ($250). The application must contain the following information:

(1) an initial disclosure statement, as described in section 4 of this chapter; and

(2) any other information required by the commissioner under rules adopted under this chapter.

~~(c)~~ **(d)** The commissioner may accept, in lieu of the information required by subsection ~~(b),~~ **(c),** any other registration, disclosure statement, or other document filed by the provider in Indiana, in any other state, or with the federal government if the commissioner determines that such document substantially complies with the requirements of this chapter.

~~(d)~~ **(e)** Upon receipt of the application for registration, the commissioner shall mark the application filed. Within sixty (60) days of the filing of the application, the commissioner shall enter an order registering the provider or rejecting the registration. If no order of rejection is entered within that sixty (60) day period, the provider shall be considered registered unless the provider has consented in writing to an extension of time; if no order of rejection is entered within the time period as extended by consent, the provider shall be considered registered.

~~(e)~~ **(f)** If the commissioner determines that the application for registration complies with all of the requirements of this chapter, the commissioner shall enter an order registering the provider. If the commissioner determines that such requirements have not been met, the commissioner shall notify the provider of the deficiencies and shall inform the provider that it has sixty (60) days to correct them. If the deficiencies are not corrected within sixty (60) days, the commissioner shall enter an order rejecting the registration. The order rejecting the registration shall include the findings of fact upon which the order is based. The provider may petition for reconsideration, and is entitled to a hearing upon that petition.

SECTION 6. IC 23-2-4-4 IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 4. The initial disclosure statement shall contain the following information:

(1) The name and business address of the provider.

(2) If the provider is a partnership, corporation, limited liability company, or association, the names and duties of its officers, directors, trustees, partners, members, or managers.

(3) The name and business address of any person having a five percent (5%) or greater ownership interest in the provider or manager of the ~~home.~~ **continuing care retirement community.**

(4) A description of the business experience of the provider and its officers, directors, trustees, partners, or managers.

(5) A statement as to whether the provider or any of its officers, directors, trustees, partners, or managers, within ten (10) years prior to the date of the initial disclosure statement:

(A) was convicted of a crime;

(B) was a party to any civil action for fraud, embezzlement, fraudulent conversion, or misappropriation of property that resulted in a judgment against ~~him,~~ **the provider or individual;**

(C) had a prior discharge in bankruptcy or was found insolvent in any court action; or

(D) had any state or federal licenses or permits suspended or revoked in connection with any health care or continuing care activities, or related business activities.

(6) The identity of any other ~~home~~ **continuing care retirement community** currently or previously operated by the provider or manager of the ~~home.~~ **continuing care retirement community.**

(7) The location and description of other properties, both existing and proposed, of the provider in which the provider owns a twenty-five percent (25%) ownership interest, and on which ~~homes~~ **continuing care retirement communities** are or are intended to be located.

(8) A statement as to whether the provider is, or is affiliated with, a religious, charitable, or other nonprofit association, and the extent to which the affiliate organization is responsible for the financial and contractual obligations of the provider.

(9) A description of all services to be provided by the provider under its continuing care agreements with contracting parties, and

a description of all fees for those services, including conditions under which the fees may be adjusted.

(10) A description of the terms and conditions under which the continuing care agreement can be cancelled, or fees refunded.

(11) Financial statements of the provider prepared in accordance with generally accepted accounting principles applied on a consistent basis and certified by an independent certified or public accountant, including a balance sheet as of the end of the provider's last fiscal year and income statements for the last three (3) fiscal years, or such shorter period of time as the provider has been in operation.

(12) If the operation of the ~~home~~ **continuing care retirement community** has not begun, a statement of the anticipated source and application of funds to be used in the purchase or construction of the ~~home,~~ **continuing care retirement community,** and an estimate of the funds, if any, which are anticipated to be necessary to pay for start-up losses.

(13) A copy of the forms of agreement for continuing care used by the provider.

(14) Any other information that the commissioner may require by rule or order.

SECTION 7. IC 23-2-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 5. (a) Each year after the initial year in which a ~~home~~ **continuing care retirement community** is registered under section 3 of this chapter, the provider shall file with the commissioner within four (4) months after the end of the provider's fiscal year, unless otherwise extended by the written consent of the commissioner, an annual disclosure statement which shall consist of the financial information set forth in section 4(11) of this chapter.

(b) The annual disclosure statement required to be filed with the commissioner under this section shall be accompanied by an annual filing fee of one hundred dollars ($100).

SECTION 8. IC 23-2-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 6. (a) A provider shall amend its initial or annual disclosure statement filed with the commissioner under section 3 and section 5 of this chapter at any time if necessary to prevent the initial or annual disclosure

statement from containing any material misstatement of fact or omission of a material fact.

(b) Upon the sale of a ~~home~~ **continuing care retirement community** to a new provider, the new provider shall amend the currently filed disclosure statement to reflect the fact of sale and any other fact that would be required to be disclosed under section 4 of this chapter if the new provider were filing an initial disclosure statement.

SECTION 9. IC 23-2-4-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **Sec. 7.5. (a) This section does not apply to a continuing care retirement community registered before July 1, 2009.**

(b) A continuing care agreement may be terminated for any of the following reasons:

(1) The provider has determined that the resident is inappropriate for living in the care setting.

(2) The resident is unable to fully pay the periodic charges because the resident inappropriately divested the assets and income the resident identified at the time of admission to meet the ordinary and customary living expenses for the resident.

(3) Providing assistance to the resident would jeopardize the financial solvency of the provider and the other residents being served by the provider.

(4) The resident has requested a termination of the agreement as allowed under the agreement.

SECTION 10. IC 23-2-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 10. (a) Except as provided by section 11 of this chapter, the commissioner shall require, as a condition of registration, that:

(1) the provider establish an interest-bearing escrow account with a bank, trust company, or other escrow agent approved by the commissioner; and

(2) any entrance fees received by the provider prior to the date the resident is permitted to occupy the living unit in the ~~home~~ **continuing care retirement community** be placed in the escrow account, subject to release as provided by subsection (b).

(b) If the entrance fee gives the resident the right to occupy a living unit that has been previously occupied, the entrance fee and any

income earned thereon shall be released to the provider when the living unit is first occupied by the new resident. If the entrance fee applies to a living unit that has not been previously occupied by any resident, the entrance fee and any income earned thereon shall be released to the provider when the commissioner is satisfied that:

(1) aggregate entrance fees received or receivable by the provider pursuant to executed continuing care agreements, plus:

(A) anticipated proceeds of any first mortgage loan or other long term financing commitment; and

(B) funds from other sources in the actual possession of the provider;

are equal to at least fifty percent (50%) of the aggregate cost of constructing, purchasing, equipping, and furnishing the ~~home~~ **continuing care retirement community** and equal to at least fifty percent (50%) of the estimate of funds necessary to fund startup losses of the ~~home,~~ **continuing care retirement community,** as reported under section 4(12) of this chapter; and

(2) a commitment has been received by the provider for any permanent mortgage loan or other long term financing described in the statement of anticipated source and application of funds to be used in the purchase or construction of the ~~home~~ **continuing care retirement community** under section 4(12) of this chapter, and any conditions of the commitment prior to disbursement of funds thereunder, other than completion of the construction or closing of the purchase of the ~~home,~~ **continuing care retirement community,** have been substantially satisfied.

(c) If the funds in an escrow account under this section and any interest earned thereon are not released within the time provided by this section or by rules adopted by the commissioner, then the funds shall be returned by the escrow agent to the persons who made the payment to the provider.

(d) An entrance fee held in escrow shall be returned by the escrow agent to the person who paid the fee in the following instances:

(1) At the election of the person who paid the fee, at any time before the fee is released to the provider under subsection (b).

(2) Upon receipt by the escrow agent of notice from the provider that the person is entitled to a refund of the entrance fee.

(e) This section does not require a provider to place a nonrefundable

application fee charged to prospective residents in escrow.

(f) A provider is not required to place a refurbishment fee of a prospective resident in escrow if a continuing care agreement provides that the prospective resident:

(1) will occupy the living unit within sixty (60) days after the refurbishment fee is paid; and

(2) will receive a refund of any portion of the refurbishment fee not expended for refurbishment if the continuing care agreement is cancelled before occupancy.

SECTION 11. IC 23-2-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 12. Any money or property received by a provider as an entrance fee to a ~~home~~ **continuing care retirement community** constructed or purchased after August 31, 1982, or any income earned thereon, may be used by the provider only for purposes directly related to the construction, maintenance, or operation of that particular ~~home.~~ **continuing care retirement community.** A ~~home~~ **continuing care retirement community** in operation on September 1, 1982, may not use the entrance fees or income earned thereon after August 31, 1982, for the construction, operation, or maintenance of another ~~home~~ **continuing care retirement community** constructed or purchased after August 31, 1982.

SECTION 12. IC 23-2-4-13, AS AMENDED BY P.L.2-2006, SECTION 180, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) There is established the Indiana retirement home guaranty fund. The purpose of the fund is to provide a mechanism for protecting the financial interests of residents and contracting parties in the event of the bankruptcy of the provider.

(b) To create the fund, a guaranty association fund fee of one hundred dollars ($100) shall be levied on each contracting party who enters into a continuing care agreement after August 31, 1982, **and before July 1, 2009.** The fee shall be collected by the provider and forwarded to the commissioner within thirty (30) days after occupancy by the resident. Failure of the provider to collect and forward such fee to the commissioner within that thirty (30) day period shall result in the imposition by the commissioner of a twenty-five dollar ($25) penalty against the provider. In addition, interest payable by the provider shall accrue on the unpaid fee at the rate of two percent (2%) a month.

(c) Any money received by the commissioner under subsection (b) shall be forwarded to the treasurer of state. The fund, and any income from it, shall be held in trust, deposited in a segregated account, invested and reinvested by the treasurer of state in the same manner as provided in IC 20-49-3-10 for investment of the common school fund.

(d) All reasonable expenses of collecting and administering the fund shall be paid from the fund.

(e) Money in the fund at the end of the state's fiscal year shall remain in the fund and shall not revert to the general fund.

SECTION 13. IC 23-2-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 16. (a) If a ~~home~~ **continuing care retirement community** is bankrupt and the operation of the ~~home~~ **continuing care retirement community** is terminated, the board of directors shall, subject to the approval of the commissioner, distribute from the guaranty association fund established in section 13 to the living residents of the ~~home~~ **continuing care retirement community** an aggregate amount not to exceed one-half (1/2) of the amount in the fund at the time of disbursement. The amount each living resident is entitled to receive shall be prorated, based on the total amount paid on behalf of the resident by the contracting party under the continuing care agreement. In no event may the amount paid to an individual resident under this section exceed the total amount paid on behalf of that resident under the continuing care agreement, less the total value of services received under the agreement.

(b) Any living resident of the ~~home~~ **continuing care retirement community** shall be eligible to receive distributions under subsection (a), regardless of whether any contribution to the guaranty association fund has been made on behalf of the resident.

(c) A resident compensated under this section assigns ~~his~~ **the resident's** rights under the continuing care agreement, to the extent of compensation received under this section, to the board of directors on behalf of the fund. The board of directors may require an assignment of those rights by a resident to the board, on behalf of the fund, as a condition precedent to the receipt of compensation under this section. The board of directors, on behalf of the fund, is subrogated to these rights against the assets of a bankrupt or dissolved provider. Any monies or property collected by the board of directors under this

subsection shall be deposited in the fund.

(d) The subrogation rights of the board of directors, on behalf of the fund, have the same priority against the assets of the bankrupt or dissolved provider as those possessed by the resident under the continuing care agreement.

SECTION 14. IC 23-2-4-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 21. If the commissioner has reason to believe that a ~~home~~ **continuing care retirement community** is insolvent, the commissioner may petition the superior or circuit court of the county in which the ~~home~~ **continuing care retirement community** is located, or the superior or circuit court of Marion County, for the appointment of a receiver to assume the management and possession of the ~~home~~ **continuing care retirement community** and its assets.

SECTION 15. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "committee" refers to the Medicaid managed care quality strategy committee created by this SECTION.**

(b) The Medicaid managed care quality strategy committee is created to provide information on policy issues concerning Medicaid. The committee shall study issues related to the following:

(1) Emergency room utilization.

(2) Prior authorization.

(3) Standardization of procedures, forms, and service descriptions.

(4) Effectiveness and quality of care.

(5) The number of denials by a managed care organization, the reasons for the denials, and the number of appeals and overturning of denials by a managed care organization.

(6) How reimbursement rates are determined by a managed care organization, including reimbursement rates for emergency room care and neonatal intensive care.

(c) The committee consists of seven (7) members as follows:

(1) Two (2) individuals representing Medicaid providers.

(2) One (1) individual representing public hospitals.

(3) Two (2) individuals representing Medicaid managed care organizations.

(4) One (1) individual representing mental health professions.

(5) One (1) individual from the office of Medicaid policy and

planning, who shall act as chairperson of the committee.

(d) The president pro tempore of the senate shall appoint three (3) members under subsection (c) as follows:

(1) One (1) member described in subsection (c)(1).

(2) One (1) member described in subsection (c)(3).

(3) One (1) member described in subsection (c)(5).

(e) The speaker of the house of representatives shall appoint three (3) members under subsection (c) as follows:

(1) One (1) member described in subsection (c)(1).

(2) One (1) member described in subsection (c)(2).

(3) One (1) member described in subsection (c)(3).

(f) The chairperson of the legislative council shall appoint one (1) member described in subsection (c)(4).

(g) The office of the secretary of family and social services shall staff the committee.

(h) The affirmative votes of a majority of the members are required for the committee to make recommendations.

(i) Before October 1, 2009, and October 1, 2010, the committee shall report to the select joint commission on Medicaid oversight established by IC 2-5-26-3 concerning the committee's recommendations.

(j) This SECTION expires December 31, 2010.

SECTION 16. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "commission" refers to the select joint commission on Medicaid oversight established by IC 2-5-26-3.**

(b) Before October 1, 2009, the office of the secretary of family and social services shall provide the commission with information concerning the following:

(1) An update on the medical review team and whether the medical review team has a backlog of cases in need of review.

(2) Coordination of benefits.

(3) The extension of the office of the secretary of family and social services.

(c) During the 2009 interim, the commission shall study the issues and information provided in subsection (b) and determine whether any legislation action is necessary for the 2010 session.

(d) This SECTION expires December 31, 2009.

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

P.L.154-2009
[H.1581. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-24-8-5, AS AMENDED BY HEA 1462-2009, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. The following statutes and rules and guidelines adopted under the following statutes apply to a charter school:

(1) IC 5-11-1-9 (required audits by the state board of accounts).
(2) IC 20-39-1-1 (unified accounting system).
(3) IC 20-35 (special education).
(4) IC 20-26-5-10 (criminal history).
(5) IC 20-26-5-6 (subject to laws requiring regulation by state agencies).
(6) IC 20-28-7-14 (void teacher contract when two (2) contracts are signed).
(7) IC 20-28-10-12 (nondiscrimination for teacher marital status).
(8) IC 20-28-10-14 (teacher freedom of association).
(9) IC 20-28-10-17 (school counselor immunity).
(10) For conversion charter schools only, IC 20-28-6, IC 20-28-7, IC 20-28-8, IC 20-28-9, and IC 20-28-10.
(11) IC 20-33-2 (compulsory school attendance).
(12) IC 20-33-3 (limitations on employment of children).
(13) IC 20-33-8-19, IC 20-33-8-21, and IC 20-33-8-22 (student due process and judicial review).
(14) IC 20-33-8-16 (firearms and deadly weapons).
(15) IC 20-34-3 (health and safety measures).
(16) IC 20-33-9 (reporting of student violations of law).
(17) IC 20-30-3-2 and IC 20-30-3-4 (patriotic commemorative observances).
(18) IC 20-31-3, IC 20-32-4, IC 20-32-5, IC 20-32-6, IC 20-32-8,

or any other statute, rule, or guideline related to standardized testing (assessment programs, including remediation under the assessment programs).

(19) IC 20-33-7 (parental access to education records).

(20) IC 20-31 (accountability for school performance and improvement).

(21) IC 20-30-5-19 (personal financial responsibility instruction).

SECTION 2. IC 20-30-5-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 19. (a) Each school corporation, charter school, and accredited nonpublic school shall include in its curriculum for all students in grades 6 through 12 instruction concerning personal financial responsibility.**

(b) A school corporation, a charter school, and an accredited nonpublic school may meet the requirements of subsection (a) by:

(1) integrating, within its curriculum, instruction; or

(2) conducting a seminar;

that is designed to foster overall personal financial responsibility.

(c) The state board shall adopt a curriculum that ensures personal financial responsibility is taught:

(1) in a manner appropriate for each grade level; and

(2) as a separate subject or as units incorporated into appropriate subjects;

as determined by the state board.

P.L.155-2009
[H.1603. Approved May 12, 2009.]

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

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

SECTION 1. IC 16-32-3-1, AS AMENDED BY P.L.99-2007, SECTION 155, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. It is the policy of this state to encourage and enable individuals who are blind, individuals with a visual disability, and other individuals with a physical **or mental** disability to participate fully in the social and economic life of the state and to engage in remunerative employment.

SECTION 2. IC 16-32-3-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.5. As used in this chapter**, **"service animal" refers to an animal trained as:**

(1) a hearing animal;
(2) a guide animal;
(3) an assistance animal;
(4) a seizure alert animal;
(5) a mobility animal;
(6) a psychiatric service animal; or
(7) an autism service animal.

SECTION 3. IC 16-32-3-2, AS AMENDED BY P.L.99-2007, SECTION 156, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) As used in this section, "public accommodation" means an establishment that caters or offers services, facilities, or goods to the general public. **The term includes the following educational facilities:**

(1) A nursery school.
(2) An elementary school.

(3) A secondary school.

(4) An undergraduate or postgraduate public or private institution.

(5) Other places of education.

(b) A person who:

(1) is totally or partially blind;

(2) is hearing impaired; or

(3) has a physical **or mental** disability;

is entitled to be accompanied by a ~~guide dog,~~ **service animal,** especially trained for the purpose, in any public accommodation without being required to pay an extra charge for the ~~guide dog.~~ **service animal.** However, the person is liable for any damage done to the accommodation by the ~~dog.~~ **service animal.**

(c) A person who:

(1) refuses access to a public accommodation; or

(2) charges a fee for access to a public accommodation;

to a person who is totally or partially blind, who has a hearing impairment, or who has a physical **or mental** disability, because that person is accompanied by a ~~guide dog~~ **service animal** commits a Class C infraction.

(d) A ~~guide dog~~ **service animal** trainer, while engaged in the training process of a ~~guide dog,~~ **service animal,** is entitled to access to any public accommodation granted by this section.

SECTION 4. IC 16-32-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A person not totally blind who:

(1) approaches a totally or partially blind pedestrian carrying a cane predominantly white or metallic in color, with or without a red tip, or using a ~~guide dog,~~ **service animal;** and

(2) fails to take all necessary precautions to avoid injury to the blind pedestrian;

commits a Class C infraction.

(b) A person not totally or partially blind who carries, in a public place, a cane or walking stick that is white and tipped with red commits a Class C infraction.

SECTION 5. IC 16-32-3-5, AS AMENDED BY P.L.99-2007, SECTION 158, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. It is the policy of this state that

individuals who are blind, individuals with a visual disability, and other individuals with a physical **or mental** disability shall be employed in:

(1) the state service;

(2) the service of the political subdivisions of the state;

(3) the public schools; and

(4) all other employment supported in whole or in part by public funds;

on the same terms and conditions as the able-bodied, unless it is shown that the particular disability prevents the performance of the work involved.

SECTION 6. IC 22-9-5-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 9.5. As used in this chapter**, **"service animal" refers to an animal trained as:**

(1) a hearing animal;

(2) a guide animal;

(3) an assistance animal;

(4) a seizure alert animal;

(5) a mobility animal;

(6) a psychiatric service animal; or

(7) an autism service animal.

SECTION 7. IC 22-9-5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20. (a) The prohibition against discrimination in section 19 of this chapter includes medical examinations and inquiries. Except as otherwise provided by this section, a covered entity may not conduct a medical examination or make inquiries of a job applicant as to whether the applicant is an individual with a disability or as to the nature or severity of a disability.

(b) A covered entity may make preemployment inquiries into the ability of an applicant to perform job related functions.

(c) A covered entity may require a medical examination after an offer of employment has been made to a job applicant and before the commencement of the employment duties of the applicant and may condition an offer of employment on the results of that examination if:

(1) all entering employees are subjected to the examination regardless of disability;

(2) information obtained regarding the medical condition or history of the applicant is collected and maintained on separate

forms and in separate medical files and is treated as a confidential medical record, except that:

(A) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(B) first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(C) government officials investigating compliance with this chapter shall be provided relevant information on request; and

(3) the results of the examination are used only in accordance with this chapter.

(d) A covered entity may not require a medical examination and may not make inquiries of an employee as to whether the employee is an individual with a disability or as to the nature or severity of the disability, unless the examination or inquiry is shown to be job related and consistent with business necessity.

(e) A covered entity may conduct voluntary medical examinations, including voluntary medical histories, that are part of an employee health program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job related functions. Information obtained under this subsection is subject to the requirements of subsection (c)(2) and (c)(3).

(f) A covered entity may not interfere, directly or indirectly, with the use of an animal that has been or is being specially trained as a service animal.

(g) A covered entity may not refuse to permit an employee with a disability to keep a service animal with the employee at all times in the place of employment.

P.L.156-2009
[H.1646. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning business and other associations.

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

SECTION 1. IC 23-2-5-3, AS AMENDED BY HEA 1198-2009, SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 3. ~~(a) As used in this chapter, "bona fide third party fee" includes fees for the following:~~

~~(1) Credit reports, investigations, and appraisals performed by a person who holds a license or certificate as a real estate appraiser under IC 25-34.1-8.~~

~~(2) If the loan is to be secured by real property, title examinations, an abstract of title, title insurance, a property survey, and similar purposes.~~

~~(3) The services provided by a loan broker in procuring possible business for a lending institution if the fees are paid by the lending institution.~~

~~(b) As used in this chapter, "certificate of registration" means a certificate issued by the commissioner authorizing an individual to:~~

~~(1) engage in origination activities on behalf of a licensee; or~~

~~(2) act as a principal manager on behalf of a licensee.~~

~~(c)~~ **(a)** As used in this chapter, **"loan broker** license" means a license issued by the commissioner authorizing a person to engage in the loan brokerage business.

~~(d)~~ **(b)** As used in this chapter, "licensee" means a person that is issued a license under this chapter.

~~(e)~~ **(c)** As used in this chapter, "loan broker" means any person who, in return for any consideration from any source procures, attempts to procure, or assists in procuring, a **residential mortgage** loan from a third party or any other person, whether or not the person seeking the

loan actually obtains the loan. "Loan broker" does not include:

(1) any supervised financial organization (as defined in IC 24-4.5-1-301(20)), including a bank, savings bank, trust company, savings association, or credit union;

(2) any other financial institution that is:

(A) regulated by any agency of the United States or any state; and

(B) regularly actively engaged in the business of making consumer loans that are not secured by real estate or taking assignment of consumer sales contracts that are not secured by real estate;

(3) any insurance company;

(4) any person arranging financing for the sale of the person's product; or

(5) a creditor that is licensed under IC 24-4.4-2-402.

~~(f)~~ **(d)** As used in this chapter, "loan brokerage business" means a person acting as a loan broker.

~~(g)~~ **(e)** As used in this chapter, **"mortgage loan** origination activities" means ~~communication with or assistance of a borrower or prospective borrower in the selection of loan products or terms.~~ **performing any of the following activities for compensation or gain in connection with a residential mortgage loan:**

(1) Receiving or recording a borrower's or potential borrower's residential mortgage loan application information in any form for use in a credit decision by a creditor.

(2) Offering to negotiate or negotiating terms of a residential mortgage loan.

(f) As used in this chapter, "borrower's residential mortgage loan application information" means the address of the proposed residential real property to be mortgaged and borrower's essential personal and financial information necessary for an informed credit decision to be made on the borrower's mortgage loan application.

~~(h)~~ **(g)** As used in this chapter, **"mortgage loan** originator" means ~~a person~~ **an individual** engaged in **mortgage loan** origination activities. The term ~~"originator"~~ does not include a person who: ~~performs origination activities for any entity that is not a loan broker under subsection (c).~~

(1) performs purely administrative or clerical tasks on behalf of a mortgage loan originator or acts as a loan processor or underwriter;

(2) performs only real estate brokerage activities and is licensed in accordance with IC 25-34.1 or the applicable laws of another state, unless the person is compensated by a creditor, a loan broker, a mortgage loan originator, or any agent of a creditor, a loan broker, or a mortgage loan originator; or

(3) is involved only in extensions of credit relating to time share plans (as defined in 11 U.S.C. 101(53D)).

(h) As used in this chapter, "mortgage loan originator license" means a license issued by the commissioner authorizing an individual to act as a mortgage loan originator on behalf of a loan broker licensee.

(i) As used in this chapter, "person" means an individual, a partnership, a trust, a corporation, a limited liability company, a limited liability partnership, a sole proprietorship, a joint venture, a joint stock company, or another group or entity, however organized.

~~(j) As used in this chapter, "registrant" means an individual who is registered:~~

~~(1) to engage in origination activities under this chapter; or~~

~~(2) as a principal manager.~~

~~(k)~~ **(j)** As used in this chapter, "ultimate equitable owner" means a person who, directly or indirectly, owns or controls ten percent (10%) or more of the equity interest in a loan broker licensed or required to be licensed under this chapter, regardless of whether the person owns or controls the equity interest through one (1) or more other persons or one (1) or more proxies, powers of attorney, or variances.

~~(l)~~ **(k)** As used in this chapter, "principal manager" means an individual who:

(1) has at least three (3) years of experience:

(A) as a ~~loan broker;~~ **mortgage loan originator;** or

(B) in financial services;

that is acceptable to the commissioner; and

(2) is principally responsible for the supervision and management of the employees and business affairs of a **loan broker** licensee.

(l) As used in this chapter, "principal manager license" means a license issued by the commissioner authorizing an individual to

act as:

(1) a principal manager; and

(2) a mortgage loan originator;

on behalf of a loan broker licensee.

(m) As used in this chapter, "bona fide third party fee", with respect to a residential mortgage loan, includes any of the following:

(1) Fees for real estate appraisals. However, if the residential mortgage loan is governed by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (12 U.S.C. 3331 through 3352), the fee for an appraisal performed in connection with the loan is not a bona fide third party fee unless the appraisal is performed by a person that is licensed or certified under IC 25-34.1-3-8.

(2) Fees for title examination, abstract of title, title insurance, property surveys, or similar purposes.

(3) Notary and credit report fees.

(4) Fees for the services provided by a loan broker in procuring possible business for a creditor if the fees are paid by the creditor.

(n) As used in this chapter, "branch office" means any fixed physical location from which a loan broker licensee holds itself out as engaging in the loan brokerage business.

(o) As used in this chapter, "loan processor or underwriter" means an individual who:

(1) is employed by a loan broker licensee and acts at the direction of, and subject to the supervision of, the loan broker licensee or a licensed principal manager employed by the loan broker licensee; and

(2) performs solely clerical or support duties on behalf of the loan broker licensee, including any of the following activities with respect to a residential mortgage loan application received by the loan broker licensee:

(A) The receipt, collection, distribution, and analysis of information commonly used in the processing or underwriting of a residential mortgage loan.

(B) Communicating with a borrower or potential borrower to obtain the information necessary for the processing or underwriting of a residential mortgage loan, to the extent

that the communication does not include:

(i) offering or negotiating loan rates or terms; or

(ii) counseling borrowers or potential borrowers about residential mortgage loan rates or terms.

(p) As used in this chapter, "real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including any of the following:

(1) Acting as a real estate broker or salesperson for a buyer, seller, lessor, or lessee of real property.

(2) Bringing together parties interested in the sale, lease, or exchange of real property.

(3) Negotiating, on behalf of any party, any part of a contract concerning the sale, lease, or exchange of real property, other than in connection with obtaining or providing financing for the transaction.

(4) Engaging in any activity for which the person performing the activity is required to be licensed under IC 25-34.1 or the applicable laws of another state.

(5) Offering to engage in any activity, or to act in any capacity with respect to any activity, described in subdivisions (1) through (4).

(q) As used in this chapter, "registered mortgage loan originator" means a mortgage loan originator who:

(1) is an employee of:

(A) a depository institution;

(B) a subsidiary that is:

(i) owned and controlled by a depository institution; and

(ii) regulated by a federal financial institution regulatory agency (as defined in 12 U.S.C. 3350(6)); or

(C) an institution regulated by the Farm Credit Administration; and

(2) is registered with and maintains a unique identifier with the Nationwide Mortgage Licensing System and Registry.

(r) As used in this chapter, "residential mortgage loan" means a loan that is secured by a mortgage, deed of trust, or other consensual security interest on real estate in Indiana on which there is located or intended to be constructed a dwelling (as defined in the federal Truth in Lending Act (15 U.S.C. 1602(v)) that is or will be used primarily for personal, family, or household purposes.

~~(m)~~ **(s)** As used in this chapter, "personal information" includes any of the following:

(1) An individual's first and last names or first initial and last name.

(2) Any of the following data elements:

(A) A Social Security number.

(B) A driver's license number.

(C) A state identification card number.

(D) A credit card number.

(E) A financial account number or debit card number in combination with a security code, password, or access code that would permit access to the person's account.

(3) With respect to an individual, any of the following:

(A) Address.

(B) Telephone number.

(C) Information concerning the individual's:

(i) income or other compensation;

(ii) credit history;

(iii) credit score;

(iv) assets;

(v) liabilities; or

(vi) employment history.

~~(n)~~ **(t)** As used in this chapter, personal information is "encrypted" if the personal information:

(1) has been transformed through the use of an algorithmic process into a form in which there is a low probability of assigning meaning without use of a confidential process or key; or

(2) is secured by another method that renders the personal information unreadable or unusable.

~~(o)~~ **(u)** As used in this chapter, personal information is "redacted" if the personal information has been altered or truncated so that not more than the last four (4) digits of:

(1) a Social Security number;

(2) a driver's license number;

(3) a state identification number; or

(4) an account number;

are accessible as part of the personal information.

(v) As used in this chapter, "depository institution" has the meaning set forth in the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) and includes any credit union.

(w) As used in this chapter, "state licensed mortgage loan originator" means any individual who:

(1) is a mortgage loan originator;

(2) is not an employee of:

(A) a depository institution;

(B) a subsidiary that is:

(i) owned and controlled by a depository institution; and

(ii) regulated by a federal financial institution regulatory agency (as defined in 12 U.S.C. 3350(6)); or

(C) an institution regulated by the Farm Credit Administration;

(3) is licensed by a state or by the Secretary of the United States Department of Housing and Urban Development under Section 1508 of the S.A.F.E. Mortgage Licensing Act of 2008 (Title V of P.L.110-289); and

(4) is registered as a mortgage loan originator with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(x) As used in this chapter, "unique identifier" means a number or other identifier that:

(1) permanently identifies a mortgage loan originator; and

(2) is assigned by protocols established by the Nationwide Mortgage Licensing System and Registry and the federal financial institution regulatory agencies to facilitate:

(A) the electronic tracking of mortgage loan originators; and

(B) the uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against mortgage loan originators.

SECTION 2. IC 23-2-5-4, AS AMENDED BY P.L.145-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 4. (a) A person may not engage in the loan brokerage business in Indiana unless the person first obtains a **loan broker** license from the commissioner. Any person desiring to engage or continue in the loan brokerage business shall apply to the

commissioner for a **loan broker** license under this chapter.

(b) An individual may not ~~perform origination activities~~ **act as a mortgage loan originator** in Indiana on behalf of a person licensed or required to be licensed **as a loan broker** under this chapter unless the individual first obtains a ~~certificate of registration~~ **unique identifier from the Nationwide Mortgage Licensing System and Registry and a mortgage loan originator license** from the commissioner. An individual desiring to ~~engage in origination activities~~ **act as a mortgage loan originator** on behalf of a person licensed or required to be licensed **as a loan broker** under this chapter shall apply to the commissioner for ~~registration~~ **a mortgage loan originator license** under this chapter.

(c) An individual may not act as a principal manager on behalf of a person licensed or required to be licensed **as a loan broker** under this chapter unless the individual first obtains a ~~certificate of registration~~ **unique identifier from the Nationwide Mortgage Licensing System and Registry and a principal manager license** from the commissioner. Any individual desiring to act as a principal manager on behalf of a person licensed or required to be licensed **as a loan broker** under this chapter shall apply to the commissioner for ~~registration~~ **a principal manager license** under this chapter.

(d) The commissioner may request evidence of compliance with this section at any of the following times:

(1) The time of application for an initial ~~(A)~~ license. ~~or (B) certificate of registration.~~

(2) The time of renewal of a license. ~~or certificate of registration.~~

(3) Any other time considered necessary by the commissioner.

(e) For purposes of subsection (d), evidence of compliance with this section must include a criminal background check, including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation.

(f) A unique identifier obtained by an individual from the Nationwide Mortgage Licensing System and Registry under subsection (b) or (c) may not be used for purposes other than those set forth in the S.A.F.E. Mortgage Licensing Act of 2008 (Title V of P.L.110-289).

SECTION 3. IC 23-2-5-5, AS AMENDED BY P.L.145-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JANUARY 1, 2010]: Sec. 5. (a) An application for **a loan broker** license or renewal of a **loan broker** license must contain:

(1) consent to service of process under subsection ~~(h),~~ **(g);**

(2) evidence of the bond required in subsection ~~(c),~~ **(d);**

(3) an application fee of ~~four~~ **two** hundred dollars ~~($400),~~ **($200),** plus ~~two~~ **one** hundred dollars ~~($200)~~ **($100)** for each ultimate equitable owner;

(4) an affidavit affirming that none of the applicant's ultimate equitable owners, directors, managers, or officers have been convicted, in any jurisdiction, of:

(A) any felony within the previous seven (7) years; or

(B) an offense involving fraud or deception that is punishable by at least one (1) year of imprisonment;

unless **such an affidavit is** waived by the commissioner under subsection ~~(i),~~ **(h);**

(5) evidence that the applicant, if the applicant is an individual, has completed the education requirements under section 21 of this chapter;

(6) the name and ~~registration~~ **license** number for each **mortgage loan** originator to be employed by the licensee;

(7) the name and ~~registration~~ **license** number for each principal manager; and

(8) for each ultimate equitable owner, the following information:

(A) The name of the ultimate equitable owner.

(B) The address of the ultimate equitable owner, including the home address of the ultimate equitable owner if the ultimate equitable owner is an individual.

(C) The telephone number of the ultimate equitable owner, including the home telephone number if the ultimate equitable owner is an individual.

(D) The ultimate equitable owner's Social Security number and date of birth, if the ultimate equitable owner is an individual.

(b) An application for ~~registration~~ **licensure** as ~~an~~ **a mortgage loan** originator shall be made on a ~~registration~~ form prescribed by the commissioner. The application must include the following information for the individual that seeks to be ~~registered~~ **licensed** as ~~an~~ **a mortgage loan** originator:

(1) The name of the individual.

(2) The home address of the individual.

(3) The home telephone number of the individual.

(4) The individual's Social Security number and date of birth.

(5) The name of the:

(A) **loan broker** licensee; or

(B) applicant for **loan broker** licensure;

for whom the individual seeks to be employed as ~~an~~ **a mortgage loan** originator.

(6) Consent to service of process under subsection ~~(h).~~ **(g).**

(7) Evidence that the individual has completed the education requirements described in section 21 of this chapter.

(8) An application fee of ~~one hundred~~ **fifty** dollars ~~($100).~~ **($50).**

(9) All:

(A) registration numbers previously issued to the individual under this chapter, **if the applicant was registered as an originator or a principal manager under this chapter before July 1, 2009; and**

(B) license numbers previously issued to the individual under this chapter, if applicable.

(c) An application for ~~registration~~ **licensure** as a principal manager shall be made on a ~~registration~~ form prescribed by the commissioner. The application must include the following information for the individual who seeks to be ~~registered~~ **licensed** as a principal manager:

(1) The name of the individual.

(2) The home address of the individual.

(3) The home telephone number of the individual.

(4) The individual's Social Security number and date of birth.

(5) The name of the:

(A) **loan broker** licensee; or

(B) applicant for **loan broker** licensure;

for whom the individual seeks to be employed as a principal manager.

(6) Consent to service of process under subsection ~~(h).~~ **(g).**

(7) Evidence that the individual has completed the education requirements described in section 21 of this chapter.

(8) Evidence that the individual has at least three (3) years of experience in the:

(A) loan brokerage; or

(B) financial services;

business.

(9) An application fee of ~~two~~ **one** hundred dollars ~~($200).~~ **($100).**

(10) All:

(A) registration numbers previously issued to the individual **under this chapter, if the applicant was registered as an originator or a principal manager under this chapter before July 1, 2009; and**

(B) license numbers previously issued to the individual under this chapter, if applicable.

~~(d) The commissioner shall require an applicant for registration as:~~

~~(1) an originator under subsection (b); or~~

~~(2) a principal manager under subsection (c);~~

~~to pass a written examination prepared and administered by the commissioner or an agent appointed by the commissioner.~~

~~(c)~~ **(d)** A **loan broker** licensee must maintain a bond satisfactory to the commissioner, **which must cover the activities of each licensed mortgage loan originator and licensed principal manager employed by the loan broker licensee. The bond must be** in **one (1) of** the ~~amount of.~~ **following amounts, depending on the total amount of residential mortgage loans originated by the loan broker in the previous calendar year:**

(1) Fifty thousand dollars ($50,000) ~~which~~ **if the total amount of residential mortgage loans originated by the loan broker in the previous calendar year was not greater than five million dollars ($5,000,000).**

(2) Sixty thousand dollars ($60,000) if the total amount of residential mortgage loans originated by the loan broker in the previous calendar year was greater than five million dollars ($5,000,000) but not greater than twenty million dollars ($20,000,000).

(3) Seventy-five thousand dollars ($75,000) if the total amount of residential mortgage loans originated by the loan broker in the previous calendar year was greater than twenty million dollars ($20,000,000).

The bond shall be in favor of the state and shall secure payment of damages to any person aggrieved by any violation of this chapter by the licensee **or any licensed mortgage loan originator or licensed**

principal manager employed by the licensee.

~~(f)~~ **(e)** The commissioner shall issue a license and license number to an applicant ~~that~~ **for a loan broker license, a mortgage loan originator license, or a principal manager license if the applicant** meets the **applicable** licensure requirements ~~of~~ **set forth in** this chapter. ~~Whenever the registration provisions of this chapter have been complied with, the commissioner shall issue a certificate of registration and registration number authorizing the registrant to:~~

~~(1) engage in origination activities; or~~

~~(2) act as a principal manager;~~

~~whichever applies.~~

~~(g)~~ **(f)** Licenses ~~and initial certificates of registration~~ issued by the commissioner ~~are valid until January 1 of~~ **under this chapter expire on December 31 of** the ~~second~~ year ~~after issuance.~~ **in which they are issued.**

~~(h)~~ **(g)** Every applicant for licensure ~~or registration~~ or for renewal of a license ~~or a registration~~ shall file with the commissioner, in such form as the commissioner by rule or order prescribes, an irrevocable consent appointing the secretary of state to be the applicant's agent to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant arising from the violation of any provision of this chapter. Service shall be made in accordance with the Indiana Rules of Trial Procedure.

~~(i)~~ **(h)** Upon good cause shown, the commissioner may waive the requirements of subsection (a)(4) for one (1) or more of an applicant's ultimate equitable owners, directors, managers, or officers.

~~(j)~~ **(i)** Whenever an initial or a renewal application for a license ~~or registration~~ is denied or withdrawn, the commissioner shall retain the initial or renewal application fee paid.

~~(k)~~ **(j) At the time of application for an initial license under this chapter,** the commissioner shall require each:

(1) equitable owner, **in the case of an applicant for a loan broker license;**

(2) individual described in subsection (a)(4), **in the case of an applicant for a loan broker license;** and

(3) applicant for ~~registration~~ **licensure** as:

(A) ~~an~~ **a mortgage loan** originator; or

(B) a principal manager;

to submit fingerprints for a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation, for use by the commissioner in determining whether the equitable owner, the individual described in subsection (a)(4), or the applicant should be denied licensure ~~or registration~~ under this chapter for any reason set forth in section 10(c) **or 10(d)** of this chapter. The equitable owner, individual described in subsection (a)(4), or applicant shall pay any fees or costs associated with the fingerprints and background check required under this subsection. The commissioner may not release the results of a background check described in this subsection to any private entity.

(k) Every three (3) years, beginning with the third calendar year following the calendar year in which an initial license is issued under this chapter, the commissioner shall require each:

(1) equitable owner, in the case of a loan broker licensee;

(2) individual described in subsection (a)(4), in the case of a loan broker licensee; and

(3) licensed:

(A) mortgage loan originator; or

(B) principal manager;

to submit fingerprints for a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation, for use by the commissioner in determining whether the equitable owner, the individual described in subsection (a)(4), or the licensee should be denied continued licensure under this chapter for any reason set forth in section 10(c) of this chapter. The equitable owner, individual described in subsection (a)(4), or licensee shall pay any fees or costs associated with the fingerprints and background check required under this subsection. The commissioner may not release the results of a background check described in this subsection to any private entity.

(l) The commissioner shall require each applicant for licensure as:

(1) a mortgage loan originator; or

(2) a principal manager;

to submit written authorization for the commissioner or an agent of the commissioner to obtain a consumer report (as defined in IC 24-5-24-2) concerning the applicant.

(m) In reviewing a consumer report obtained under subsection

(l), the commissioner may consider one (1) or more of the following in determining whether an individual described in subsection (l) has demonstrated financial responsibility:

(1) Bankruptcies filed by the individual within the most recent ten (10) years.

(2) Current outstanding civil judgments against the individual, except judgments resulting solely from medical expenses owed by the individual.

(3) Current outstanding tax liens or other government liens or filings.

(4) Foreclosure actions filed within the most recent three (3) years against property owned by the individual.

(5) Any pattern of seriously delinquent accounts associated with the individual during the most recent three (3) years.

SECTION 4. IC 23-2-5-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: **Sec. 5.5. (a) The commissioner shall require an applicant for licensure as:**

(1) a mortgage loan originator under section 5(b) of this chapter; or

(2) a principal manager under section 5(c) of this chapter;

to pass a written examination prepared and administered by the commissioner or an agent appointed by the commissioner and approved by the Nationwide Mortgage Licensing System and Registry.

(b) The written examination required by this section must measure the applicant's knowledge and comprehension in appropriate subject areas, including the following:

(1) Ethics.

(2) Federal laws and regulations concerning the origination of residential mortgage loans.

(3) State laws and rules concerning the origination of residential mortgage loans.

(c) An individual who answers at least seventy-five percent (75%) of the questions on the written examination correctly is considered to have passed the examination.

(d) An individual who does not pass the written examination may retake the examination up to two (2) additional times, with each subsequent attempt occurring at least thirty (30) days after

the individual last sat for the examination. If an individual fails three (3) consecutive examinations, the individual must wait to retake the examination until at least six (6) months after the individual sat for the third examination.

(e) If an individual who has been issued a mortgage loan originator license or a principal manager license under this chapter:

(1) allows the individual's license to lapse; or

(2) otherwise does not maintain a valid license under this chapter;

for a period of at least five (5) years, the individual must retake the written examination required by this section.

SECTION 5. IC 23-2-5-6, AS AMENDED BY P.L.145-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 6. A **loan broker** licensee may not continue engaging in the loan brokerage business unless the licensee's license is renewed ~~biennially.~~ **annually.** A ~~registrant~~ **mortgage loan originator licensee or a principal manager licensee** may not continue **acting as:**

(1) ~~engaging in origination activities,~~ **a mortgage loan originator;** or

(2) ~~acting as~~ a principal manager;

unless the ~~registrant's certificate of registration~~ **licensee's license** is renewed ~~biennially.~~ **annually.** A licensee **under this chapter** shall renew its license by filing with the commissioner, at least thirty (30) days before the expiration of the license, an application containing any information the commissioner may require to indicate any material change from the information contained in the applicant's original application or any previous application. ~~A registrant may renew the registrant's certificate of registration by filing with the commissioner, at least thirty (30) days before the expiration of the registration, an application containing any information the commissioner may require to indicate any material change from the information contained in the applicant's original application or any previous application.~~

SECTION 6. IC 23-2-5-7, AS AMENDED BY P.L.27-2007, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 7. (a) The loan broker regulation account is created in the state general fund. The money in the loan broker regulation account may be used only for the regulation of loan brokers,

mortgage loan originators, and principal managers under this chapter. The loan broker regulation account shall be administered by the treasurer of state. The money in the loan broker regulation account does not revert to any other account within the state general fund at the end of a state fiscal year.

(b) Except as provided in subsection (c), all fees and funds accruing from the administration of this chapter shall be accounted for by the commissioner and shall be deposited with the treasurer of state who shall deposit them in the loan broker regulation account in the state general fund.

(c) All expenses incurred in the administration of this chapter shall be paid from appropriations made from the state general fund. However, costs of investigations **incurred under this chapter shall be paid from,** and civil penalties recovered under this chapter shall be deposited in, the securities division enforcement account created under IC 23-19-6-1(f). The funds in the securities division enforcement account shall be available, with the approval of the budget agency, to augment and supplement the funds appropriated for the administration of this chapter.

SECTION 7. IC 23-2-5-9.1, AS ADDED BY P.L.230-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 9.1. (a) As used in this section, "appraisal company" means a ~~person~~ **business entity** that: ~~employs or retains the services of one (1) or more real estate appraisers.~~

(1) performs real estate appraisals on a regular basis for compensation through one (1) or more owners, officers, employees, or agents; or

(2) holds itself out to the public as performing real estate appraisals.

(b) As used in this section, "immediate family", with respect to an individual, refers to:

(1) the individual's spouse who resides in the individual's household; and

(2) any dependent child of the individual.

(c) As used in this section, "real estate appraiser" means a person who:

(1) is licensed as a real estate broker under IC 25-34.1 and performs real estate appraisals within the scope of the person's

license; ~~or~~

(2) holds a real estate appraiser license or certificate issued under ~~IC 25-34.1-8.~~ **IC 25-34.1-3-8; or**

(3) otherwise performs real estate appraisals in Indiana.

(d) A person licensed ~~or registered~~ under this chapter, or a person required to be licensed ~~or registered~~ under this chapter, shall not knowingly bribe, coerce, or intimidate another person to corrupt or improperly influence the independent judgment of a real estate appraiser with respect to the value of any real estate offered as security for a **residential** mortgage loan.

(e) Except as provided in subsection (f): ~~after June 30, 2007:~~

(1) a person licensed ~~or registered~~ under this chapter, or a person required to be licensed ~~or registered~~ under this chapter;

(2) a member of the immediate family of:

(A) a person licensed ~~or registered~~ under this chapter; or

(B) a person required to be licensed ~~or registered~~ under this chapter; or

(3) a person described in subdivision (1) or (2) in combination with one (1) or more other persons described in subdivision (1) or (2);

may not own or control a majority interest in an appraisal company.

(f) This subsection applies to a person or combination of persons described in subsection (e) who own or control a majority interest in an appraisal company on June 30, 2007. The prohibition set forth in subsection (e) does not apply to a person or combination of persons described in this subsection, subject to the following:

(1) The interest in the appraisal company owned or controlled by the person or combination of persons described in subsection (e) shall not be increased after June 30, 2007.

(2) The interest of a person licensed ~~or registered~~ under this chapter, or of a person required to be licensed ~~or registered~~ under this chapter, shall not be transferred to a member of the person's immediate family.

(3) If the commissioner determines that any person or combination of persons described in subsection (e) has violated this chapter, the commissioner may order one (1) or more of the persons to divest their interest in the appraisal company. The commissioner may exercise the remedy provided by this

subdivision in addition to, or as a substitute for, any other remedy available to the commissioner under this chapter.

SECTION 8. IC 23-2-5-10, AS AMENDED BY P.L.145-2008, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 10. (a) Whenever it appears to the commissioner that a person has engaged in or is about to engage in an act or a practice constituting a violation of this chapter or a rule or an order under this chapter, the commissioner may investigate and may issue, with a prior hearing if there exists no substantial threat of immediate irreparable harm or without a prior hearing, if there exists a substantial threat of immediate irreparable harm, orders and notices as the commissioner determines to be in the public interest, including cease and desist orders, orders to show cause, and notices. After notice and hearing, the commissioner may enter an order of rescission, restitution, or disgorgement, including interest at the rate of eight percent (8%) per year, directed to a person who has violated this chapter or a rule or order under this chapter.

(b) Upon the issuance of an order or notice without a prior hearing by the commissioner under subsection (a), the commissioner shall promptly notify the respondent and, if the subject of the order or notice is a ~~registrant,~~ **mortgage loan originator licensee or a principal manager licensee,** the **loan broker** licensee for whom the ~~registrant~~ **mortgage loan originator or principal manager** is employed:

(1) that the order or notice has been issued;

(2) of the reasons the order or notice has been issued; and

(3) that upon the receipt of a written request the matter will be set ~~down~~ for a hearing to commence ~~within~~ **not later than** fifteen (15) **business days after receipt of the request if the original order issued by the commissioner was a summary suspension, summary revocation, or denial of a license and not later than forty-five (45)** business days after receipt of the request **for all other orders** unless the respondent consents to a later date.

If a hearing is not requested and not ordered by the commissioner, an order remains in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of an opportunity for hearing, may modify or vacate the order or extend it until final determination.

(c) The commissioner may deny an application for an initial or a

renewal license, ~~or registration,~~ and may suspend or revoke the license of a licensee ~~or the registration of a registrant~~ if the applicant, the licensee, ~~the registrant,~~ or an ultimate equitable owner of an applicant **for a loan broker license** or of a **loan broker** licensee:

~~(1) fails to maintain the bond required under section 5 of this chapter;~~

~~(2)~~ **(1)** has, within the most recent ten (10) years:

(A) been the subject of an adjudication or a determination by:

(i) a court with jurisdiction; or

(ii) an agency or administrator that regulates securities, commodities, banking, financial services, insurance, real estate, or the real estate appraisal industry;

in Indiana or in any other jurisdiction; and

(B) been found, after notice and opportunity for hearing, to have violated the securities, commodities, banking, financial services, insurance, real estate, or real estate appraisal laws of Indiana or any other jurisdiction;

~~(3)~~ **(2) except as provided in subsection (d)(1) with respect to the loan brokerage business,** has:

(A) been denied the right to do business in the securities, commodities, banking, financial services, insurance, real estate, or real estate appraisal industry; or

(B) had the person's authority to do business in the securities, commodities, banking, financial services, insurance, real estate, or real estate appraisal industry revoked or suspended;

by Indiana or by any other state, federal, or foreign governmental agency or self regulatory organization;

~~(4)~~ **(3)** is insolvent;

~~(5)~~ **(4)** has violated any provision of this chapter;

~~(6)~~ **(5)** has knowingly filed with the commissioner any document or statement that:

(A) contains a false representation of a material fact;

(B) fails to state a material fact; or

(C) contains a representation that becomes false after the filing but during the term of a license ~~or certificate of registration~~ as provided in subsection ~~(i);~~ **(j);**

~~(7)~~ **(6)** has ~~(A)~~ been convicted, within ten (10) years before the date of the application, renewal, or review, of any crime, **other**

than a felony, involving fraud or deceit; ~~or (B) had a felony conviction (as defined in IC 35-50-2-1(b)) within five (5) years before the date of the application, renewal, or review;~~

~~(8)~~ **(7)** if the person is a **loan broker** licensee or **a** principal manager, has failed to reasonably supervise the person's **mortgage loan** originators or employees to ensure their compliance with this chapter;

~~(9)~~ **(8)** is on the most recent tax warrant list supplied to the commissioner by the department of state revenue; or

~~(10)~~ **(9)** has engaged in dishonest or unethical practices in the loan ~~broker~~ **brokerage** business, as determined by the commissioner.

(d) The commissioner shall deny an application for an initial or a renewal license and shall revoke the license of a licensee if the applicant, the licensee, or an ultimate equitable owner of an applicant for a loan broker license or of a loan broker licensee:

(1) has had a:

(A) loan broker license issued under this chapter;

(B) mortgage loan originator license issued under this chapter;

(C) principal manager license issued under this chapter; or

(D) license that is:

(i) equivalent to a license described in clause (A), (B), or (C); and

(ii) issued by another jurisdiction;

revoked by the commissioner or the appropriate regulatory agency in another jurisdiction, whichever applies;

(2) has been convicted of or pleaded guilty or nolo contendere to a felony in a domestic, foreign, or military court:

(A) during the seven (7) year period immediately preceding the date of the application or review; or

(B) at any time preceding the date of the application or review if the felony involved an act of fraud or dishonesty, a breach of trust, or money laundering;

(3) fails to maintain the bond required under section 5(d) of this chapter;

(4) fails to demonstrate the financial responsibility, character, and general fitness necessary to:

(A) command the confidence of the community in which

the applicant or licensee engages or will engage in the loan brokerage business; and

(B) warrant a determination by the commissioner that the applicant or licensee will operate honestly, fairly, and efficiently within the purposes of this chapter;

(5) has failed to meet the education requirements set forth in section 21 of this chapter;

(6) has failed to pass the written examination required by section 5.5 of this chapter; or

(7) fails to:

(A) keep or maintain records in accordance with section 18 of this chapter; or

(B) allow the commissioner or an agent appointed by the commissioner to inspect or examine a loan broker licensee's books and records to determine compliance with section 18 of this chapter.

~~(d)~~ **(e)** The commissioner may do either of the following:

(1) Censure:

(A) a licensee;

(B) an officer, a director, or an ultimate equitable owner of a **loan broker** licensee; **or**

~~(C) a registrant; or~~

~~(D)~~ **(C)** any other person;

who violates or causes a violation of this chapter.

(2) Permanently bar any person described in subdivision (1) from being:

(A) licensed ~~or registered~~ under this chapter; or

(B) employed by or affiliated with a person licensed ~~or registered~~ under this chapter;

if the person violates or causes a violation of this chapter.

~~(e)~~ **(f)** The commissioner may not enter a final order:

(1) denying, suspending, or revoking the license of **an applicant or** a licensee; ~~or the registration of a registrant;~~ or

(2) imposing other sanctions;

without prior notice to all interested parties, opportunity for a hearing, and written findings of fact and conclusions of law. However, the commissioner may by summary order deny, suspend, or revoke a license ~~or certificate of registration~~ pending final determination of any

proceeding under this section or before any proceeding is initiated under this section. Upon the entry of a summary order, the commissioner shall promptly notify all interested parties that the summary order has been entered, of the reasons for the summary order, and that upon receipt by the commissioner of a written request from a party, the matter will be set for hearing to commence ~~within fifteen (15)~~ **not later than forty-five (45)** business days after receipt of the request. If no hearing is requested and none is ordered by the commissioner, the order remains in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of the hearing has been given to all interested persons and the hearing has been held, may modify or vacate the order or extend it until final determination.

~~(f)~~ **(g)** IC 4-21.5 does not apply to a proceeding under this section.

~~(g)~~ **(h)** If a ~~registrant~~ **mortgage loan originator licensee or a principal manager licensee** seeks to transfer the ~~registrant's registration~~ **licensee's license** to another **loan broker** licensee who desires to have the ~~registrant engage in origination activities~~ **mortgage loan originator licensee or principal manager licensee act as a mortgage loan originator** or ~~serve~~ as a principal manager, whichever applies, the ~~registrant~~ **mortgage loan originator licensee or principal manager licensee** shall, before the ~~registrant conducts origination activities~~ **mortgage loan originator licensee or principal manager licensee acts as a mortgage loan originator** or ~~serves~~ as a principal manager for the new employer, submit to the commissioner, on a form prescribed by the commissioner, a ~~registration~~ **license** application, as required by section 5 of this chapter.

~~(h)~~ **(i)** If the employment of a ~~registrant~~ **mortgage loan originator licensee or principal manager licensee** is terminated, whether:

(1) voluntarily by the ~~registrant,~~ **mortgage loan originator licensee or principal manager licensee;** or

(2) by the **loan broker** licensee employing the ~~registrant,~~ **mortgage loan originator licensee or principal manager licensee;**

the **loan broker** licensee that employed the ~~registrant~~ **mortgage loan originator licensee or principal manager licensee** shall, not later than five (5) days after the termination, notify the commissioner of the termination and the reasons for the termination.

~~(i)~~ **(j)** If a material fact or statement included in an application under this chapter changes after the application has been submitted, the applicant shall provide written notice to the commissioner of the change. The commissioner may **deny,** revoke, or refuse to renew ~~the~~ **a** license ~~or registration of~~ **applied for or held by** any person who:

(1) is required to submit a written notice under this subsection and fails to provide the required notice within two (2) business days after the person discovers or should have discovered the change; or

(2) would not qualify for licensure ~~or registration~~ under this chapter as a result of the change in a material fact or statement.

SECTION 9. IC 23-2-5-11, AS AMENDED BY P.L.145-2008, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 11. (a) The commissioner may do the following:

(1) Adopt rules under IC 4-22-2 to implement this chapter.

(2) Make investigations and examinations:

(A) in connection with any application for licensure ~~or for registration of a licensee or registrant~~ **under this chapter** or with any license ~~or certificate of registration~~ already granted; or

(B) whenever it appears to the commissioner, upon the basis of a complaint or information, that reasonable grounds exist for the belief that an investigation or examination is necessary or advisable for the more complete protection of the interests of the public.

(3) Charge as costs of investigation or examination all reasonable expenses, including a per diem prorated upon the salary of the commissioner or employee and actual traveling and hotel expenses. All reasonable expenses are to be paid by the party or parties under investigation or examination if the party has violated this chapter.

(4) Issue notices and orders, including cease and desist notices and orders, after making an investigation or examination under subdivision (2). The commissioner may also bring an action on behalf of the state to enjoin a person from violating this chapter. The commissioner shall notify the person that an order or notice has been issued, the reasons for it, and that a hearing will be set

~~within~~ **not later than** fifteen (15) **business days after the commissioner receives a written request from the person requesting a hearing if the original order issued by the commissioner was a summary suspension, summary revocation, or denial of a license and not later than forty-five (45) business** days after the commissioner receives a written request from the person requesting a hearing **for all other orders.**

(5) Sign all orders, official certifications, documents, or papers issued under this chapter or delegate the authority to sign any of those items to a deputy.

(6) Hold and conduct hearings.

(7) Hear evidence.

(8) Conduct inquiries with or without hearings.

(9) Receive reports of investigators or other officers or employees of the state of Indiana or of any municipal corporation or governmental subdivision within the state.

(10) Administer oaths, or cause them to be administered.

(11) Subpoena witnesses, and compel them to attend and testify.

(12) Compel the production of books, records, and other documents.

(13) Order depositions to be taken of any witness residing within or without the state. The depositions shall be taken in the manner prescribed by law for depositions in civil actions and made returnable to the commissioner.

(14) Order that each witness appearing under the commissioner's order to testify before the commissioner shall receive the fees and mileage allowances provided for witnesses in civil cases.

(15) Provide interpretive opinions or issue determinations that the commissioner will not institute a proceeding or an action under this chapter against a specified person for engaging in a specified act, practice, or course of business if the determination is consistent with this chapter. The commissioner may adopt rules to establish fees for individuals requesting an interpretive opinion or a determination under this subdivision. A person may not request an interpretive opinion or a determination concerning an activity that:

(A) occurred before; or

(B) is occurring on;

the date the opinion or determination is requested.

(16) Subject to subsection (f), designate a multistate automated licensing system and repository, established and operated by a third party, to serve as the sole entity responsible for:

(A) processing applications for:

(i) licenses ~~and certificates of registration~~ under this chapter; and

(ii) renewals of licenses ~~and certificates of registration~~ under this chapter; and

(B) performing other services that the commissioner determines are necessary for the orderly administration of the division's licensing ~~and registration~~ system.

A multistate automated licensing system and repository described in this subdivision may include the ~~National~~ **Nationwide** Mortgage Licensing System **and Registry** established by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. The commissioner may take any action necessary to allow the division to participate in a multistate automated licensing system and repository.

(b) If a witness, in any hearing, inquiry, or investigation conducted under this chapter, refuses to answer any question or produce any item, the commissioner may file a written petition with the circuit or superior court in the county where the hearing, investigation, or inquiry in question is being conducted requesting a hearing on the refusal. The court shall hold a hearing to determine if the witness may refuse to answer the question or produce the item. If the court determines that the witness, based upon the witness's privilege against self-incrimination, may properly refuse to answer or produce an item, the commissioner may make a written request that the court grant use immunity to the witness. Upon written request of the commissioner, the court shall grant use immunity to a witness. The court shall instruct the witness, by written order or in open court, that:

(1) any evidence the witness gives, or evidence derived from that evidence, may not be used in any criminal proceedings against that witness, unless the evidence is volunteered by the witness or is not responsive to a question; and

(2) the witness must answer the questions asked and produce the

items requested.

A grant of use immunity does not prohibit evidence that the witness gives in a hearing, investigation, or inquiry from being used in a prosecution for perjury under IC 35-44-2-1. If a witness refuses to give the evidence after the witness has been granted use immunity, the court may find the witness in contempt.

(c) In any prosecution, action, suit, or proceeding based upon or arising out of this chapter, the commissioner may sign a certificate showing compliance or noncompliance with this chapter by any person. This shall constitute prima facie evidence of compliance or noncompliance with this chapter and shall be admissible in evidence in any action at law or in equity to enforce this chapter.

(d) If:

(1) a person disobeys any lawful:

(A) subpoena issued under this chapter; or

(B) order or demand requiring the production of any books, accounts, papers, records, documents, or other evidence or information as provided in this chapter; or

(2) a witness refuses to:

(A) appear when subpoenaed;

(B) testify to any matter about which the witness may be lawfully interrogated; or

(C) take or subscribe to any oath required by this chapter;

the circuit or superior court of the county in which the hearing, inquiry, or investigation in question is held, if demand is made or if, upon written petition, the production is ordered to be made, or the commissioner or a hearing officer appointed by the commissioner, shall compel compliance with the lawful requirements of the subpoena, order, or demand, compel the production of the necessary or required books, papers, records, documents, and other evidence and information, and compel any witness to attend in any Indiana county and to testify to any matter about which the witness may lawfully be interrogated, and to take or subscribe to any oath required.

(e) If a person fails, refuses, or neglects to comply with a court order under this section, the person shall be punished for contempt of court.

(f) The commissioner's authority to designate a multistate automated licensing system and repository under subsection (a)(16) is subject to the following:

(1) The commissioner may not require any person ~~exempt from licensure or registration~~ **that is not required to be licensed** under this chapter, or any employee or agent of ~~an exempt~~ **a** person **that is not required to be licensed under this chapter,** to:

(A) submit information to; or

(B) participate in;

the multistate automated licensing system and repository.

(2) The commissioner may require a person required under this chapter to submit information to the multistate automated licensing system and repository to pay a processing fee considered reasonable by the commissioner.

SECTION 10. IC 23-2-5-16, AS AMENDED BY P.L.230-2007, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) Except as provided in subsection (b), a person who knowingly violates this chapter commits a ~~Class D~~ **Class C** felony.

(b) A person who knowingly violates this chapter commits a Class B felony if the person damaged by the violation is at least sixty (60) years of age.

~~(b)~~ **(c)** A person commits a Class C felony if the person knowingly makes or causes to be made:

(1) in any document filed with or sent to the commissioner or the securities division; or

(2) in any proceeding, investigation, or examination under this chapter;

any statement that is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect.

SECTION 11. IC 23-2-5-18, AS AMENDED BY P.L.145-2008, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 18. (a) Each loan broker agreement shall be given an account number. Each person licensed **as a loan broker** or required to be licensed **as a loan broker** under this chapter shall keep and maintain the following records or their electronic equivalent:

(1) A file for each borrower or proposed borrower that contains the following:

(A) The name and address of the borrower or any proposed borrower.

(B) A copy of the signed loan broker agreement.

(C) A copy of any other papers or instruments used in connection with the loan broker agreement and signed by the borrower or any proposed borrower.

(D) If a loan was obtained for the borrower, the name and address of the creditor.

(E) If a loan is accepted by the borrower, a copy of the loan agreement.

(F) The amount of the loan broker's fee that the borrower has paid. If there is an unpaid balance, the status of any collection efforts.

(2) All receipts from or for the account of borrowers or any proposed borrowers and all disbursements to or for the account of borrowers or any proposed borrowers, recorded so that the transactions are readily identifiable.

(3) A general ledger that shall be posted at least monthly, and a trial balance sheet and profit and loss statement prepared within thirty (30) days of the commissioner's request for the information.

(4) A sample of:

(A) all advertisements, pamphlets, circulars, letters, articles, or communications published in any newspaper, magazine, or periodical;

(B) scripts of any recording, radio, or television announcement; and

(C) any sales kits or literature;

to be used in solicitation of borrowers.

(5) A report that lists all residential mortgage loans, including pending loans and loans that were not closed, originated by the loan broker. The report required by this subdivision must be searchable by, or organized according to, the borrower's last name and must include the following information for each residential mortgage loan listed:

(A) The name and address of the borrower or potential borrower.

(B) The name of the creditor.

(C) The name of the mortgage loan originator.

(D) The loan amount.

(E) The status of the loan, including the date of closing or denial by the creditor.

(F) The interest rate for the loan.

The report required by this subdivision may be prepared or produced by or through the loan broker's loan origination software or other software used by the loan broker in its loan brokerage business.

(b) The records listed in subsection (a) shall be kept for a period of two (2) years in the ~~loan broker's principal~~ office **of the loan broker in which the loan was originated** and must be separate or readily identifiable from the records of any other business that is conducted in the office of the loan broker. **If the office in which any records are required to be kept under this subsection is located outside Indiana, the records must be:**

(1) made available at a location that is:

(A) located in Indiana; and

(B) accessible to the securities division; or

(2) maintained electronically and made available to the securities division not later than ten (10) business days after a request by the securities division to inspect or examine the records.

(c) If a breach of the security of any records:

(1) maintained by a loan broker under this section; and

(2) containing the unencrypted, unredacted personal information of one (1) or more borrowers or prospective borrowers;

occurs, the loan broker is subject to the disclosure requirements under IC 24-4.9-3, unless the loan broker is exempt from the disclosure requirements under IC 24-4.9-3-4.

(d) A person who is ~~(1)~~ licensed or required to be licensed under this chapter ~~or (2) registered or required to be registered under this chapter,~~ may not dispose of the unencrypted, unredacted personal information of one (1) or more borrowers or prospective borrowers without first shredding, incinerating, mutilating, erasing, or otherwise rendering the information illegible or unusable.

SECTION 12. IC 23-2-5-18.5, AS ADDED BY P.L.230-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 18.5. Whenever a person licensed ~~or registered~~ under this chapter, or a person required to be licensed ~~or registered~~ under this chapter, has possession of funds belonging to others, including money received by or on behalf of a prospective borrower, the person licensed ~~or registered~~ under this chapter, or

required to be licensed ~~or registered~~ under this chapter, shall:

(1) upon request of the prospective borrower, account for any funds handled for the prospective borrower;

(2) follow any reasonable and lawful instructions from the prospective borrower concerning the prospective borrower's funds; and

(3) return any unspent funds of the prospective borrower to the prospective borrower in a timely manner.

SECTION 13. IC 23-2-5-18.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: **Sec. 18.7. Each loan broker licensee shall submit, at such times as the commissioner may require, reports of condition to:**

(1) the commissioner; and

(2) the Nationwide Mortgage Licensing System and Registry. A report required by this section shall be in such form and contain such information as the commissioner may require.

SECTION 14. IC 23-2-5-20, AS AMENDED BY P.L.145-2008, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20. (a) A person shall not, in connection with a contract for the services of a loan broker, either directly or indirectly, do any of the following:

(1) Employ any device, scheme, or artifice to defraud.

(2) Make any untrue statements of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of circumstances under which they are made, not misleading.

(3) Engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person.

(4) Collect or solicit any consideration, except a bona fide third party fee, in connection with a loan until the loan has been closed.

(5) Receive any funds if the person knows that the funds were generated as a result of a fraudulent act.

(6) File or cause to be filed with a county recorder any document that the person knows:

(A) contains:

(i) a misstatement; or

(ii) an untrue statement;

of a material fact; or

(B) omits a statement of a material fact that is necessary to make the statements that are made, in the light of circumstances under which they are made, not misleading.

(7) Knowingly release or disclose the unencrypted, unredacted personal information of one (1) or more borrowers or prospective borrowers, unless the personal information is used in an activity authorized by the borrower or prospective borrower under one (1) or more of the following circumstances:

(A) The personal information is:

(i) included on an application form or another form; or

(ii) transmitted as part of an application process or an enrollment process.

(B) The personal information is used to obtain a consumer report (as defined in IC 24-5-24-2) for an applicant for credit.

(C) The personal information is used to establish, amend, or terminate an account, a contract, or a policy, or to confirm the accuracy of the personal information.

However, personal information allowed to be disclosed under this subdivision may not be printed in whole or in part on a postcard or other mailer that does not require an envelope, or in a manner that makes the personal information visible on an envelope or a mailer without the envelope or mailer being opened.

(8) Engage in any reckless or negligent activity allowing the release or disclosure of the unencrypted, unredacted personal information of one (1) or more borrowers or prospective borrowers. An activity described in this subdivision includes an action prohibited by section 18(d) of this chapter.

(9) Knowingly bribe, coerce, or intimidate another person to corrupt or improperly influence the independent judgment of a real estate appraiser with respect to the value of any real estate offered as security for a residential mortgage loan, as prohibited by section 9.1(d) of this chapter.

(10) Violate any of the following:

(A) The federal Truth in Lending Act (15 U.S.C. 1601 et seq.).

(B) The federal Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.), as amended.

(C) The federal Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.).

(D) Any other federal law or regulation concerning residential mortgage lending.

(b) A person who commits an act described in subsection (a) is subject to sections 10, 14, 15, and 16 of this chapter.

SECTION 15. IC 23-2-5-20.5, AS ADDED BY P.L.230-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 20.5. (a) A person licensed or required to be licensed as a loan broker under this chapter shall not employ a person to ~~engage in origination activities~~ **act as a mortgage loan originator** unless the person is ~~registered~~ **licensed** as ~~an~~ **a mortgage loan** originator or a principal manager under this chapter. The ~~registration~~ **license** of ~~an~~ **a mortgage loan** originator or a principal manager is not effective during any period in which the **mortgage loan** originator or principal manager is not employed by a loan broker licensed under this chapter.

(b) A person licensed or required to be licensed as a loan broker under this chapter shall not operate any principal or branch office of a loan brokerage business without employing a ~~registered~~ **licensed** principal manager at that location.

(c) The licensed principal manager employed at a principal or branch office of a loan brokerage business shall supervise all employees at that location. If a licensed mortgage loan originator works from a location that is not a principal or branch office of a loan brokerage business, the mortgage loan originator shall be supervised by the principal manager employed at the principal or branch office at which the mortgage loan originator's loan files are sent.

(d) An individual that acts solely as a loan processor or underwriter shall not represent to the public through:

(1) advertising; or

(2) other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items;

that the individual may or will perform mortgage loan origination activities or otherwise act as a mortgage loan originator.

SECTION 16. IC 23-2-5-21, AS AMENDED BY P.L.230-2007, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JANUARY 1, 2010]: Sec. 21. (a) A person applying for an initial license ~~or certificate of registration~~ must provide to the commissioner evidence that during the twenty-four (24) month period immediately preceding the application that the person completed at least ~~twenty-four (24)~~ **twenty (20)** hours of academic instruction, acceptable to the commissioner ~~related to the loan brokerage business.~~ **and approved by the Nationwide Mortgage Licensing System and Registry. The education hours required under this subsection must include the following:**

(1) Three (3) hours of federal law and regulations concerning residential mortgage lending.

(2) Three (3) hours of ethics, including instruction on fraud, consumer protection, and fair lending practices.

(3) Two (2) hours of training concerning lending standards for nontraditional residential mortgage loan products.

(4) Two (2) hours of state law and rules concerning residential mortgage lending.

(b) To maintain a license ~~or registration~~ under this chapter, a person must provide to the commissioner evidence that the person has completed at least ~~six (6)~~ **eight (8)** hours of academic instruction that is ~~(1)~~ acceptable to the commissioner, and ~~(2) related to the loan brokerage business;~~ **approved by the Nationwide Mortgage Licensing System and Registry,** during each calendar year after the year in which the license ~~or registration~~ was initially issued. **The education hours required under this subsection must include the following:**

(1) Three (3) hours of federal law and regulations concerning residential mortgage lending.

(2) Two (2) hours of ethics, including instruction on fraud, consumer protection, and fair lending practices.

(3) Two (2) hours of training concerning lending standards for nontraditional residential mortgage loan products.

~~(b)~~ **(c)** In determining the acceptability of academic instruction the commissioner shall give consideration to approval of a licensee's internal academic instruction programs completed by employees.

~~(c)~~ **(d)** In determining the acceptability of an education course, the commissioner may require a fee, in an amount prescribed by the commissioner by rule or order, for the commissioner's review of the

course.

SECTION 17. IC 23-2-5-22, AS AMENDED BY P.L.145-2008, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 22. (a) An appeal may be taken by:

(1) any person whose application for an initial or a renewal license under this chapter is granted or denied, from any final order of the commissioner concerning the application;

(2) any applicant for initial or renewed ~~registration~~ **licensure** as a principal manager or ~~an~~ **a mortgage loan** originator, from any final order of the commissioner affecting the application;

(3) any person against whom a civil penalty is imposed under section 14(a) of this chapter, from the final order of the commissioner imposing the civil penalty; or

(4) any person who is named as a respondent, from any final order issued by the commissioner under section 10 or 11 of this chapter;

to the Marion circuit court or to the circuit or superior court of the county where the person taking the appeal resides or maintains a place of business.

(b) Not later than twenty (20) days after the entry of the order, the commissioner shall be served with:

(1) a written notice of the appeal stating the court to which the appeal will be taken and the grounds upon which a reversal of the final order is sought;

(2) a demand in writing from the appellant for a certified transcript of the record and of all papers on file in the commissioner's office affecting or relating to the order; and

(3) a bond in the penal sum of five hundred dollars ($500) to the state of Indiana with sufficient surety to be approved by the commissioner, conditioned upon the faithful prosecution of the appeal to final judgment and the payment of all costs that are adjudged against the appellant.

(c) Not later than ten (10) days after the commissioner is served with the items listed in subsection (b), the commissioner shall make, certify, and deliver to the appellant the transcript, and the appellant shall, not later than five (5) days after the date the appellant receives the transcript, file the transcript and a copy of the notice of appeal with the clerk of the court. The notice of appeal serves as the appellant's complaint. The commissioner may appear and file any motion or

pleading and form the issue. The cause shall be entered on the trial calendar for trial de novo and given precedence over all matters pending in the court.

(d) The court shall receive and consider any pertinent oral or written evidence concerning the order of the commissioner from which the appeal is taken. If the order of the commissioner is reversed, the court shall in its mandate specifically direct the commissioner as to the commissioner's further action in the matter. The commissioner is not barred from revoking or altering the order for any proper cause that accrues or is discovered after the order is entered. If the order is affirmed, the appellant is not barred after thirty (30) days from the date the order is affirmed from filing a new application if the application is not otherwise barred or limited. During the pendency of the appeal, the order from which the appeal is taken is not suspended but remains in effect unless otherwise ordered by the court. An appeal may be taken from the judgment of the court on the same terms and conditions as an appeal is taken in civil actions.

SECTION 18. IC 23-2-5-23, AS ADDED BY P.L.230-2007, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 23. ~~Any document~~ **A loan broker agreement that is** delivered or required to be delivered by a person licensed or required to be licensed **under this chapter** to a borrower or prospective borrower must contain:

(1) the license number of the loan broker; and

(2) the ~~registration~~ **license** number of each:

(A) **mortgage loan** originator; or

(B) principal manager;

who had contact with the file.

SECTION 19. IC 23-2-5-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 24. In the securities divisions' investigative, examination, and regulatory activities related to licensees under this article, the securities division may cooperate with the Indiana department of financial institutions in the regulation of a licensee that conducts:**

(1) business under this article; and

(2) business that requires licensure under IC 24-4.4.

SECTION 20. IC 23-2-5-25 IS ADDED TO THE INDIANA CODE

AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 25. Subject to IC 5-14-3, the commissioner is required to regularly report:**

(1) violations of this chapter; and

(2) enforcement actions and other relevant information;

to the Nationwide Mortgage Licensing System and Registry.

SECTION 21. IC 23-2-5-26 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 26. The commissioner shall establish a process by which a mortgage loan originator may challenge information entered into the Nationwide Mortgage Licensing System and Registry by the commissioner.**

SECTION 22. IC 23-19-4-11, AS ADDED BY P.L.27-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) Subject to Section 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(h)) or Section 222 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-18a), a rule adopted or order issued under this article may establish minimum financial requirements for broker-dealers registered or required to be registered under this article and investment advisers registered or required to be registered under this article.

(b) Subject to Section 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(h)) or Section 222(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-18a(b)), a broker-dealer registered or required to be registered under this article and an investment adviser registered or required to be registered under this article shall file such financial reports as are required by a rule adopted or order issued under this article. If the information contained in a record filed under this subsection is or becomes inaccurate or incomplete in a material respect, the registrant shall promptly file a correcting amendment.

(c) Subject to Section 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(h)) or Section 222 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-18a):

(1) a broker-dealer registered or required to be registered under this article and an investment adviser registered or required to be registered under this article shall make and maintain the accounts, correspondence, memoranda, papers, books, and other records required by rule adopted or order issued under this article;

(2) broker-dealer records required to be maintained under subdivision (1) may be maintained in any form of data storage acceptable under Section 17(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(a)) if they are readily accessible to the commissioner; and

(3) investment adviser records required to be maintained under subdivision (1) may be maintained in any form of data storage required by rule adopted or order issued under this article.

(d) The records of a broker-dealer registered or required to be registered under this article and of an investment adviser registered or required to be registered under this article are subject to such reasonable periodic, special, or other audits or inspections by a representative of the commissioner, within or outside this state, as the commissioner considers necessary or appropriate in the public interest and for the protection of investors. An audit or inspection may be made at any time and without prior notice. The commissioner may copy, and remove for audit or inspection copies of, all records the commissioner reasonably considers necessary or appropriate to conduct the audit or inspection. The commissioner may assess a reasonable charge for conducting an audit or inspection under this subsection.

(e) Subject to Section 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(h)) or Section 222 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-18a), a rule adopted or order issued under this article may require a broker-dealer or investment adviser that has custody of or discretionary authority over funds or securities of a customer or client to obtain insurance or post a bond or other satisfactory form of security in an amount not to exceed fifty thousand dollars ($50,000). The commissioner may determine the requirements of the insurance, bond, or other satisfactory form of security. Insurance or a bond or other satisfactory form of security may not be required of a broker-dealer registered under this article whose net capital exceeds, or of an investment adviser registered under this article whose minimum financial requirements exceed, the amounts required by rule or order under this article. The insurance, bond, or other satisfactory form of security must permit an action by a person to enforce any liability on the insurance, bond, or other satisfactory form of security if instituted within the time limitations in IC 23-19-5-9(g).

(f) Subject to Section 15(h) of the Securities Exchange Act of 1934

(15 U.S.C. 78o(h)) or Section 222 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-18a), an agent may not have custody of funds or securities of a customer except under the supervision of a broker-dealer and an investment adviser representative may not have custody of funds or securities of a client except under the supervision of an investment adviser or a federal covered investment adviser. A rule adopted or order issued under this article may prohibit, limit, or impose conditions on a broker-dealer regarding custody of funds or securities of a customer and on an investment adviser regarding custody of securities or funds of a client.

(g) With respect to an investment adviser registered or required to be registered under this article, a rule adopted or order issued under this article may require that information or other records be furnished or disseminated to clients or prospective clients in this state as necessary or appropriate in the public interest and for the protection of investors and advisory clients.

(h) A rule adopted or order issued under this article may require an individual registered under section 2 or 4 of this chapter to participate in a continuing education program approved by the Securities and Exchange Commission and administered by a self-regulatory organization or, in the absence of such a program, a rule adopted or order issued under this article may require continuing education for an individual registered under section 4 of this chapter.

(i) The commissioner may annually select as many as twenty-five percent (25%) of all Indiana home and branch offices of registered broker-dealers for completion of compliance reports. Each broker-dealer office that is selected shall file its compliance report according to rules adopted by the commissioner under this article not ~~more~~ **later** than ~~ninety (90)~~ **forty-five (45)** days after being notified of selection under this subsection. No charges or other examination fees may be assessed against a registered broker-dealer as a result of the examination of a compliance report filed under this subsection unless the examination results in an investigation or examination made under IC 23-19-6-2(a).

SECTION 23. IC 23-19-5-8, AS ADDED BY P.L.27-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) A person who knowingly violates this article, or a rule adopted under this article, except section 4 of this

chapter or the notice filing requirements of IC 23-19-3-2 or IC 23-19-4-5, commits a Class C felony.

(b) A person who knowingly violates section 1 of this chapter commits a Class B felony if the person harmed, defrauded, misled, or deceived by the violation is at least sixty (60) years of age.

(c) A person who knowingly violates section 1 of this chapter:

(1) while using or taking advantage of; or

(2) in connection with;

a relationship that is based on religious affiliation or worship commits a Class B felony.

~~(b)~~ **(d)** It is the duty of a prosecuting attorney, as well as of the attorney general, to assist the commissioner upon the commissioner's request in the prosecution to final judgment of a violation of the penal provisions of this article. If the commissioner determines that an action based on the securities division's investigations is meritorious:

(1) the commissioner or a designee empowered by the commissioner shall refer the facts drawn from the investigation to the prosecuting attorney of the judicial circuit in which the crime may have been committed;

(2) the commissioner and the securities division shall assist the prosecuting attorney in prosecuting an action under this section, which may include a securities division attorney serving as a special deputy prosecutor appointed by the prosecuting attorney;

(3) a prosecuting attorney to whom facts concerning fraud are referred under subdivision (1) may refer the matter to the attorney general;

(4) if a matter has been referred to the attorney general under subdivision (3), the attorney general may:

(A) file an information in a court with jurisdiction over the matter in the county in which the offense is alleged to have been committed; and

(B) prosecute the alleged offense; and

(5) if a matter has been referred to the attorney general under subdivision (3), the commissioner and the securities division shall assist the attorney general in prosecuting an action under this section, which may include a securities division attorney serving as a special deputy attorney general appointed by the attorney general.

~~(c)~~ **(e)** This article does not limit the power of this state to punish a person for conduct that constitutes a crime under other laws of this state.

SECTION 24. IC 23-19-6-4, AS ADDED BY P.L.27-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) If the commissioner determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this article or a rule adopted or order issued under this article or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, or course of business constituting a violation of this article or a rule adopted or order issued under this article, the commissioner may:

(1) investigate and may issue, with or without a prior hearing, orders and notices as the commissioner determines to be in the public interest, including cease and desist orders, orders to show cause, and notices. After notice and hearing, the commissioner may enter an order of rescission, restitution, or disgorgement, including interest at the legal rate of interest, directed to a person who has violated this article or a rule or order under this article;

(2) issue an order denying, suspending, revoking, or conditioning the exemptions for a broker-dealer under IC 23-19-4-1(b)(1)(D) or IC 23-19-4-1(b)(1)(F) or an investment adviser under IC 23-19-4-3(b)(1)(C); or

(3) issue an order under IC 23-19-2-4.

(b) An order under subsection (a) is effective on the date of issuance. Upon issuance of the order, the commissioner shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered. The order must include a statement whether the commissioner will seek a civil penalty or costs of the investigation, a statement of the reasons for the order, and notice that, within fifteen (15) days after receipt of a request in a record from the person, the matter will be scheduled for a hearing. If a person subject to the order does not request a hearing and none is ordered by the commissioner within forty-five (45) days after the date of service of the order, the order, which may include a civil penalty or costs of the investigation if a civil penalty or costs were sought in the statement accompanying the order, becomes final as to that person by operation

of law. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend it until final determination.

(c) If a hearing is requested or ordered under subsection (b), the hearing must be held ~~within~~ **not later than** fifteen (15) **business** days ~~of~~ **after** receipt **if the original order issued by the commissioner was a summary suspension, summary revocation, or denial of a license and not later than forty-five (45) business days after receipt for all other orders.** A final order may not be issued unless the commissioner makes findings of fact and conclusions of law in a record. The final order may make final, vacate, or modify the order issued under subsection (a).

(d) In a final order under subsection (c), the commissioner may impose a civil penalty up to ten thousand dollars ($10,000) per violation. Penalties collected under this section shall be deposited in the securities division enforcement account established under section 1 of this chapter.

(e) In a final order, the commissioner may charge the cost of an investigation or proceeding for a violation of this article or a rule adopted or order issued under this article.

(f) If a petition for judicial review of a final order is not filed in accordance with section 9 of this chapter, the commissioner may file a certified copy of the final order with the clerk of a court with jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

(g) If a person does not comply with an order under this section, the commissioner may petition a court with jurisdiction to enforce the order. The court may not require the commissioner to post a bond in an action or proceeding under this section. If the court finds, after service and opportunity for hearing, that the person was not in compliance with the order, the court may adjudge the person in civil contempt of the order. The court may impose a further civil penalty against the person for contempt in an amount not greater than twenty thousand dollars ($20,000) for each violation and may grant any other relief the court determines is just and proper in the circumstances.

(h) The commissioner shall send a certified copy of every final order

that suspends or revokes a person's registration under this article, or that orders a person who is not registered under this article to cease and desist from violating this article, to the insurance commissioner appointed under IC 27-1-1-2. The insurance commissioner shall act in accordance with IC 27-1-15.6-29.5.

SECTION 25. IC 23-2-5-19 IS REPEALED [EFFECTIVE JULY 1, 2009].

P.L.157-2009
[H.1686. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning courts and court officers.

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

SECTION 1. IC 33-28-5-18, AS AMENDED BY P.L.118-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 18. (a) The supervising judge or the jury administrator shall determine whether a prospective juror is qualified to serve or, if disabled but otherwise qualified, whether the prospective juror could serve with reasonable accommodation. A person who is not eligible for jury service may not serve. The facts supporting juror disqualification or exemption must be recorded under oath or affirmation. A disqualification or exemption is not authorized unless supported by the facts. The jury administrator shall make a record of all disqualifications.

(b) A prospective juror is disqualified to serve on a jury if any of the following conditions exist:

(1) The person is not a citizen of the United States, at least eighteen (18) years of age, and a resident of the county.

(2) The person is unable to read, speak, and understand the English language with a degree of proficiency sufficient to fill out

satisfactorily a juror qualification form.

(3) The person is incapable of rendering satisfactory jury service due to physical or mental disability. However, a person claiming this disqualification may be required to submit a physician's or authorized Christian Science practitioner's certificate confirming the disability, and the certifying physician or practitioner is then subject to inquiry by the court at the court's discretion.

(4) A guardian has been appointed for the person under IC 29-3 because the person has a mental incapacity.

(5) The person has had the right to vote revoked by reason of a felony conviction and the right has not been restored.

(c) A person scheduled to appear for jury service has the right to defer the date of the person's initial appearance for jury service one (1) time upon a showing of hardship, extreme inconvenience, or necessity. The court shall grant a prospective juror's request for deferral if the following conditions are met:

(1) The prospective juror has not previously been granted a deferral.

(2) The prospective juror requests a deferral by contacting the jury administrator:

(A) by telephone;

(B) by electronic mail;

(C) in writing; or

(D) in person.

(3) The prospective juror selects another date on which the prospective juror will appear for jury service that is:

(A) not more than one (1) year after the date upon which the prospective juror was originally scheduled to appear; and

(B) a date when the court will be in session.

(4) The court determines that the prospective juror has demonstrated that a deferral is necessary due to:

(A) hardship;

(B) extreme inconvenience; or

(C) necessity.

(d) A prospective juror who is at least seventy-five (75) years of age may be exempted from jury service if the prospective juror notifies the jury administrator that the prospective juror is at least seventy-five (75) years of age and wishes to be exempted from jury

service.

~~(d)~~ **(e)** A person may not serve as a petit juror in any county if the person served as a petit juror in the same county within the previous three hundred sixty-five (365) days in a case that resulted in a verdict. The fact that a person's selection as a juror would violate this subsection is sufficient cause for challenge.

~~(e)~~ **(f)** A grand jury, a petit jury, or an individual juror drawn for service in one (1) court may serve in another court of the county, in accordance with orders entered on the record in each of the courts.

~~(f)~~ **(g)** The same petit jurors may be used in civil cases and in criminal cases.

~~(g)~~ **(h)** A person may not be excluded from jury service on account of race, color, religion, sex, national origin, or economic status.

P.L.158-2009
[S.21. Approved May 13, 2009.]

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

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

SECTION 1. IC 25-37.5-1-0.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.2. As used in this chapter, "core buyer" means a person engaged in the business of purchasing or acquiring small component motor vehicle parts for resale, including catalytic converters, automobile radiators, and batteries.**

SECTION 2. IC 25-37.5-1-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. As used in this chapter, "metal bossie" means a metal four (4) wheel cart used to transport or sell food products that are stored in crates, shells, or trays.**

SECTION 3. IC 25-37.5-1-1, AS AMENDED BY P.L.63-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) When used in this chapter, "valuable metal" means any product made of ~~ferrous metal or nonferrous~~ metal that ~~is~~ readily ~~used or useable:~~

~~(1) by a public utility, a railroad, a county, city, or state highway department, a public or private school, or a postsecondary educational institution, or~~

~~(2) on residential or commercial property.~~

may be resold. The term includes metal bossies and small component motor vehicle parts. The term does not include a beverage can.

(b) As used in this chapter, "valuable metal dealer" means any individual, firm, corporation, limited liability company, or partnership engaged in the business of purchasing and reselling valuable metal either at a permanently established place of business or in connection with a business of an itinerant nature, including junk shops, junk yards, junk stores, auto wreckers, scrap metal dealers or processors, salvage yards, collectors of or dealers in junk, and junk ~~carts~~ **cars** or trucks. **The term includes a core buyer. The term does not include a person who purchases a vehicle and obtains title to the vehicle.**

(c) As used in this chapter, "purchase" means acquiring a valuable metal product ~~or products by a valuable metal dealer in a single transaction of one hundred dollars ($100) or more~~ for a consideration, but does not include purchases between scrap metal processing facilities (as defined in IC 8-23-1-36).

SECTION 4. IC 25-37.5-1-2, AS AMENDED BY P.L.170-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Except as provided in section 5 of this chapter, every valuable metal dealer in this state shall enter on forms provided by the state police department for each purchase of valuable metal the following information:

(1) The name and address of the dealer.

(2) The date and place of each purchase.

(3) The name, address, age, and driver's license number or Social Security number of the person or persons from whom the valuable metal was purchased.

(4) The valuable metal dealer shall verify the identity of the

person from whom the valuable metal was purchased by use of a government issued photographic identification. The dealer shall enter on the form the type of government issued photographic identification used to verify the identity of the person from whom the valuable metal was purchased, together with the:

(A) name of the government agency that issued the photographic identification; and

(B) identification number present on the government issued photographic identification.

(5) The motor vehicle license number of the vehicle or conveyance on which the valuable metal was delivered to the dealer.

(6) The price paid for the metal.

(7) A description and weight of the valuable metal purchased.

(8) The source of the valuable metal.

(9) The photograph described in subsection (b).

After entering the information required in this subsection, the valuable metal dealer shall require the person or persons from whom the valuable metal is purchased to sign the form and verify its accuracy.

(b) In addition to collecting the information described in subsection (a), a valuable metal dealer shall take a photograph of:

(1) the person from whom the valuable metal is being purchased; and

(2) the valuable metal.

~~(b)~~ **(c)** A valuable metal dealer shall make and retain a copy of the government issued photographic identification described under subsection (a)(4) used to verify the identity of the person from whom valuable metal was purchased **and the photograph described in subsection (b).** However, a valuable metal dealer is not required to make a copy of a government issued photographic identification used under subsection (a)(4) to verify the identity of the person from whom valuable metal is purchased if the valuable metal dealer has retained a copy of a person's government issued photographic identification from a prior purchase from the person by the valuable metal dealer.

~~(c)~~ **(d)** The completed form, **the photograph described in subsection (b),** and the copy of the government issued photographic identification described in subsection ~~(b)~~ **(c)** shall be kept in a separate

book or register by the dealer and shall be retained for a period of two (2) years. ~~Such~~ **This** book or register shall be made available for inspection by any law enforcement official at any time.

~~(d)~~ **(e)** A valuable metal dealer may not accept a damaged or an undamaged metal beer keg if either of the following applies:

(1) The keg is clearly marked as the property of a brewery manufacturer.

(2) The keg's identification markings have been made illegible.

SECTION 5. IC 25-37.5-1-3, AS AMENDED BY P.L.3-2008, SECTION 206, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. The superintendent of the state police department may adopt rules under IC 4-22-2 as may be necessary to administer and enforce the provisions and intent of this chapter. The superintendent shall also prepare and distribute a list to each valuable metal dealer describing

~~(1)~~ valuable metal products ~~of interest to public utilities, railroads, county, city, or state highway departments, public or private schools, or a postsecondary educational institution, and~~

~~(2) valuable metal products of interest for use on residential or commercial property.~~

that are particularly susceptible to theft.

SECTION 6. IC 35-41-1-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 16.5. "Key facility" means any of the following:**

(1) A chemical manufacturing facility.

(2) A refinery.

(3) An electric utility facility, including:

(A) a power plant;

(B) a power generation facility peaker;

(C) an electric transmission facility;

(D) an electric station or substation; or

(E) any other facility used to support the generation, transmission, or distribution of electricity.

However, the term does not include electric transmission land or right-of-way that is not completely enclosed, posted, and maintained by the electric utility.

(4) A water intake structure or water treatment facility.

(5) A natural gas utility facility, including:

(A) an age station;

(B) a compressor station;

(C) an odorization facility;

(D) a main line valve;

(E) a natural gas storage facility; or

(F) any other facility used to support the acquisition, transmission, distribution, or storage of natural gas. However, the term does not include gas transmission pipeline property that is not completely enclosed, posted, and maintained by the natural gas utility.

(6) A gasoline, propane, liquid natural gas (LNG), or other fuel terminal or storage facility.

(7) A transportation facility, including, but not limited to, a port, railroad switching yard, or trucking terminal. However, the term does not include a railroad track that is not part of a railroad switching yard.

(8) A pulp or paper manufacturing facility.

(9) A pharmaceutical manufacturing facility.

(10) A hazardous waste storage, treatment, or disposal facility.

(11) A telecommunications facility, including a central office or cellular telephone tower site.

(12) A facility:

(A) that is substantially similar to a facility, structure, or station listed in this section; or

(B) whose owner or operator is required to submit a risk management plan under the federal Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (42 U.S.C. 7412(r)).

SECTION 7. IC 35-43-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A person who:

(1) not having a contractual interest in the property, knowingly or intentionally enters the real property of another person after having been denied entry by the other person or that person's agent;

(2) not having a contractual interest in the property, knowingly or intentionally refuses to leave the real property of another person after having been asked to leave by the other person or that person's agent;

(3) accompanies another person in a vehicle, with knowledge that the other person knowingly or intentionally is exerting unauthorized control over the vehicle;

(4) knowingly or intentionally interferes with the possession or use of the property of another person without the person's consent;

(5) not having a contractual interest in the property, knowingly or intentionally enters the dwelling of another person without the person's consent; or

(6) knowingly or intentionally:

(A) travels by train without lawful authority or the railroad carrier's consent; and

(B) rides on the outside of a train or inside a passenger car, locomotive, or freight car, including a boxcar, flatbed, or container without lawful authority or the railroad carrier's consent;

commits criminal trespass, a Class A misdemeanor. However, the offense is a Class D felony if it is committed on a scientific research facility, **on a key facility, on a facility belonging to a public utility (as defined in IC 32-24-1-5.9(a)),** on school property, or on a school bus or the person has a prior unrelated conviction for an offense under this section concerning the same property.

(b) A person has been denied entry under subdivision (a)(1) of this section when the person has been denied entry by means of:

(1) personal communication, oral or written; or

(2) posting or exhibiting a notice at the main entrance in a manner that is either prescribed by law or likely to come to the attention of the public.

(c) Subsections (a) and (b) do not apply to the following:

(1) A passenger on a train.

(2) An employee of a railroad carrier while engaged in the performance of official duties.

(3) A law enforcement officer, firefighter, or emergency response personnel while engaged in the performance of official duties.

(4) A person going on railroad property in an emergency to rescue a person or animal from harm's way or to remove an object that the person reasonably believes poses an imminent threat to life or limb.

(5) A person on the station grounds or in the depot of a railroad

carrier:

(A) as a passenger; or

(B) for the purpose of transacting lawful business.

(6) A:

(A) person; or

(B) person's:

(i) family member;

(ii) invitee;

(iii) employee;

(iv) agent; or

(v) independent contractor;

going on a railroad's right-of-way for the purpose of crossing at a private crossing site approved by the railroad carrier to obtain access to land that the person owns, leases, or operates.

(7) A person having written permission from the railroad carrier to go on specified railroad property.

(8) A representative of the Indiana department of transportation while engaged in the performance of official duties.

(9) A representative of the federal Railroad Administration while engaged in the performance of official duties.

(10) A representative of the National Transportation Safety Board while engaged in the performance of official duties.

SECTION 8. IC 35-43-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A person who knowingly or intentionally exerts unauthorized control over property of another person, with intent to deprive the other person of any part of its value or use, commits theft, a Class D felony. However, the offense is a Class C felony if:

(1) the fair market value of the property is at least one hundred thousand dollars ($100,000); **or**

(2) the property that is the subject of the theft is a valuable metal (as defined in IC 25-37.5-1-1) and:

(A) relates to transportation safety;

(B) relates to public safety; or

(C) is taken from a:

(i) hospital or other health care facility;

(ii) telecommunications provider;

(iii) public utility (as defined in IC 32-24-1-5.9(a)); or

(iv) key facility;

and the absence of the property creates a substantial risk of bodily injury to a person.

(b) A person who knowingly or intentionally receives, retains, or disposes of the property of another person that has been the subject of theft commits receiving stolen property, a Class D felony. However, the offense is a Class C felony if:

(1) the fair market value of the property is at least one hundred thousand dollars ($100,000); **or**

(2) the property that is the subject of the theft is a valuable metal (as defined in IC 25-37.5-1-1) and:

(A) relates to transportation safety;

(B) relates to public safety; or

(C) is taken from a:

(i) hospital or other health care facility;

(ii) telecommunications provider;

(iii) public utility (as defined in IC 32-24-1-5.9(a)); or

(iv) key facility;

and the absence of the property creates a substantial risk of bodily injury to a person.

SECTION 9. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 25-37.5-1-0.3; IC 25-37.5-1-0.6.

SECTION 10. [EFFECTIVE JULY 1, 2009] **(a) The law enforcement training board shall adopt rules under IC 4-22-2 to provide, as part of the mandatory inservice training program for police officers under IC 5-2-1-9(g), training in the prevention and investigation of the theft of valuable metal (as defined in IC 25-37.5-1-1) and enforcement of the laws relating to the theft of valuable metals, including the laws regulating valuable metal dealers.**

(b) This SECTION expires June 30, 2011.

SECTION 11. [EFFECTIVE JULY 1, 2009] **IC 35-43-4-2 and IC 35-43-2-2, both as amended by this act, apply only to crimes committed after June 30, 2009.**

P.L.159-2009
[S.34. Approved May 13, 2009.]

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

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

SECTION 1. IC 35-44-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. **(a)** A person not standing in the relation of parent, child, or spouse to another person who has committed a crime or is a fugitive from justice who, with intent to hinder the apprehension or punishment of the other person, harbors, conceals, or otherwise assists the person commits assisting a criminal, a Class A misdemeanor. However, the offense is:

(1) a Class D felony if the person assisted has committed a Class B, Class C, or Class D felony; and

(2) a Class C felony if the person assisted has committed murder or a Class A felony, or if the assistance was providing a deadly weapon.

(b) It is not a defense to a prosecution under this section that the person assisted:

(1) has not been prosecuted for the offense;

(2) has not been convicted of the offense; or

(3) has been acquitted of the offense by reason of insanity.

However, the acquittal of the person assisted for other reasons may be a defense.

SECTION 2. [EFFECTIVE JULY 1, 2009] **IC 35-44-3-2, as amended by this act, applies only to crimes committed after June 30, 2009.**

P.L.160-2009
[S.160. Approved May 13, 2009.]

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

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

SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.90-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the

executive board of the state department of health declares is necessary to meet an emergency.

(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.

(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by or other date provided by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(16) An emergency rule adopted by the Indiana gaming commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3, IC 4-33-4-14, or IC 4-35-4-2.

(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-17-10-9.

(23) An emergency rule adopted by the board of directors of the

Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 (repealed).

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 (repealed).

(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) (repealed) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(30) A rule adopted by the Indiana finance authority:

(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;

(B) under IC 8-15-2-17.2(a)(10):

(i) establishing enforcement procedures; and

(ii) making assessments for failure to pay required tolls;

(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or

(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(31) An emergency rule adopted by the board of the Indiana health informatics corporation under IC 5-31-5-8.

(32) An emergency rule adopted by the athletic commission under IC 25-9-1-4.5.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the

assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the publisher for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the publisher shall:

(1) accept the rule for filing; and

(2) electronically record the date and time that the rule is accepted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j), (k), and (l), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective

after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

(m) A rule described in subsection (a)(5) or (a)(6) expires on the date the department is next required to issue a rule under the statute authorizing or requiring the rule.

SECTION 2. IC 10-13-3-38.5, AS AMENDED BY P.L.1-2006, SECTION 173, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 38.5. (a) Under federal P.L.92-544 (86 Stat. 1115), the department may use an individual's fingerprints submitted by the individual for the following purposes:

(1) Determining the individual's suitability for employment with the state, or as an employee of a contractor of the state, in a position:

(A) that has a job description that includes contact with, care of, or supervision over a person less than eighteen (18) years of age;

(B) that has a job description that includes contact with, care of, or supervision over an endangered adult (as defined in IC 12-10-3-2), except the individual is not required to meet the standard for harmed or threatened with harm set forth in IC 12-10-3-2(a)(3);

(C) at a state institution managed by the office of the secretary

of family and social services or state department of health;

(D) at the Indiana School for the Deaf established by IC 20-22-2-1;

(E) at the Indiana School for the Blind and Visually Impaired established by IC 20-21-2-1;

(F) at a juvenile detention facility;

(G) with the Indiana gaming commission under IC 4-33-3-16;

(H) with the department of financial institutions under IC 28-11-2-3; or

(I) that has a job description that includes access to or supervision over state financial or personnel data, including state warrants, banking codes, or payroll information pertaining to state employees.

(2) Identification in a request related to an application for a teacher's license submitted to the department of education established by IC 20-19-3-1.

(3) Use by the state ~~boxing~~ **athletic** commission established under IC 25-9-1-1 for licensure of a promoter (as defined in IC 25-9-1-0.7) under IC 25-9-1.

(4) Use by the Indiana board of pharmacy in determining the individual's suitability for a position or employment with a wholesale drug distributor, as specified in IC 25-26-14-16(b), IC 25-26-14-16.5(b), IC 25-26-14-17.8(c), and IC 25-26-14-20.

An applicant shall submit the fingerprints in an appropriate format or on forms provided for the employment or license application. The department shall charge each applicant the fee established under section 28 of this chapter and by federal authorities to defray the costs associated with a search for and classification of the applicant's fingerprints. The department may forward fingerprints submitted by an applicant to the Federal Bureau of Investigation or any other agency for processing. The state personnel department or the agency to which the applicant is applying for employment or a license may receive the results of all fingerprint investigations.

(b) An applicant who is an employee of the state may not be charged under subsection (a).

(c) Subsection (a)(1) does not apply to an employee of a contractor of the state if the contract involves the construction or repair of a capital project or other public works project of the state.

SECTION 3. IC 22-12-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 23. "Regulated place of amusement or entertainment" refers to the following:

(1) A theater, opera house, movie theater, dance hall, night club with a stage or floor show, or another place that offers an amusement or entertainment to the public for consideration or promotional purposes.

(2) A place where a boxing, **sparring, or unarmed combat match or** exhibition is conducted under the supervision of the state ~~boxing~~ **athletic** commission.

(3) A hall, gymnasium, or place of assembly where a school, college, university, social or fraternal organization, lodge, farmers organization, society, labor union, trade association, or church holds any type of amusement.

(4) A public or private place where a regulated amusement device is operated.

SECTION 4. IC 25-1-2-6, AS AMENDED BY P.L.3-2008, SECTION 176, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) As used in this section, "license" includes all occupational and professional licenses, registrations, permits, and certificates issued under the Indiana Code, and "licensee" includes all occupational and professional licensees, registrants, permittees, and certificate holders regulated under the Indiana Code.

(b) This section applies to the following entities that regulate occupations or professions under the Indiana Code:

(1) Indiana board of accountancy.

(2) Indiana grain buyers and warehouse licensing agency.

(3) Indiana auctioneer commission.

(4) Board of registration for architects and landscape architects.

(5) State board of barber examiners.

(6) State board of cosmetology examiners.

(7) Medical licensing board of Indiana.

(8) Secretary of state.

(9) State board of dentistry.

(10) State board of funeral and cemetery service.

(11) Worker's compensation board of Indiana.

(12) Indiana state board of health facility administrators.

(13) Committee of hearing aid dealer examiners.
(14) Indiana state board of nursing.
(15) Indiana optometry board.
(16) Indiana board of pharmacy.
(17) Indiana plumbing commission.
(18) Board of podiatric medicine.
(19) Private investigator and security guard licensing board.
(20) State board of registration for professional engineers.
(21) Board of environmental health specialists.
(22) State psychology board.
(23) Indiana real estate commission.
(24) Speech-language pathology and audiology board.
(25) Department of natural resources.
(26) State ~~boxing~~ **athletic** commission.
(27) Board of chiropractic examiners.
(28) Mining board.
(29) Indiana board of veterinary medical examiners.
(30) State department of health.
(31) Indiana physical therapy committee.
(32) Respiratory care committee.
(33) Occupational therapy committee.
(34) Social worker, marriage and family therapist, and mental health counselor board.
(35) Real estate appraiser licensure and certification board.
(36) State board of registration for land surveyors.
(37) Physician assistant committee.
(38) Indiana dietitians certification board.
(39) Indiana hypnotist committee.
(40) Attorney general (only for the regulation of athlete agents).
(41) Manufactured home installer licensing board.
(42) Home inspectors licensing board.
(43) State board of massage therapy.
(44) Any other occupational or professional agency created after June 30, 1981.

(c) Notwithstanding any other law, the entities included in subsection (b) shall send a notice of the upcoming expiration of a license to each licensee at least sixty (60) days prior to the expiration of the license. The notice must inform the licensee of the need to renew

and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity, the license is renewed within forty-five (45) days of the receipt of the notice.

SECTION 5. IC 25-1-4-0.3, AS AMENDED BY P.L.2-2008, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 0.3. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana athletic trainers board (IC 25-5.1-2-1).

(4) Indiana auctioneer commission (IC 25-6.1-2-1).

(5) State board of barber examiners (IC 25-7-5-1).

~~(6) State boxing commission (IC 25-9-1).~~

~~(7)~~ **(6)** Board of chiropractic examiners (IC 25-10-1).

~~(8)~~ **(7)** State board of cosmetology examiners (IC 25-8-3-1).

~~(9)~~ **(8)** State board of dentistry (IC 25-14-1).

~~(10)~~ **(9)** Indiana dietitians certification board (IC 25-14.5-2-1).

~~(11)~~ **(10)** State board of registration for professional engineers (IC 25-31-1-3).

~~(12)~~ **(11)** Board of environmental health specialists (IC 25-32-1).

~~(13)~~ **(12)** State board of funeral and cemetery service (IC 25-15-9).

~~(14)~~ **(13)** Indiana state board of health facility administrators (IC 25-19-1).

~~(15)~~ **(14)** Committee of hearing aid dealer examiners (IC 25-20-1-1.5).

~~(16)~~ **(15)** Home inspectors licensing board (IC 25-20.2-3-1).

~~(17)~~ **(16)** Indiana hypnotist committee (IC 25-20.5-1-7).

~~(18)~~ **(17)** State board of registration for land surveyors (IC 25-21.5-2-1).

~~(19)~~ **(18)** Manufactured home installer licensing board (IC 25-23.7).

~~(20)~~ **(19)** Medical licensing board of Indiana (IC 25-22.5-2).

~~(21)~~ **(20)** Indiana state board of nursing (IC 25-23-1).

~~(22)~~ **(21)** Occupational therapy committee (IC 25-23.5).

~~(23)~~ **(22)** Indiana optometry board (IC 25-24).

~~(24)~~ **(23)** Indiana board of pharmacy (IC 25-26).

~~(25)~~ **(24)** Indiana physical therapy committee (IC 25-27-1).

~~(26)~~ **(25)** Physician assistant committee (IC 25-27.5).

~~(27)~~ **(26)** Indiana plumbing commission (IC 25-28.5-1-3).

~~(28)~~ **(27)** Board of podiatric medicine (IC 25-29-2-1).

~~(29)~~ **(28)** Private investigator and security guard licensing board (IC 25-30-1-5.2).

~~(30)~~ **(29)** State psychology board (IC 25-33).

~~(31)~~ **(30)** Indiana real estate commission (IC 25-34.1-2).

~~(32)~~ **(31)** Real estate appraiser licensure and certification board (IC 25-34.1-8).

~~(33)~~ **(32)** Respiratory care committee (IC 25-34.5).

~~(34)~~ **(33)** Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).

~~(35)~~ **(34)** Speech-language pathology and audiology board (IC 25-35.6-2).

~~(36)~~ **(35)** Indiana board of veterinary medical examiners (IC 25-38.1-2).

SECTION 6. IC 25-1-6-3, AS AMENDED BY P.L.3-2008, SECTION 177, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The licensing agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

~~(5) State boxing commission (IC 25-9-1).~~

~~(6)~~ **(5)** State board of cosmetology examiners (IC 25-8-3-1).

~~(7)~~ **(6)** State board of funeral and cemetery service (IC 25-15-9).

~~(8)~~ **(7)** State board of registration for professional engineers (IC 25-31-1-3).

~~(9)~~ **(8)** Indiana plumbing commission (IC 25-28.5-1-3).

~~(10)~~ **(9)** Indiana real estate commission (IC 25-34.1).

~~(11)~~ **(10)** Real estate appraiser licensure and certification board

(IC 25-34.1-8-1).

~~(12)~~ **(11)** Private investigator and security guard licensing board (IC 25-30-1-5.2).

~~(13)~~ **(12)** State board of registration for land surveyors (IC 25-21.5-2-1).

~~(14)~~ **(13)** Manufactured home installer licensing board (IC 25-23.7).

~~(15)~~ **(14)** Home inspectors licensing board (IC 25-20.2-3-1).

~~(16)~~ **(15)** State board of massage therapy (IC 25-21.8-2-1).

(b) Nothing in this chapter may be construed to give the licensing agency policy making authority, which remains with each board.

SECTION 7. IC 25-1-7-1, AS AMENDED BY HEA 1198-2009, SECTION 138, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of the attorney general.

"Licensee" means a person who is:

(1) licensed, certified, or registered by a board listed in this section; and

(2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State ~~boxing~~ **athletic** commission (IC 25-9-1).

(6) Board of chiropractic examiners (IC 25-10-1).

(7) State board of cosmetology examiners (IC 25-8-3-1).

(8) State board of dentistry (IC 25-14-1).

(9) State board of funeral and cemetery service (IC 25-15-9).

(10) State board of registration for professional engineers (IC 25-31-1-3).
(11) Indiana state board of health facility administrators (IC 25-19-1).
(12) Medical licensing board of Indiana (IC 25-22.5-2).
(13) Indiana state board of nursing (IC 25-23-1).
(14) Indiana optometry board (IC 25-24).
(15) Indiana board of pharmacy (IC 25-26).
(16) Indiana plumbing commission (IC 25-28.5-1-3).
(17) Board of podiatric medicine (IC 25-29-2-1).
(18) Board of environmental health specialists (IC 25-32-1).
(19) State psychology board (IC 25-33).
(20) Speech-language pathology and audiology board (IC 25-35.6-2).
(21) Indiana real estate commission (IC 25-34.1-2).
(22) Indiana board of veterinary medical examiners (IC 25-38.1).
(23) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
(24) Respiratory care committee (IC 25-34.5).
(25) Private investigator and security guard licensing board (IC 25-30-1-5.2).
(26) Occupational therapy committee (IC 25-23.5).
(27) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
(28) Real estate appraiser licensure and certification board (IC 25-34.1-8).
(29) State board of registration for land surveyors (IC 25-21.5-2-1).
(30) Physician assistant committee (IC 25-27.5).
(31) Indiana athletic trainers board (IC 25-5.1-2-1).
(32) Indiana dietitians certification board (IC 25-14.5-2-1).
(33) Indiana hypnotist committee (IC 25-20.5-1-7).
(34) Indiana physical therapy committee (IC 25-27).
(35) Manufactured home installer licensing board (IC 25-23.7).
(36) Home inspectors licensing board (IC 25-20.2-3-1).
(37) State department of health, for out-of-state mobile health care entities.
(38) State board of massage therapy (IC 25-21.8-2-1).

(39) Any other occupational or professional agency created after June 30, 1981.

SECTION 8. IC 25-1-8-1, AS AMENDED BY P.L.3-2008, SECTION 179, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State ~~boxing~~ **athletic** commission (IC 25-9-1).

(6) Board of chiropractic examiners (IC 25-10-1).

(7) State board of cosmetology examiners (IC 25-8-3-1).

(8) State board of dentistry (IC 25-14-1).

(9) State board of funeral and cemetery service (IC 25-15).

(10) State board of registration for professional engineers (IC 25-31-1-3).

(11) Indiana state board of health facility administrators (IC 25-19-1).

(12) Medical licensing board of Indiana (IC 25-22.5-2).

(13) Mining board (IC 22-10-1.5-2).

(14) Indiana state board of nursing (IC 25-23-1).

(15) Indiana optometry board (IC 25-24).

(16) Indiana board of pharmacy (IC 25-26).

(17) Indiana plumbing commission (IC 25-28.5-1-3).

(18) Board of environmental health specialists (IC 25-32-1).

(19) State psychology board (IC 25-33).

(20) Speech-language pathology and audiology board (IC 25-35.6-2).

(21) Indiana real estate commission (IC 25-34.1-2-1).

(22) Indiana board of veterinary medical examiners (IC 25-38.1-2-1).

(23) Department of insurance (IC 27-1).

(24) State police department (IC 10-11-2-4), for purposes of certifying polygraph examiners under IC 25-30-2.

(25) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.

(26) Private investigator and security guard licensing board (IC 25-30-1-5.2).

(27) Occupational therapy committee (IC 25-23.5-2-1).

(28) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6-2-1).

(29) Real estate appraiser licensure and certification board (IC 25-34.1-8).

(30) State board of registration for land surveyors (IC 25-21.5-2-1).

(31) Physician assistant committee (IC 25-27.5).

(32) Indiana athletic trainers board (IC 25-5.1-2-1).

(33) Board of podiatric medicine (IC 25-29-2-1).

(34) Indiana dietitians certification board (IC 25-14.5-2-1).

(35) Indiana physical therapy committee (IC 25-27).

(36) Manufactured home installer licensing board (IC 25-23.7).

(37) Home inspectors licensing board (IC 25-20.2-3-1).

(38) State board of massage therapy (IC 25-21.8-2-1).

(39) Any other occupational or professional agency created after June 30, 1981.

SECTION 9. IC 25-1-8-6, AS AMENDED BY P.L.105-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) As used in this section, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana athletic trainers board (IC 25-5.1-2-1).

(4) Indiana auctioneer commission (IC 25-6.1-2-1).

(5) State board of barber examiners (IC 25-7-5-1).

~~(6) State boxing commission (IC 25-9-1).~~

~~(7)~~ **(6)** Board of chiropractic examiners (IC 25-10-1).

~~(8)~~ **(7)** State board of cosmetology examiners (IC 25-8-3-1).

~~(9)~~ **(8)** State board of dentistry (IC 25-14-1).

~~(10)~~ **(9)** Indiana dietitians certification board (IC 25-14.5-2-1).

~~(11)~~ **(10)** State board of registration for professional engineers (IC 25-31-1-3).

~~(12)~~ **(11)** Board of environmental health specialists (IC 25-32-1).

~~(13)~~ **(12)** State board of funeral and cemetery service

(IC 25-15-9).

~~(14)~~ **(13)** Indiana state board of health facility administrators (IC 25-19-1).

~~(15)~~ **(14)** Committee of hearing aid dealer examiners (IC 25-20-1-1.5).

~~(16)~~ **(15)** Home inspectors licensing board (IC 25-20.2-3-1).

~~(17)~~ **(16)** Indiana hypnotist committee (IC 25-20.5-1-7).

~~(18)~~ **(17)** State board of registration for land surveyors (IC 25-21.5-2-1).

~~(19)~~ **(18)** Manufactured home installer licensing board (IC 25-23.7).

~~(20)~~ **(19)** Medical licensing board of Indiana (IC 25-22.5-2).

~~(21)~~ **(20)** Indiana state board of nursing (IC 25-23-1).

~~(22)~~ **(21)** Occupational therapy committee (IC 25-23.5).

~~(23)~~ **(22)** Indiana optometry board (IC 25-24).

~~(24)~~ **(23)** Indiana board of pharmacy (IC 25-26).

~~(25)~~ **(24)** Indiana physical therapy committee (IC 25-27).

~~(26)~~ **(25)** Physician assistant committee (IC 25-27.5).

~~(27)~~ **(26)** Indiana plumbing commission (IC 25-28.5-1-3).

~~(28)~~ **(27)** Board of podiatric medicine (IC 25-29-2-1).

~~(29)~~ **(28)** Private investigator and security guard licensing board (IC 25-30-1-5.2).

~~(30)~~ **(29)** State psychology board (IC 25-33).

~~(31)~~ **(30)** Indiana real estate commission (IC 25-34.1-2).

~~(32)~~ **(31)** Real estate appraiser licensure and certification board (IC 25-34.1-8).

~~(33)~~ **(32)** Respiratory care committee (IC 25-34.5).

~~(34)~~ **(33)** Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).

~~(35)~~ **(34)** Speech-language pathology and audiology board (IC 25-35.6-2).

~~(36)~~ **(35)** Indiana board of veterinary medical examiners (IC 25-38.1).

~~(37)~~ **(36)** State board of massage therapy (IC 25-21.8-2-1).

(b) This section does not apply to a license, certificate, or registration that has been revoked or suspended.

(c) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration and except as

provided in section 8 of this chapter, the holder of a license, certificate, or registration that was issued by the board that is three (3) years or less delinquent must be reinstated upon meeting the following requirements:

(1) Submission of the holder's completed renewal application.

(2) Payment of the current renewal fee established by the board under section 2 of this chapter.

(3) Payment of a reinstatement fee established by the Indiana professional licensing agency.

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; or

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6.

(d) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration and except as provided in section 8 of this chapter, unless a statute specifically does not allow a license, certificate, or registration to be reinstated if it has lapsed for more than three (3) years, the holder of a license, certificate, or registration that was issued by the board that is more than three (3) years delinquent must be reinstated upon meeting the following requirements:

(1) Submission of the holder's completed renewal application.

(2) Payment of the current renewal fee established by the board under section 2 of this chapter.

(3) Payment of a reinstatement fee equal to the current initial application fee.

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; or

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6.

(5) Complete such remediation and additional training as deemed appropriate by the board given the lapse of time involved.

(6) Any other requirement that is provided for in statute or rule that is not related to fees.

SECTION 10. IC 25-1-11-1, AS AMENDED BY P.L.3-2008, SECTION 181, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State ~~boxing~~ **athletic** commission (IC 25-9-1).

(6) State board of cosmetology examiners (IC 25-8-3-1).

(7) State board of registration of land surveyors (IC 25-21.5-2-1).

(8) State board of funeral and cemetery service (IC 25-15-9).

(9) State board of registration for professional engineers (IC 25-31-1-3).

(10) Indiana plumbing commission (IC 25-28.5-1-3).

(11) Indiana real estate commission (IC 25-34.1-2-1).

(12) Real estate appraiser licensure and certification board (IC 25-34.1-8).

(13) Private investigator and security guard licensing board (IC 25-30-1-5.2).

(14) Manufactured home installer licensing board (IC 25-23.7).

(15) Home inspectors licensing board (IC 25-20.2-3-1).

(16) State board of massage therapy (IC 25-21.8-2-1).

SECTION 11. IC 25-1-14-2, AS AMENDED BY P.L.105-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A member of a board, committee, or commission may participate in a meeting of the board, committee, or commission:

(1) except as provided in subsections (b) and (c), at which at least a quorum is physically present at the place where the meeting is conducted; and

(2) by using a means of communication that permits:

(A) all other members participating in the meeting; and

(B) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(b) A member of a board, committee, or commission may participate in an emergency meeting of the board, committee, or commission to consider disciplinary sanctions under IC 25-1-9-10 or IC 25-1-11-13 by using a means of communication that permits:

(1) all other members participating in the meeting; and

(2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(c) A member of the state ~~boxing~~ **athletic** commission may participate in meetings of the commission to consider the final approval of a permit for a particular boxing, ~~or~~ sparring, **or unarmed combat** match or exhibition under IC 25-9-1-6(b) by using a means of communication that permits:

(1) all other members participating in the meeting; and

(2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(d) A member who participates in a meeting under subsection (b) or (c):

(1) is considered to be present at the meeting;

(2) shall be counted for purposes of establishing a quorum; and

(3) may vote at the meeting.

SECTION 12. IC 25-9-1-0.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.1. As used in this chapter, "boxing" means the art of attack and defense with the fists, or feet in the case of kick boxing, practiced as a sport.**

SECTION 13. IC 25-9-1-0.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.2. As used in this chapter, "commission" refers to the state athletic commission established by IC 25-9-1-1.**

SECTION 14. IC 25-9-1-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.3. As used in this chapter, "mixed martial arts"**

means the unarmed physical confrontation of persons involving the use, subject to limitations as established by the commission, of a combination of techniques from different disciplines of the martial arts, including grappling, kicking, and striking.

SECTION 15. IC 25-9-1-0.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.4. As used in this chapter, "professional boxer" means a person who competes for money, teaches, pursues, or assists in the practice of boxing as a means to obtain a livelihood or pecuniary gain.**

SECTION 16. IC 25-9-1-0.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.6. As used in this chapter, "sparring" means combat in which participants intend to and actually:**

(1) inflict kicks, punches, and blows; and

(2) apply other techniques;

that may reasonably be expected to inflict injury on an opponent in a contest, exhibition, or performance.

SECTION 17. IC 25-9-1-0.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.8. As used in this chapter, "unarmed combat" means the practice, or any related practice, of mixed martial arts or martial arts.**

SECTION 18. IC 25-9-1-0.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.9. As used in this chapter, "unarmed competitor" means a person who engages in an unarmed combat match, contest, exhibition, or performance.**

SECTION 19. IC 25-9-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a)** There is hereby created a commission to be known as the state ~~boxing~~ **athletic** commission, consisting of three (3) persons to be appointed by the governor. The governor shall initially appoint one (1) of said commissioners for a period of one (1) year, one (1) for a period of two (2) years, and one (1) for a period of three (3) years; and upon the expiration of the terms of such respective commissioners, the governor shall appoint their successors, each to serve for a term of three (3) years, and all to serve until their successors are appointed and

qualified. The members of the commission shall each be paid a salary per diem for each day engaged in the discharge of ~~his~~ **the member's** duties, and reimbursement for all necessary traveling and hotel expenses expended outside the city of Indianapolis in accordance with travel policies and procedures established by the department of administration and the state budget agency.

(b) The purpose of the commission is to ensure the:

(1) safety of participants in;

(2) fairness of; and

(3) integrity of;

sparring, boxing, and unarmed combat matches or exhibitions in Indiana.

SECTION 20. IC 25-9-1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.5. (a) As used in this chapter, "fund" refers to the athletic commission fund created by this section.**

(b) The athletic commission fund is created for purposes of administering this chapter. The fund shall be administered by the Indiana gaming commission.

(c) Expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) The fund consists of:

(1) appropriations made by the general assembly;

(2) fees collected under this chapter; and

(3) penalties collected under this chapter.

(f) An amount necessary to administer this chapter is continually appropriated from the fund to the Indiana gaming commission.

(g) If the balance in the fund at the end of a particular fiscal year exceeds one hundred thousand dollars ($100,000), the amount that exceeds one hundred thousand dollars ($100,000) reverts to the state general fund.

SECTION 21. IC 25-9-1-3, AS AMENDED BY P.L.197-2007, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The **executive director of the** Indiana

~~professional licensing agency~~ **gaming commission** may appoint and remove deputies for use by the commission. The commission shall, when the commission considers it advisable, direct a deputy to be present at any place where sparring, ~~or~~ boxing, **or unarmed combat** matches or exhibitions are to be held under this chapter. The deputies shall ascertain the exact conditions surrounding the match or exhibition and make a written report of the conditions in the manner and form prescribed by the commission.

(b) The ~~licensing agency~~ **executive director of the Indiana gaming commission** may appoint and remove a secretary for the commission, who shall:

(1) keep a full and true record of all the commission's proceedings;

(2) preserve at its general office all the commission's books, documents, and papers;

(3) prepare for service notices and other papers as may be required by the commission; and

(4) perform other duties as the ~~licensing agency~~ **executive director of the Indiana gaming commission** may prescribe.

The ~~licensing agency~~ **executive director of the Indiana gaming commission** may employ only such clerical employees as may be actually necessary and fix their salaries as provided by law.

(c) The executive director of the Indiana gaming commission or a deputy appointed under subsection (a) may, upon the request of the commission, execute orders, subpoenas, continuances, and other legal documents on behalf of the commission.

~~(c)~~ **(d)** Each commissioner shall be reimbursed for all actual and necessary traveling expenses and disbursements incurred by them in the discharge of their official duties. All reimbursements for traveling expenses shall be in accordance with travel policies and procedures established by the Indiana department of administration and the budget agency. All expenses incurred in the administration of this chapter shall be paid from the ~~general~~ fund upon appropriation being made for the expenses.

SECTION 22. IC 25-9-1-4, AS AMENDED BY P.L.1-2006, SECTION 425, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. The commission shall maintain offices for the transaction of its business in the city of Indianapolis,

Indiana, and may, with the approval of the **executive director of the** Indiana ~~professional licensing agency (IC 25-1-5-3),~~ **gaming commission,** incur the necessary expense for rent, office furniture, stationery, printing, and other incidental expense.

SECTION 23. IC 25-9-1-4.5, AS ADDED BY P.L.112-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.5. **(a)** In accordance with IC 35-45-18-1(b), the commission ~~shall~~ **may** adopt rules under IC 4-22-2 to ~~define~~ **regulate the conduct of** the following:

~~(1) Ultimate fighting.~~

~~(2) Ultimate Fighting Championships.~~

~~(3)~~ **(1)** Mixed martial arts.

~~(4)~~ **(2)** Martial arts, including the following:

(A) Jujutsu.

(B) Karate.

(C) Kickboxing.

(D) Kung fu.

(E) Tae kwon do.

(F) Judo.

(G) Sambo.

(H) Pankration.

(I) Shootwrestling.

~~(5)~~ **(3)** Professional wrestling.

(4) Boxing.

(5) Sparring.

(b) The athletic commission may adopt emergency rules under IC 4-22-2-37.1 if the athletic commission determines that:

(1) the need for a rule is so immediate and substantial that the ordinary rulemaking procedures under IC 4-22-2 are inadequate to address the need; and

(2) an emergency rule is likely to address the need.

SECTION 24. IC 25-9-1-5, AS AMENDED BY P.L.197-2007, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Boxing, ~~and~~ sparring, **and unarmed combat** matches or exhibitions, **whether or not** for prizes or purses, may be held in Indiana.

(b) The commission:

(1) has the sole direction, management, control, and jurisdiction

over all boxing, ~~and~~ sparring, **and unarmed combat** matches or exhibitions to be conducted, held, or given in Indiana; and

(2) may issue licenses for those matches or exhibitions.

(c) A boxing, ~~or~~ sparring, **or unarmed combat** match or an exhibition that is:

(1) conducted by any school, college, or university within Indiana; **or**

(2) sanctioned by United States Amateur Boxing, Inc.; ~~or~~

~~(3) without a prize or purse;~~

shall not be subject to the provisions of this chapter requiring a license. The term "school, college, or university" does not include a school or other institution for the principal purpose of furnishing instruction in boxing, or other athletics.

(d) **Except as provided under IC 25-9-1-9.5,** no boxing, ~~or~~ sparring, **or unarmed combat** match or exhibition, except as provided in this article, shall be held or conducted within Indiana except under a license and permit issued by the ~~state boxing~~ **athletic** commission in accordance with the provisions of this chapter and the rules adopted under this chapter.

SECTION 25. IC 25-9-1-6, AS AMENDED BY P.L.197-2007, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The commission may:

(1) cause to be issued by the **executive director of the** Indiana ~~professional licensing agency~~ **gaming commission** under the name and seal of the ~~state boxing~~ commission, an annual license in writing for holding boxing, ~~or~~ sparring, **or unarmed combat** matches or exhibitions to any person who is qualified under this chapter; and

(2) adopt rules to establish the qualifications of the applicants.

(b) In addition to the general license, a person must, before conducting any particular boxing, ~~or~~ sparring, **or unarmed combat** match or exhibition where one (1) or more contests are to be held, obtain a permit from the ~~state boxing~~ commission.

(c) Annual licenses may be revoked **or suspended** by the commission upon hearing and proof that any holder of an annual license has violated this chapter or any rule or order of the commission.

(d) A person who conducts a boxing, ~~or~~ sparring, **or unarmed combat** match or exhibition without first obtaining a license or permit

commits a Class B misdemeanor.

SECTION 26. IC 25-9-1-7, AS AMENDED BY P.L.197-2007, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Applications for licenses or permits to conduct or participate in, either directly or indirectly, a boxing, ~~or~~ sparring, **or unarmed combat** match or exhibition shall be:

(1) made in writing upon forms prescribed by the ~~state boxing~~ commission and shall be addressed to and filed with the **executive director of the** Indiana ~~professional licensing agency,~~ **gaming commission;** and

(2) verified by the applicant, if an individual, or by some officer of the club, corporation, or association in whose behalf the application is made.

(b) The application for a permit to conduct a particular boxing, ~~or~~ sparring, **or unarmed combat** match or exhibition, shall, among other things, state:

(1) the time and exact place at which the boxing, ~~or~~ sparring, **or unarmed combat** match or exhibition is proposed to be held;

(2) the names of the contestants who will participate and their seconds;

(3) the seating capacity of the buildings or the hall in which such exhibition is proposed to be held;

(4) the admission charge which is proposed to be made;

(5) the amount of the compensation percentage of gate receipts which is proposed to be paid to each of the participants;

(6) the name and address of the person making the application;

(7) the names and addresses of all the officers if the person is a club, a corporation, or an association; and

(8) the record of each contestant from a source approved by the commission.

(c) The commission shall cause to be kept by the ~~licensing agency~~ **executive director of the Indiana gaming commission** proper records of the names and addresses of all persons receiving permits and licenses.

SECTION 27. IC 25-9-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. All promoters, either corporations or natural persons, physicians, referees, judges, timekeepers, matchmakers, professional boxers, **unarmed**

competitors, ~~their~~ managers **of professional boxers or unarmed competitors,** trainers and seconds, shall be licensed as provided in this chapter, and no such corporation or person shall be permitted to participate, either directly or indirectly, in any such boxing, ~~or~~ sparring, **or unarmed combat** match or exhibition, or the holding thereof, unless such corporation and all such persons shall have first procured licenses. ~~For the purpose of this chapter a "professional boxer" is deemed to be one who competes for money or teaches or pursues or assists in the practice of boxing as a means of obtaining a livelihood or pecuniary gain; and any~~ **No** contest conforming to the rules, regulations and requirements of this chapter shall be deemed to be ~~a boxing match and not~~ a prize-fight.

SECTION 28. IC 25-9-1-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 9.5. (a) As used in this section, "amateur mixed martial arts" refers to mixed martial arts that is:**

(1) performed for training purposes in a school or other educational facility for no:

(A) purse; or

(B) prize with a value greater than one hundred dollars ($100); or

(2) performed in a match, contest, exhibition, or performance for no:

(A) purse; or

(B) prize with a value greater than one hundred dollars ($100).

(b) As used in this section, "promoter" means the person primarily responsible for organizing, promoting, and producing an amateur mixed martial arts match or exhibition. The term does not include a hotel, casino, resort, or other commercial establishment hosting or sponsoring an amateur mixed martial arts match unless:

(1) the hotel, casino, resort, or other commercial establishment is primarily responsible for organizing, promoting, and producing the match or exhibition; and

(2) there is no other person primarily responsible for organizing, promoting, and producing the match or exhibition.

(c) For amateur mixed martial arts matches or exhibitions, only:

(1) a body sanctioning the match or exhibition; and

(2) the promoter of the match or exhibition;

must procure licenses under this article. The commission shall develop procedures and standards governing application for licensure and license renewal of bodies sanctioning a match or exhibition and promoters under this section. The commission shall develop procedures for inspection and enforcement with respect to licenses issued under this subsection.

(d) The commission shall adopt rules under IC 4-22-2 to license sanctioning bodies and promoters required to be licensed under this chapter.

(e) The commission shall adopt rules under IC 4-22-2 that apply to each match or exhibition covered under this section and that determine requirements for the following:

(1) The presence of a medical doctor licensed under IC 25-22.5.

(2) The presence of an ambulance.

(3) Requirements for medical and life insurance to be carried for each participant.

(4) The need for medical tests, including:

(A) tests for HIV;

(B) pregnancy tests for women participants; and

(C) screening tests for illegal drugs.

SECTION 29. IC 25-9-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. No permit or license may be issued to any person who has not complied with this chapter or who, prior to the applications, has failed to obey a rule, regulation or order of the ~~state boxing~~ commission. In the case of a club, corporation, or association, no license or permit may be issued to it if, prior to its application, any of its officers have violated this chapter or any rule, regulation or order of the ~~state boxing~~ commission. No promoters, physicians, referees, judges, timekeepers, matchmakers, ~~or~~ professional boxers, **unarmed competitors,** ~~their~~ managers **of professional boxers or unarmed competitors,** trainers or seconds may be licensed if they are holders of a federal gambling stamp. A license or permit when issued shall recite that the person to whom it is granted has complied with this chapter, and a license or permit is not transferable.

SECTION 30. IC 25-9-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. The commission

shall have full power and authority to limit the number of boxing, ~~or~~ sparring, **or unarmed combat** matches or exhibitions to be held or given by any person, club, organization, or corporation in any city or town in this state.

SECTION 31. IC 25-9-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) A person to whom a permit is issued shall not:

(1) hold the match or exhibition at any other time or place;

(2) permit any other contestant to participate in the match or exhibition;

(3) charge a greater rate or rates of admission; or

(4) pay a greater fee, compensation, or percentage to contestants than that specified in the application filed prior to the issuance of the permit.

(b) Notwithstanding subsection (a), in case of emergency the commission may, upon application, allow a person to hold a boxing, ~~or~~ sparring, **or unarmed combat** match or exhibition wherever and whenever it may deem fit within the city in which the person is located and substitute contestants or seconds as circumstances may require.

SECTION 32. IC 25-9-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. In case the ~~state boxing~~ commission refuses to grant a license or permit to any applicant, the applicant, at ~~his or its~~ **the applicant's** option, shall be entitled to a hearing in the manner hereinafter provided, but if the ~~state boxing~~ commission, prior to such refusal, after a hearing, has found by a valid finding that the applicant has been guilty of disobeying any rule, regulation, or order, of the ~~state boxing~~ commission, or of any of the provisions of this chapter, such applicant shall not be entitled to a license or permit; and in case any boxing, ~~or~~ sparring, **or unarmed combat** match, or exhibition has been conducted by any person, club, corporation, or association under the provisions of this chapter, the ~~state boxing~~ commission on its own motion, or on the petition of any resident of the state of Indiana, under the provisions of IC 25-1-7, ~~and section 14 of this chapter,~~ may conduct a hearing to determine whether such person, club, corporation, or association has disobeyed any rule, regulation, or order of the ~~state boxing~~ commission or has been guilty of any violation of the provisions of this chapter.

SECTION 33. IC 25-9-1-14.1 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14.1. Any hearing by the ~~board~~ **commission** shall be in accordance with IC 4-21.5-3.

SECTION 34. IC 25-9-1-15, AS AMENDED BY P.L.197-2007, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. All buildings or structures used, or in any way to be used for the purpose of holding or giving therein boxing, ~~or~~ sparring, **or unarmed combat** matches or exhibitions, shall be properly ventilated and provided with fire exits and fire escapes, if need be, and in all manner shall conform to the laws, ordinances, and regulations pertaining to buildings in the city or town where situated.

SECTION 35. IC 25-9-1-16, AS AMENDED BY P.L.197-2007, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) A person shall not:

(1) permit any person under the age of eighteen (18) years to participate in any boxing or sparring match or exhibition;

(2) permit any gambling on the result of, or on any contingency in connection with, any boxing or sparring match or exhibition conducted by it; or

(3) participate in or permit any sham or collusive boxing or sparring match or exhibition.

(b) A person who violates this section shall, in addition to any criminal penalty:

(1) have the person's license or permit revoked, **suspended, or restricted by the commission;**

(2) be placed on probation by the commission;

(3) pay a civil penalty not to exceed one thousand dollars ($1,000) imposed by the commission; ~~and be~~

(4) be rendered ineligible **by the commission** for a license or permit at any future time; **or**

(5) be subject to the imposition by the commission of any combination of the penalties set forth in subdivisions (1) through (4).

SECTION 36. IC 25-9-1-17, AS AMENDED BY P.L.197-2007, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) A person shall not:

(1) participate in any sham or collusive boxing or sparring match or exhibition where the match or exhibition is conducted by a licensed person; or

(2) being under the age of eighteen (18), participate in any boxing or sparring match or exhibition.

(b) If a person violating this section is a licensed contestant in this state, the person shall for the first offense, in addition to the fine: ~~suffer a revocation of the~~

(1) have the person's license or permit ~~and for~~ **revoked, suspended, or restricted by the commission;**

(2) be placed on probation by the commission;

(3) pay a civil penalty not to exceed one thousand dollars ($1,000) imposed by the commission;

(4) be rendered ineligible by the commission for a license or permit at any future time; or

(5) be subject to the imposition by the commission of any combination of the penalties set forth in subdivisions (1) through (4).

For a second offense, **a licensed contestant who violates this section may** be forever barred from receiving any license or permit or participating in any boxing or sparring match or exhibition in Indiana.

(c) A person who gambles on the result of, or on any contingency in connection with, any boxing or sparring match or exhibition and is convicted under IC 35-45-5 shall, in addition to any criminal penalty imposed, be penalized as provided in subsection (b).

SECTION 37. IC 25-9-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. (a) Each contestant for boxing, ~~or~~ sparring, **or unarmed combat** shall be examined within two (2) hours prior to entering the ring by a competent physician licensed under IC 25-22.5 appointed by the commission. The physician shall, if ~~he~~ **the physician** so finds the facts, certify in writing forthwith over ~~his~~ **the physician's** signature that each contestant is physically fit to engage in the contest, and the physician's certificate shall be delivered to the commission before the contest. The physician shall also mail the report of examination to the commission within a period of twenty-four (24) hours after the contest. Blank forms of physicians' reports shall be furnished to physicians by the commission, and questions on blank forms must be answered in full. No match, contest, or exhibition shall be held unless a licensed physician is in attendance. Any boxer **or unarmed competitor** who, in the opinion of the physician, is physically unfit to enter the match or exhibition shall be

excused by the commission or its deputy. During the conduct of the match or exhibition, the physician may observe the physical condition of the boxers **or unarmed competitors** and advise the referee with regard thereto; and if, in the opinion of the physician, any contestant in any match or exhibition is physically unfit to continue, ~~he~~ **the physician** shall so advise the referee.

(b) No boxing or sparring match or exhibition may last more than twelve (12) rounds, and no one (1) round may last more than three (3) minutes. There must not be less than one (1) minute intermission between each round. The commission may in respect to any bout or in respect to any class of contestants limit the number of rounds of the bout within the maximum of twelve (12) rounds.

(c) Any contestant in a boxing or sparring match or an exhibition shall wear gloves of standard make, weighing not less than eight (8) ounces, and the gloves worn by each of the contestants shall be equal in weight.

(d) At each boxing, ~~or~~ sparring, **or unarmed combat** match or exhibition there must be in attendance, at the expense of the person conducting the match or exhibition, a duly licensed referee who shall direct and control the same. Before starting each contest, the referee shall ascertain from each contestant the name of his chief second, and shall hold the chief second responsible for the conduct of his assistant seconds during the contest. The referee may declare forfeited any remuneration or purse or any part thereof belonging to the contestants, or one (1) of them, if, in the referee's judgment, the contestant or contestants are not honestly competing. Any remuneration or purse, or part thereof, so forfeited shall be paid into the ~~state treasury for the use of the state.~~ **fund.**

(e) There must also be in attendance at the expense of the person conducting the match or exhibition three (3) duly licensed judges who shall, at the termination of each boxing, ~~or~~ sparring, **or unarmed combat** match or exhibition render their decisions as to the winner.

(f) A person who holds any boxing, ~~or~~ sparring, **or unarmed combat** match or exhibition in violation of this section commits a Class A infraction.

(g) A physician who knowingly certifies falsely to the physical condition of any contestant commits a Class B infraction.

SECTION 38. IC 25-9-1-19, AS AMENDED BY P.L.197-2007,

SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 19. (a) No contestant shall be permitted to participate in any boxing, ~~or~~ sparring, **or unarmed combat** match or exhibition unless duly registered and licensed with the ~~state boxing~~ commission, which license must be renewed biennially. The license fee and the renewal fee shall not be less than five dollars ($5) paid at the time of the application for the license or renewal.

(b) Any person who desires to be registered and licensed as a contestant shall file an application in writing with the **executive director of the** Indiana ~~professional licensing agency,~~ **gaming commission,** which application shall, among other things, state:

(1) the correct name of the applicant;

(2) the date and place of the applicant's birth;

(3) the place of the applicant's residence; and

(4) the applicant's employment, business, or occupation, if any.

The application must be verified under oath of the applicant. Application for renewal license shall be in similar form.

(c) No assumed or ring names shall be used in any application nor in any advertisement of any contest, unless the ring or assumed name has been registered with the commission with the correct name of the applicant.

(d) Each application for license by a contestant or for a license renewal must be accompanied by the certificate of a physician residing within Indiana, who has been licensed as provided in this article, and has practiced in Indiana for not less than five (5) years, certifying that the physician has made a thorough physical examination of the applicant, and that the applicant is physically fit and qualified to participate in boxing, ~~or~~ sparring, **or unarmed combat** matches or exhibitions.

SECTION 39. IC 25-9-1-20, AS AMENDED BY P.L.194-2005, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20. (a) The commission shall, upon **proper** application, ~~to the Indiana professional licensing agency,~~ grant licenses to competent referees and judges whose qualifications may be tested by the commission, and the commission may revoke any such license granted to any referee or judge upon such cause as the commission may deem sufficient. Such license must be renewed biennially. No person shall be permitted to act as referee or judge in Indiana unless holding

such license.

(b) The application for license as referee, or renewal thereof, shall be accompanied by a fee established by the commission under IC 25-1-8-2.

(c) The commission shall appoint from among such licensed officials, all officials for all contests held under this chapter.

SECTION 40. IC 25-9-1-20.5, AS AMENDED BY P.L.197-2007, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20.5. The commission may declare any person who has been convicted of an offense under IC 35-48 ineligible to participate in any boxing, ~~or~~ sparring, **or unarmed combat** match or exhibition, or any other activity or event regulated by the commission, notwithstanding that the person may hold a valid license issued by the commission. The period of ineligibility shall be for not less than six (6) months nor more than three (3) years, as determined by the commission. If any such person shall be declared ineligible, the commission shall suspend such convicted person and declare the person ineligible to participate in any boxing, ~~or~~ sparring, **or unarmed combat** match or exhibition, or any other activity or event regulated by the commission, as soon as it discovers the conviction, but the period of ineligibility shall commence from the actual date of the conviction. During the period of ineligibility, the suspended person may reapply to the commission for a license in the manner provided, and the commission may rescind the prior order of suspension.

SECTION 41. IC 25-9-1-21, AS AMENDED BY P.L.197-2007, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) Any license provided for under this chapter may be revoked or suspended by the commission for reasons deemed sufficient under this chapter and under IC 25-1-11.

(b) If a person displays to the public credentials issued by the commission that:

(1) have been revoked or suspended under this section or under sections 16, 17, and 20.5 of this chapter; or

(2) have expired;

the commission may act under this section, or the commission may declare the person ineligible for a period to be determined by the commission to participate in any boxing, ~~or~~ sparring, **or unarmed combat** match, exhibition, or other activity regulated by the

commission.

SECTION 42. IC 25-9-1-22, AS AMENDED BY P.L.197-2007, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 22. (a) Every person, club, corporation, firm, or association which may conduct any match or exhibition under this chapter shall, within twenty-four (24) hours after the termination thereof:

(1) furnish to the ~~Indiana professional licensing agency~~ **commission** by mail, a written report duly verified by that person or, if a club, corporation, firm, or association, by one (1) of its officers, showing the amount of the gross proceeds for the match or exhibition, and other related matters as the commission may prescribe; ~~and~~

(2) pay a tax of five percent (5%) of the price of admission collected from the sale of each admission ticket to the match or exhibition, which price shall be a separate and distinct charge and shall not include any tax imposed on and collected on account of the sale of any such ticket. Money derived from such state tax shall be deposited in the ~~state general~~ fund; **and**

(3) pay all fees established by the commission necessary to cover the administrative costs of its regulatory oversight function.

(b) Before any license shall be granted for any boxing, ~~or~~ sparring, **or unarmed combat** match or exhibition in this state, a bond or other instrument that provides financial recourse must be provided to the ~~state boxing~~ commission. The instrument must be:

(1) in an amount determined by the commission;

(2) approved as to form and sufficiency of the sureties thereon by the commission;

(3) payable to the state of Indiana; and

(4) conditioned for the payment of the tax imposed, the officials and contestants, and compliance with this chapter and the valid rules of the commission.

SECTION 43. IC 25-9-1-22.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 22.5. (a) Every person, club, corporation, firm, or association holding or showing any boxing, ~~or~~ sparring, **or unarmed combat** matches on a closed circuit telecast, pay per view telecast, or subscription television viewed within Indiana,

whether originating within Indiana or another state, shall furnish the **executive director of the** Indiana ~~professional licensing agency~~ **gaming commission** a written report, under oath, stating the amount of gross proceeds thereof, and such other matter as the commission may prescribe, and shall, within seventy-two (72) hours after the showing of the contest, pay a tax of five percent (5%) of its total gross receipts for the showing of the boxing, ~~or~~ sparring, **or unarmed combat** match. Money derived from such state tax shall be placed in the ~~state general~~ fund.

(b) This section does not apply to a showing occurring at a private residence.

SECTION 44. IC 25-9-1-24, AS AMENDED BY P.L.197-2007, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 24. The commission may appoint official representatives, designated as inspectors, each of whom shall receive from the commission a card authorizing the official representative to act as an inspector wherever the commission may designate the official representative to act. One (1) inspector or deputy shall be present at all boxing, ~~or~~ sparring, **or unarmed combat** matches or exhibitions, and see that the rules of the commission and the provisions of this chapter are strictly observed, and shall also be present at the counting up of the gross receipts, and shall immediately mail to the commission the final box-office statement received by ~~him~~ **the inspector or deputy** from the person or officers of the club, corporation, or association conducting the match or exhibition.

SECTION 45. IC 25-9-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 25. The weights and classes of boxers **and unarmed competitors** and the rules and regulations of boxing **and unarmed combat** shall be determined by the ~~state boxing~~ commission.

SECTION 46. IC 25-9-1-26, AS AMENDED BY P.L.197-2007, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 26. All tickets of admission to any boxing, ~~or~~ sparring, **or unarmed combat** match or exhibition shall clearly show their purchase price, and no such tickets shall be sold for more than the price printed on the tickets. It shall be unlawful for any person, club, corporation, or association to admit to such contest a number of people greater than the seating capacity of the place where such contest is

held.

SECTION 47. IC 25-9-1-28, AS AMENDED BY P.L.1-2006, SECTION 426, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 28. All fees received by the **executive director of the** Indiana ~~professional licensing agency (IC 25-1-5-3)~~ **gaming commission** on behalf of the commission under the provisions of this chapter shall be paid to the ~~state treasurer to be placed by the treasurer in the general fund of the state.~~ **fund.**

SECTION 48. IC 25-9-1-34 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 34. The commission may adopt rules under IC 4-22-2 to administer this chapter.**

SECTION 49. IC 35-45-18-1, AS ADDED BY P.L.112-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) As used in this chapter, "combative fighting" (also known as "toughman fighting", "badman fighting", and "extreme fighting") means a match, contest, or exhibition that involves at least (2) contestants, with or without gloves or protective headgear, in which the contestants:

(1) use their:

(A) hands;

(B) feet; or

(C) both hands and feet;

to strike each other; and

(2) compete for a financial prize or any item of pecuniary value.

(b) The term does not include:

(1) a boxing, ~~or~~ sparring, **or unarmed combat** match regulated under IC 25-9;

~~(2) ultimate fighting, as defined by the state boxing commission in rules adopted under IC 25-9-1-4.5;~~

~~(3) Ultimate Fighting Championships, as defined by the state boxing commission in rules adopted under IC 25-9-1-4.5;~~

~~(4)~~ **(2)** mixed martial arts ~~as defined by the state boxing commission in rules adopted under IC 25-9-1-4.5;~~ **(as defined by IC 25-9-1-0.3).**

~~(5)~~ **(3)** martial arts, as ~~defined~~ **regulated** by the state ~~boxing~~ **athletic** commission in rules adopted under IC 25-9-1-4.5;

~~(6)~~ **(4)** professional wrestling, as ~~defined~~ **regulated** by the state

~~boxing~~ **athletic** commission in rules adopted under IC 25-9-1-4.5; or

~~(7)~~ **(5)** a match, contest, or game in which a fight breaks out among the participants as an unplanned, spontaneous event and not as an intended part of the match, contest, or game.

SECTION 50. [EFFECTIVE JULY 1, 2009] **808 IAC 1-1.1-2, 808 IAC 1-1.1-3, and 808 IAC 1-1.1-4 are void. The publisher of the Indiana Administrative Code and Indiana Register shall remove these sections from the Indiana Administrative Code.**

SECTION 51. [EFFECTIVE JULY 1, 2009] **(a) The rules adopted by the state boxing commission before July 1, 2009, and in effect on June 30, 2009, shall be treated after June 30, 2009, as the rules of the state athletic commission.**

(b) On July 1, 2009, the state athletic commission becomes the owner of all personal property of the state boxing commission abolished by this act.

SECTION 52. [EFFECTIVE JULY 1, 2009] **Any rules adopted by the Indiana professional licensing agency before July 1, 2009, and in effect on June 30, 2009, that govern the state boxing commission shall be treated after June 30, 2009, as the rules of the state athletic commission established by IC 25-9-1-1, as amended by this act.**

SECTION 53. [EFFECTIVE JULY 1, 2009] **(a) As used in this SECTION, "fund" refers to the athletic commission fund created by IC 25-9-1-1.5, as added by this act.**

(b) There is appropriated to the fund from the state general fund an amount sufficient to administer IC 25-9-1 for the state fiscal year beginning July 1, 2009, and ending July 1, 2010.

(c) This SECTION expires December 31, 2010.

P.L.161-2009
[S.219. Approved May 13, 2009.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-38-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A provider, **a physician's designee, or a pharmacist's designee** may provide immunization data to the immunization data registry in a manner prescribed by the state department and for the purposes allowed under this chapter unless:

(1) the patient; or

(2) the patient's parent or guardian, if the patient is less than eighteen (18) years of age;

has completed and filed with the provider, **physician's designee, or pharmacist's designee** a written immunization data exemption form.

(b) The state department shall create and provide copies of immunization data exemption forms to:

(1) providers who are:

(A) licensed under IC 25; and

(B) authorized within the provider's scope of practice to administer immunizations; and

(2) individuals;

who request the form.

(c) The state department shall distribute to providers, upon request, written information to be disseminated to patients that describes the immunization data registry. The written information must include the following:

(1) That the provider may report immunization data to the immunization data registry.

(2) That the patient or the patient's parent or guardian, if the patient is less than eighteen (18) years of age, has a right to

exempt disclosure of immunization data to the registry and may prevent disclosure by signing an immunization data exemption form.

(3) That the patient or the patient's parent or guardian, if the patient is less than eighteen (18) years of age, may have the individual's information removed from the immunization data registry.

(4) Instructions on how to have the information removed.

SECTION 2. IC 16-38-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) Records maintained as part of the immunization data registry are confidential.

(b) The state department may release an individual's confidential information to the individual or to the individual's parent or guardian if the individual is less than eighteen (18) years of age.

(c) Subject to subsection (d), the state department may release information in the immunization data registry concerning an individual to the following entities:

(1) The immunization data registry of another state.

(2) A provider **or a provider's designee.**

(3) A local health department.

(4) An elementary or secondary school that is attended by the individual.

(5) A child care center that is licensed under IC 12-17.2-4 in which the individual is enrolled.

(6) The office of Medicaid policy and planning or a contractor of the office of Medicaid policy and planning.

(7) A child placing agency licensed under IC 31-27.

(8) A college or university (as defined in IC 21-7-13-10) that is attended by the individual.

(d) Before immunization data may be released to an entity, the entity must enter into an agreement with the state department that provides that information that identifies a patient will not be released to any other person without the written consent of the patient.

(e) The state department may release summary statistics regarding information in the immunization data registry if the summary statistics do not reveal the identity of an individual.

(f) The state department shall convene a panel to discuss expanding access to the immunization data registry. The panel

must include at least one (1) representative of an insurance organization and at least one (1) member of a health maintenance organization. The state department shall submit the recommendations of the panel to the legislative council by October 1, 2009, in an electronic format under IC 5-14-6.

SECTION 3. IC 20-34-3-12, AS ADDED BY P.L.1-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) For purposes of this section, "modified clinical technique" means a battery of vision tests that includes:

(1) a visual acuity test to determine an individual's ability to see at various distances;

(2) a refractive error test to determine the focusing power of the eye;

(3) an ocular health test to determine any external or internal abnormalities of the eye; and

(4) a binocular coordination test to determine if the eyes are working together properly.

(b) The governing body of each school corporation shall conduct:

(1) an annual vision test, using the modified clinical technique, of each student upon the student's enrollment in either kindergarten or grade 1; and

(2) an annual screening test of the visual acuity of each student enrolled in or transferred to grade 3 and grade 8 and of all other students suspected of having a visual defect.

(c) Records of all tests shall be made and continuously maintained by the school corporation to provide information useful in protecting, promoting, and maintaining the health of students. The state department of health and the state board shall adopt joint rules concerning vision testing equipment, qualifications of vision testing personnel, visual screening procedures, and criteria for failure and referral in the screening tests based on accepted medical practice and standards.

(d) The school corporation's governing body and the superintendent shall receive the following information concerning the tests conducted under this section:

(1) The number of students tested.

(2) The number of students who passed a test.

(3) The number of students who failed a test or were referred for further testing.

(e) Each school corporation shall annually provide to the department, for each school within the school corporation, the following information concerning the tests conducted under this section:

(1) Whether the tests were conducted at the school.

(2) If the tests were not conducted at the school, the reason for not performing the tests.

(3) If the tests were conducted at the school, the number of students tested.

(f) Not later than October 1, 2010, the department shall report the information received from school corporations under subsection (e) to the legislative council in electronic format under IC 5-14-6.

SECTION 4. IC 20-34-3-13, AS ADDED BY P.L.1-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) If a school corporation is unable to comply with section 12(b)(1) of this chapter, the governing body may, before November 1 of a school year, request from the state superintendent a waiver of the requirements of section 12(b)(1) of this chapter.

(b) The waiver request under subsection (a) must:

(1) be in writing;

(2) include the reason or reasons that necessitated the waiver request; and

(3) indicate the extent to which the governing body attempted to comply with the requirements under section 12(b)(1) of this chapter.

(c) The state superintendent shall take action on the waiver request not later than thirty (30) days after receiving the waiver request.

(d) The state superintendent may:

(1) approve the waiver request;

(2) deny the waiver request; or

(3) provide whatever relief that may be available to enable the school corporation to comply with the requirements under section 12(b)(1)of this chapter.

(e) If the state superintendent approves the waiver request, the governing body shall conduct an annual screening test of the visual acuity of each student upon the student's enrollment in or transfer to grade 1.

(f) The governing body of each school corporation shall make

and maintain records of all waivers requested by the governing body under this section.

(g) The state superintendent shall make and continuously maintain records of all actions taken by the state superintendent concerning all waivers requested under this section.

SECTION 5. IC 20-34-4-2, AS ADDED BY P.L.1-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Every child residing in Indiana shall be immunized against:

(1) diphtheria;
(2) pertussis (whooping cough);
(3) tetanus;
(4) measles;
(5) rubella;
(6) poliomyelitis; and
(7) mumps.

(b) Every child residing in Indiana who enters kindergarten or grade 1 shall be immunized against hepatitis B and chicken pox.

(c) The state department of health shall adopt rules under IC 4-22-2 to require school age children to receive additional immunizations against the following:

(1) Meningitis.
(2) Varicella.
(3) Pertussis (whooping cough).

The additional immunizations required under the rules shall include an immunization booster if considered appropriate by the state department.

~~(c)~~ **(d)** The state department of health may expand or otherwise modify the list of communicable diseases that require documentation of immunity as medical information becomes available that would warrant the expansion or modification in the interest of public health.

~~(d)~~ **(e)** The state department of health shall adopt rules under IC 4-22-2 specifying the:

(1) required immunizations;
(2) child's age for administering each vaccine;
(3) adequately immunizing doses; and
(4) method of documentation of proof of immunity.

P.L.162-2009
[S.391. Approved May 13, 2009.]

AN ACT to amend the Indiana Code concerning motor vehicles and labor.

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

SECTION 1. IC 9-24-9-2.5, AS ADDED BY P.L.184-2007, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.5. In addition to the information required from the applicant for a license or permit under sections 1 and 2 of this chapter, the bureau shall require an applicant to present to the bureau valid documentary evidence that the applicant:

(1) is a citizen or national of the United States;

(2) is an alien lawfully admitted for permanent ~~or temporary~~ residence in the United States;

(3) has conditional permanent resident status in the United States;

(4) has an approved application for asylum in the United States or has entered into the United States in refugee status;

(5) **is an alien lawfully admitted for temporary residence in the United States;**

(6) has a valid unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;

~~(6)~~ **(7)** has a pending application for asylum in the United States;

~~(7)~~ **(8)** has a pending or approved application for temporary protected status in the United States;

~~(8)~~ **(9)** has approved deferred action status; or

~~(9)~~ **(10)** has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.

SECTION 2. IC 9-24-11-3, AS AMENDED BY P.L.184-2007, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]: Sec. 3. (a) A license issued to an individual less than eighteen (18) years of age is a probationary license.

(b) An individual holds a probationary license subject to the following conditions:

(1) Except as provided in IC 31-37-3, the individual may not operate a motor vehicle during the curfew hours specified in IC 31-37-3-2.

(2) During the ninety (90) days following the issuance of the probationary license, the individual may not operate a motor vehicle in which there are passengers unless another individual who:

(A) is at least twenty-one (21) years of age; and

(B) holds a valid operator's license issued under this article;

is present in the front seat of the motor vehicle.

(3) The individual may operate a motor vehicle only if the individual and each occupant of the motor vehicle has a safety belt properly fastened about the occupant's body at all times when the motor vehicle is in motion.

(c) An individual who holds a probationary license issued under this section may receive an operator's license, a chauffeur's license, a public passenger chauffeur's license, or a commercial driver's license when the individual is at least eighteen (18) years of age.

(d) Except as provided in subsection (e), a probationary license issued under this section:

(1) expires at midnight of the twenty-first birthday of the holder; and

(2) may not be renewed.

(e) A probationary license issued under this section to an individual who complies with IC 9-24-9-2.5(5) through ~~IC 9-24-9-2.5(9)~~ **IC 9-24-9-2.5(10)** expires:

(1) at midnight one (1) year after issuance if there is no expiration date on the authorization granted to the individual to remain in the United States; or

(2) if there is an expiration date on the authorization granted to the individual to remain in the United States, the earlier of the following:

(A) At midnight of the date the authorization to remain in the United States expires.

(B) At midnight of the twenty-first birthday of the holder.

SECTION 3. IC 9-24-11-5, AS AMENDED BY P.L.184-2007, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Except as provided in subsection (i), a permit or license issued under this chapter must contain the following information:

(1) The full legal name of the permittee or licensee.

(2) The date of birth of the permittee or licensee.

(3) The address of the principal residence of the permittee or licensee.

(4) The hair color and eye color of the permittee or licensee.

(5) The date of issue and expiration date of the permit or license.

(6) The gender of the permittee or licensee.

(7) The unique identifying number of the permit or license.

(8) The weight of the permittee or licensee.

(9) The height of the permittee or licensee.

(10) A reproduction of the signature of the permittee or licensee.

(11) If the permittee or licensee is less than eighteen (18) years of age at the time of issuance, the dates on which the permittee or licensee will become:

(A) eighteen (18) years of age; and

(B) twenty-one (21) years of age.

(12) If the permittee or licensee is at least eighteen (18) years of age but less than twenty-one (21) years of age at the time of issuance, the date on which the permittee or licensee will become twenty-one (21) years of age.

(13) Except as provided in subsection (b) or (c), a digital photograph of the permittee or licensee.

(b) The following permits or licenses do not require a digital photograph:

(1) Temporary motorcycle learner's permit issued under IC 9-24-8.

(2) Motorcycle learner's permit issued under IC 9-24-8.

(c) The bureau may provide for the omission of a photograph or computerized image from any other license or permit if there is good cause for the omission. However, a license issued without a digital photograph must include the language described in subsection (f).

(d) The information contained on the permit or license as required

by subsection (a)(11) or (a)(12) for a permittee or licensee who is less than twenty-one (21) years of age at the time of issuance shall be printed prominently on the permit or license.

(e) This subsection applies to a permit or license issued after January 1, 2007. If the applicant for a permit or license submits information to the bureau concerning the applicant's medical condition, the bureau shall place an identifying symbol on the face of the permit or license to indicate that the applicant has a medical condition of note. The bureau shall include information on the permit or license that briefly describes the medical condition of the holder of the permit or license. The information must be printed in a manner that alerts a person reading the permit or license to the existence of the medical condition. The permittee or licensee is responsible for the accuracy of the information concerning the medical condition submitted under this subsection. The bureau shall inform an applicant that submission of information under this subsection is voluntary.

(f) Any license or permit issued by the state that does not require a digital photograph must include ~~the~~ **a** statement ~~"May~~ **that indicates that the license or permit may** not be accepted by any federal agency for federal identification or any other federal purpose.

(g) A license or permit issued by the state to an individual who:

(1) has a valid, unexpired nonimmigrant visa or has nonimmigrant visa status for entry in the United States;

(2) has a pending application for asylum in the United States;

(3) has a pending or approved application for temporary protected status in the United States;

(4) has approved deferred action status; or

(5) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent residence status in the United States;

must be clearly identified as a temporary license or permit. A temporary license or permit issued under this subsection may not be renewed without the presentation of valid documentary evidence proving that the licensee's or permitee's temporary status has been extended.

(h) The bureau may adopt rules under IC 4-22-2 to carry out this section.

(i) For purposes of subsection (a), an individual certified as a program participant in the address confidentiality program under IC 5-26.5 is not required to provide the address of the individual's principal residence, but may provide an address designated by the office of the attorney general under IC 5-26.5 as the address of the individual's principal residence.

SECTION 4. IC 9-24-12-4, AS AMENDED BY P.L.184-2007, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Except as provided in subsections (b) and (c), the application for renewal of:

(1) an operator's license;
(2) a motorcycle operator's license;
(3) a chauffeur's license;
(4) a public passenger chauffeur's license; or
(5) an identification card;

under this article may be filed not more than twelve (12) months before the expiration date of the license or identification card held by the applicant.

(b) When the applicant complies with IC 9-24-9-2.5(5) through ~~IC 9-24-9-2.5(9),~~ **IC 9-24-9-2.5(10),** an application for renewal of a driver's license in subsection (a)(1), (a)(2), (a)(3), or (a)(4) may be filed not more than one (1) month before the expiration date of the license held by the applicant.

(c) When the applicant complies with IC 9-24-16-3.5(1)(E) through ~~IC 9-24-16-3.5(1)(I),~~ **IC 9-24-16-3.5(1)(J),** an application for renewal of an identification card in subsection (a)(5) may be filed not more than one (1) month before the expiration date of the identification card held by the applicant.

SECTION 5. IC 9-24-12-5, AS AMENDED BY P.L.156-2006, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. **(a) Except as provided in subsection (b),** an individual applying for renewal of an operator's, a motorcycle operator's, a chauffeur's, or a public passenger chauffeur's license must apply in person at a license branch and do the following:

(1) Pass an eyesight examination.
(2) Pass a written examination if:
(A) the applicant has at least six (6) active points on the applicant's driving record maintained by the bureau; or

(B) the applicant holds a valid operator's license, has not reached the applicant's twenty-first birthday, and has active points on the applicant's driving record maintained by the bureau.

(b) The bureau may adopt rules under IC 4-22-2 concerning the ability of a holder of an operator's, a motorcycle operator's, a chauffeur's, or a public passenger chauffeur's license to renew the license by mail or by electronic service. If rules are adopted under this subsection, the rules must provide that an individual's renewal of a license by mail or by electronic service is subject to the following conditions:

(1) A valid computerized image of the individual must exist within the records of the bureau.

(2) The previous renewal of the individual's operator's, motorcycle operator's, chauffeur's, or public passenger chauffeur's license must not have been by mail or by electronic service.

(3) The application for or previous renewal of the individual's license must have included a test of the individual's eyesight approved by the bureau.

(4) If the individual were applying for the license renewal in person at a license branch, the individual would not be required under subsection (a)(2) to submit to a written examination.

(5) The individual must be a citizen of the United States, as shown in the records of the bureau.

(6) There must not have been any change in the:

(A) address; or

(B) name;

of the individual since the issuance or previous renewal of the individual's operator's, motorcycle operator's, chauffeur's, or public passenger chauffeur's license.

(7) The operator's, motorcycle operator's, chauffeur's, or public passenger chauffeur's license of the individual must not be:

(A) suspended; or

(B) expired;

at the time of the application for renewal.

(8) The individual must be less than seventy (70) years of age

at the time of the application for renewal.

(c) An individual applying for the renewal of an operator's, a motorcycle operator's, a chauffeur's, or a public passenger chauffeur's license must apply in person at a license branch under subsection (a) if the individual is not entitled to apply by mail or by electronic service under rules adopted under subsection (b).

SECTION 6. IC 9-24-12-12, AS ADDED BY P.L.184-2007, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) This section applies to a driver's license issued under:

(1) IC 9-24-3;

(2) IC 9-24-4;

(3) IC 9-24-5; and

(4) IC 9-24-8.

(b) A driver's license listed in subsection (a) that is issued after December 31, 2007, to an applicant who complies with IC 9-24-9-2.5(5) through ~~IC 9-24-9-2.5(9)~~ **IC 9-24-9-2.5(10)** expires:

(1) at midnight one (1) year after issuance if there is no expiration date on the authorization granted to the individual to remain in the United States; or

(2) if there is an expiration date on the authorization granted to the individual to remain in the United States, the earlier of the following:

(A) At midnight of the date the authorization of the holder to be a legal permanent resident or conditional resident alien of the United States expires.

(B) At midnight of the birthday of the holder that occurs six (6) years after the date of issuance.

SECTION 7. IC 9-24-16-3, AS AMENDED BY P.L.184-2007, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) An identification card must have the same dimensions and shape as a driver's license, but the card must have markings sufficient to distinguish the card from a driver's license.

(b) Except as provided in subsection (g), the front side of an identification card must contain the expiration date of the identification card and the following information about the individual to whom the card is being issued:

(1) Full legal name.

(2) The address of the principal residence.
(3) Date of birth.
(4) Date of issue and date of expiration.
(5) Unique identification number.
(6) Gender.
(7) Weight.
(8) Height.
(9) Color of eyes and hair.
(10) Reproduction of the signature of the individual identified.
(11) Whether the individual is blind (as defined in IC 12-7-2-21(1)).
(12) If the individual is less than eighteen (18) years of age at the time of issuance, the dates on which the individual will become:
(A) eighteen (18) years of age; and
(B) twenty-one (21) years of age.
(13) If the individual is at least eighteen (18) years of age but less than twenty-one (21) years of age at the time of issuance, the date on which the individual will become twenty-one (21) years of age.
(14) Digital photograph of the individual.

(c) The information contained on the identification card as required by subsection (b)(12) or (b)(13) for an individual who is less than twenty-one (21) years of age at the time of issuance shall be printed prominently on the permit or license.

(d) If the applicant for an identification card submits information to the bureau concerning the applicant's medical condition, the bureau shall place an identifying symbol on the face of the identification card to indicate that the applicant has a medical condition of note. The bureau shall include information on the identification card that briefly describes the medical condition of the holder of the card. The information must be printed in a manner that alerts a person reading the card to the existence of the medical condition. The applicant for an identification card is responsible for the accuracy of the information concerning the medical condition submitted under this subsection. The bureau shall inform an applicant that submission of information under this subsection is voluntary.

(e) An identification card issued by the state that does not require a digital photograph must include ~~the~~ **a** statement ~~"May~~ **that the identification card may** not be accepted by any federal agency for

federal identification or any other federal purpose.

(f) An identification card issued by the state to an individual who:

(1) has a valid, unexpired nonimmigrant visa or has nonimmigrant visa status for entry in the United States;

(2) has a pending application for asylum in the United States;

(3) has a pending or approved application for temporary protected status in the United States;

(4) has approved deferred action status; or

(5) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent residence status in the United States;

must be clearly identified as a temporary identification card. A temporary identification card issued under this subsection may not be renewed without the presentation of valid documentary evidence proving that the holder of the identification card's temporary status has been extended.

(g) For purposes of subsection (b), an individual certified as a program participant in the address confidentiality program under IC 5-26.5 is not required to provide the address of the individual's principal residence, but may provide an address designated by the office of the attorney general under IC 5-26.5 as the address of the individual's principal residence.

SECTION 8. IC 9-24-16-3.5, AS ADDED BY P.L.184-2007, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3.5. In addition to the information required for the applicant for an identification card under section 3 of this chapter, the bureau shall require an applicant to present to the bureau:

(1) valid documentary evidence that the applicant:

(A) is a citizen or national of the United States;

(B) is an alien lawfully admitted for permanent ~~or temporary~~ residence in the United States;

(C) has conditional permanent resident status in the United States;

(D) has an approved application for asylum in the United States or has entered into the United States in refugee status;

(E) is an alien lawfully admitted for temporary residence in the United States;

~~(E)~~ **(F)** has a valid unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;

~~(F)~~ **(G)** has a pending application for asylum in the United States;

~~(G)~~ **(H)** has a pending or approved application for temporary protected status in the United States;

~~(H)~~ **(I)** has approved deferred action status; or

~~(I)~~ **(J)** has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States; and

(2) evidence of the Social Security number of the applicant. If federal law prohibits the issuance of a Social Security number to the applicant, the applicant must provide verification of the applicant's ineligibility to be issued a Social Security number.

SECTION 9. IC 9-24-16-4, AS AMENDED BY P.L.184-2007, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Except as provided in subsection (b), an identification card issued:

(1) before January 1, 2006, expires on the fourth birthday of the applicant following the date of issue; and

(2) after December 31, 2005, expires at midnight of the birthday of the holder that occurs six (6) years following the date of issuance.

(b) An identification card issued under this article after December 31, 2007, to an applicant who complies with section 3.5(1)(E) through ~~3.5(1)(I)~~ **3.5(1)(J)** of this chapter expires:

(1) at midnight one (1) year after issuance, if there is no expiration date on the authorization granted to the individual to remain in the United States; or

(2) if there is an expiration date on the authorization granted to the individual to remain in the United States, the earlier of the following:

(A) At midnight of the date the authorization of the holder to be a legal permanent resident or conditional resident alien of the United States expires.

(B) At midnight of the birthday of the holder that occurs six (6) years after the date of issuance.

SECTION 10. IC 9-24-16-5, AS AMENDED BY P.L.184-2007, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) An application for renewal of an identification card may be made not more than twelve (12) months before the expiration date of the card. However, when the applicant complies with section 3.5(1)(E) through ~~3.5(1)(I)~~ **3.5(1)(J)** of this chapter, an application for renewal of an identification card may be filed not more than one (1) month before the expiration date of the identification card held by the applicant. A renewal application received after the date of expiration is considered to be a new application.

(b) Except as provided in subsection (e), a renewed card issued:

(1) before January 1, 2006, becomes valid on the birth date of the holder and remains valid for four (4) years; and

(2) after December 31, 2005, is valid on the birth date of the holder and remains valid for six (6) years.

(c) If renewal has not been made within six (6) months after expiration, the bureau shall destroy all records pertaining to the former cardholder.

(d) Renewal may not be granted if the cardholder was issued a driver's license subsequent to the last issuance of an identification card.

(e) A renewed identification card issued under this article after December 31, 2007, to an applicant who complies with section 3.5(1)(E) through ~~3.5(1)(I)~~ **3.5(1)(J)** of this chapter expires:

(1) at midnight one (1) year after issuance, if there is no expiration date on the authorization granted to the individual to remain in the United States; or

(2) if there is an expiration date on the authorization granted to the individual to remain in the United States, the earlier of the following:

(A) At midnight of the date the authorization of the holder to be a legal permanent resident or conditional resident alien of the United States expires.

(B) At midnight of the birthday of the holder that occurs six (6) years after the date of issuance.

P.L.163-2009
[S.448. Approved May 13, 2009.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 6-1.1-10-44 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 44. (a) As used in this section, "designating body" means the fiscal body of:**

(1) a county that does not contain a consolidated city; or

(2) a municipality.

(b) As used in this section, "eligible business" means an entity that meets the following requirements:

(1) The entity is engaged in a business that operates one (1) or more facilities dedicated to computing, networking, or data storage activities.

(2) The entity is located in a facility or data center in Indiana.

(3) The entity invests in the aggregate at least ten million dollars ($10,000,000) in real and personal property in Indiana after June 30, 2009.

(4) The average employee wage of the entity is at least one hundred twenty-five percent (125%) of the county average wage for each county in which the entity conducts business operations.

(c) As used in this section, "enterprise information technology equipment" means the following:

(1) Hardware supporting computing, networking, or data storage function, including servers and routers.

(2) Networking systems having an industry designation as equipment within the "enterprise" or "data center" class of networking systems that support the computing, networking, or data storage functions.

(3) Generators and other equipment used to ensure an uninterrupted power supply to equipment described in subdivision (1) or (2).

The term does not include computer hardware designed for single user, workstation, or departmental level use.

(d) As used in this section, "fiscal body" has the meaning set forth in IC 36-1-2-6.

(e) As used in this section, "municipality" has the meaning set forth in IC 36-1-2-11.

(f) As used in this section, "qualified property" means enterprise information technology equipment purchased after June 30, 2009.

(g) Before adopting a final resolution under subsection (h) to provide a property tax exemption, a designating body must first adopt a declaratory resolution provisionally specifying that qualified property owned by a particular eligible business is exempt from property taxation. The designating body shall file a declaratory resolution adopted under this subsection with the county assessor. After a designating body adopts a declaratory resolution specifying that qualified property owned by a particular eligible business is exempt from property taxation, the designating body shall publish notice of the adoption and the substance of the declaratory resolution in accordance with IC 5-3-1 and file a copy of the notice and the declaratory resolution with each taxing unit in the county. The notice must specify a date when the designating body will receive and hear all remonstrances and objections from interested persons. The designating body shall file the notice and the declaratory resolution with the officers of the taxing units who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date for the public hearing. After the designating body considers the testimony presented at the public hearing, the designating body may adopt a second and final resolution under subsection (h). The second and final resolution under subsection (h) may modify, confirm, or rescind the declaratory resolution.

(h) Before January 1, 2013, a designating body may after following the procedures of subsection (g) adopt a final resolution providing that qualified property owned by a particular eligible business is exempt from property taxation. In the case of a county,

the exemption applies only to qualified property that is located in unincorporated territory of the county. In the case of a municipality, the exemption applies only to qualified property that is located in the municipality. The property tax exemption applies to the qualified property only if the designating body and the eligible business enter into an agreement concerning the property tax exemption. The agreement must specify the duration of the property tax exemption. The agreement may specify that if the ownership of qualified property is transferred by an eligible business, the transferee is entitled to the property tax exemption on the same terms as the transferor. If a designating body adopts a final resolution under this subsection and enters into an agreement with an eligible business, the qualified property owned by the eligible business is exempt from property taxation as provided in the resolution and the agreement.

(i) If a designating body adopts a final resolution and enters into an agreement under subsection (h) to provide a property tax exemption, the property tax exemption continues for the period specified in the agreement, notwithstanding the January 1, 2013, deadline to adopt a final resolution under subsection (h).

P.L.164-2009
[S.478. Approved May 13, 2009.]

AN ACT to amend the Indiana Code concerning labor and safety.

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

SECTION 1. IC 6-8.1-3-21.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 21.2. (a) This section applies after December 31, 2009.**

(b) As used in this section, "contractor" means:

(1) a sole proprietor;
(2) a partnership;
(3) a firm;
(4) a corporation;
(5) a limited liability company;
(6) an association; or
(7) another legal entity;

that engages in construction and is authorized by law to do business in Indiana. The term includes a general contractor, a subcontractor, and a lower tiered contractor. The term does not include the state, the federal government, or a political subdivision.

(c) The department shall cooperate with the:
(1) department of labor created by IC 22-1-1-1;
(2) worker's compensation board of Indiana created by IC 22-3-1-1(a); and
(3) department of workforce development established by IC 22-4.1-2-1;

by sharing information concerning any suspected improper classification by a contractor of an individual as an independent contractor (as defined in IC 22-3-6-1(b)(7) or IC 22-3-7-9(b)(5)).

(d) For purposes of IC 5-14-3-4, information shared under this section is confidential, may not be published, and is not open to public inspection.

(e) An officer or employee of the department who knowingly or intentionally discloses information that is confidential under this section commits a Class A misdemeanor.

SECTION 2. IC 22-1-1-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 22. (a) This section applies after December 31, 2009.**

(b) As used in this section, "contractor" means:
(1) a sole proprietor;
(2) a partnership;
(3) a firm;
(4) a corporation;
(5) a limited liability company;
(6) an association; or
(7) another legal entity;

that engages in construction and is authorized by law to do business in Indiana. The term includes a general contractor, a

subcontractor, and a lower tiered contractor. The term does not include the state, the federal government, or a political subdivision.

(c) The department of labor shall cooperate with the:

(1) department of workforce development established by IC 22-4.1-2-1;

(2) department of state revenue established by IC 6-8.1-2-1; and

(3) worker's compensation board of Indiana created by IC 22-3-1-1(a);

by sharing information concerning any suspected improper classification by a contractor of an individual as an independent contractor (as defined in IC 22-3-6-1(b)(7) or IC 22-3-7-9(b)(5)).

(d) For purposes of IC 5-14-3-4, information shared under this section is confidential, may not be published, and is not open to public inspection.

(e) An officer or employee of the department of labor who knowingly or intentionally discloses information that is confidential under this section commits a Class A misdemeanor.

SECTION 3. IC 22-3-1-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5. (a) This section applies after December 31, 2009.**

(b) As used in this section, "contractor" means:

(1) a sole proprietor;

(2) a partnership;

(3) a firm;

(4) a corporation;

(5) a limited liability company;

(6) an association; or

(7) another legal entity;

that engages in construction and is authorized by law to do business in Indiana. The term includes a general contractor, a subcontractor, and a lower tiered contractor. The term does not include the state, the federal government, or a political subdivision.

(c) The worker's compensation board of Indiana shall cooperate with the:

(1) department of state revenue established by IC 6-8.1-2-1;

(2) department of labor created by IC 22-1-1-1; and

(3) department of workforce development established by IC 22-4.1-2-1;

by sharing information concerning any suspected improper classification by a contractor of an individual as an independent contractor (as defined in IC 22-3-6-1(b)(7) or IC 22-3-7-9(b)(5)).

(d) For purposes of IC 5-14-3-4, information shared under this section is confidential, may not be published, and is not open to public inspection.

(e) An officer or employee of the worker's compensation board of Indiana who knowingly or intentionally discloses information that is confidential under this section commits a Class A misdemeanor.

SECTION 4. IC 22-4.1-4-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4. (a) This section applies after December 31, 2009.**

(b) As used in this section, "contractor" means:

(1) a sole proprietor;

(2) a partnership;

(3) a firm;

(4) a corporation;

(5) a limited liability company;

(6) an association; or

(7) another legal entity;

that engages in construction and is authorized by law to do business in Indiana. The term includes a general contractor, a subcontractor, and a lower tiered contractor. The term does not include the state, the federal government, or a political subdivision.

(c) The department shall cooperate with the:

(1) department of labor created by IC 22-1-1-1;

(2) department of state revenue established by IC 6-8.1-2-1; and

(3) worker's compensation board of Indiana created by IC 22-3-1-1(a);

by sharing information concerning any suspected improper classification by a contractor of an individual as an independent contractor (as defined in IC 22-3-6-1(b)(7) or IC 22-3-7-9(b)(5)).

(d) For purposes of IC 5-14-3-4, information shared under this section is confidential, may not be published, and is not open to public inspection.

(e) An officer or employee of the department who knowingly or intentionally discloses information that is confidential under this

section commits a Class A misdemeanor.

P.L.165-2009
[S.536. Approved May 13, 2009.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 2-3.5-5-3, AS AMENDED BY HEA 1625-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The PERF board shall establish alternative investment programs within the fund, based on the following requirements:

(1) The PERF board shall maintain at least one (1) alternative investment program that is an indexed stock fund, one (1) alternative investment program that is a bond fund, and one (1) alternative investment program that is a stable value fund.

(2) The programs should represent a variety of investment objectives.

(3) The programs may not permit a member to withdraw money from the member's account, except as provided in section 6 of this chapter.

(4) All administrative costs of each alternative program shall be paid from the earnings on that program.

(5) A valuation of each member's account must be completed as of:

(A) the last day of each quarter; **or**

(B) a time that the board may specify by rule.

(b) A member shall direct the allocation of the amount credited to the member among the available alternative investment funds, subject to the following conditions:

(1) A member may make a selection or change an existing

selection under rules established by the PERF board. The PERF board shall allow a member to make a selection or change any existing selection at least once each quarter.

(2) The PERF board shall implement the member's selection beginning the first day of the next calendar quarter that begins at least thirty (30) days after the selection is received by the PERF board **or an alternate date established by the rules of the board.** This date is the effective date of the member's selection.

(3) A member may select any combination of the available investment funds, in ten percent (10%) increments **or smaller increments that may be established by the rules of the board.**

(4) A member's selection remains in effect until a new selection is made.

(5) On the effective date of a member's selection, the board shall reallocate the member's existing balance or balances in accordance with the member's direction, based on the market value on the effective date.

(6) If a member does not make an investment selection of the alternative investment programs, the member's account shall be invested in the PERF board's general investment fund.

(7) All contributions to the member's account shall be allocated as of the last day of the quarter in which the contributions are received **or at an alternate time established by the rules of the board** in accordance with the member's most recent effective direction. The PERF board shall not reallocate the member's account at any other time.

(c) When a member transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program, the amount credited to the member shall be valued at the market value of the member's investment, as of the day before the effective date of the member's selection **or at an alternate time established by the rules of the board.** When a member retires, becomes disabled, dies, or withdraws from the fund, the amount credited to the member shall be the market value of the member's investment as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or withdrawal, plus contributions received after that date **or at an alternate time established by the rules of the board.**

(d) The PERF board shall determine the value of each alternative program in the defined contribution fund, as of the last day of each calendar quarter, as follows:

(1) The market value shall exclude the employer contributions and employee contributions received during the quarter ending on the current allocation date.

(2) The market value as of the immediately preceding quarter end date shall include the employer contributions and employee contributions received during that preceding quarter.

(3) The market value as of the immediately preceding quarter end date shall exclude benefits paid from the fund during the quarter ending on the current quarter end date.

SECTION 2. IC 5-10.2-2-3, AS AMENDED BY P.L.2-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The annuity savings account consists of:

(1) the members' contributions; and

(2) the interest credits on these contributions in the guaranteed fund or the gain or loss in market value on these contributions in the alternative investment program, as specified in section 4 of this chapter.

Each member shall be credited individually with the amount of the member's contributions and interest credits.

(b) Each board shall maintain the annuity savings account program in effect on December 31, 1995 (referred to in this chapter as the guaranteed program). In addition, the board of the Indiana state teachers' retirement fund shall establish and maintain a guaranteed program within the 1996 account. Each board may establish investment guidelines and limits on all types of investments (including, but not limited to, stocks and bonds) and take other actions necessary to fulfill its duty as a fiduciary of the annuity savings account, subject to the limitations and restrictions set forth in IC 5-10.3-5-3 and IC 5-10.4-3-10.

(c) Each board shall establish alternative investment programs within the annuity savings account of the public employees' retirement fund, the pre-1996 account, and the 1996 account, based on the following requirements:

(1) Each board shall maintain at least one (1) alternative investment program that is an indexed stock fund and one (1)

alternative investment program that is a bond fund.

(2) The programs should represent a variety of investment objectives under IC 5-10.3-5-3.

(3) No program may permit a member to withdraw money from the member's account except as provided in IC 5-10.2-3 and IC 5-10.2-4.

(4) All administrative costs of each alternative program shall be paid from the earnings on that program or as may be determined by the rules of each board.

(5) **Except as provided in section 4(e) of this chapter,** a valuation of each member's account must be completed as of:

(A) the last day of each quarter; or

(B) another time as each board may specify by rule.

(d) The board must prepare, at least annually, an analysis of the guaranteed program and each alternative investment program. This analysis must:

(1) include a description of the procedure for selecting an alternative investment program;

(2) be understandable by the majority of members; and

(3) include a description of prior investment performance.

(e) A member may direct the allocation of the amount credited to the member among the guaranteed fund and any available alternative investment funds, subject to the following conditions:

(1) A member may make a selection or change an existing selection under rules established by each board. A board shall allow a member to make a selection or change any existing selection at least once each quarter.

(2) The board shall implement the member's selection beginning the first day of the next calendar quarter that begins at least thirty (30) days after the selection is received by the board or an alternate date established by the rules of each board. This date is the effective date of the member's selection.

(3) A member may select any combination of the guaranteed fund or any available alternative investment funds, in ten percent (10%) increments or smaller increments that may be established by the rules of each board.

(4) A member's selection remains in effect until a new selection is made.

(5) On the effective date of a member's selection, the board shall reallocate the member's existing balance or balances in accordance with the member's direction, based on:

(A) for an alternative investment program balance, the market value on the effective date; and

(B) for any guaranteed program balance, the account balance on the effective date.

All contributions to the member's account shall be allocated as of the last day of that quarter or at an alternate time established by the rules of each board in accordance with the member's most recent effective direction. The board shall not reallocate the member's account at any other time.

(f) When a member who participates in an alternative investment program transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program or to the guaranteed program, the amount credited to the member shall be valued at the market value of the member's investment, as of the day before the effective date of the member's selection or at an alternate time established by the rules of each board. When a member who participates in an alternative investment program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be the market value of the member's investment as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal, plus contributions received after that date or at an alternate time established by the rules of each board.

(g) When a member who participates in the guaranteed program transfers the amount credited to the member to an alternative investment program, the amount credited to the member in the guaranteed program is computed without regard to market value and is based on the balance of the member's account in the guaranteed program as of the last day of the quarter preceding the effective date of the transfer. However, each board may by rule provide for an alternate valuation date. When a member who participates in the guaranteed program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be computed without regard to market value and is based on the balance

of the member's account in the guaranteed program as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal, plus any contributions received since that date plus interest since that date. However, each board may by rule provide for an alternate valuation date.

SECTION 3. IC 5-10.2-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) **Except as provided in subsection (e),** interest shall be credited and compounded at least annually on all amounts credited to the member in the guaranteed program. For the guaranteed program, the board shall annually establish an interest credit rate equal to or less than the investment income earned.

(b) **Except as provided in subsection (e),** the market value of each alternative investment program shall be allocated at least annually to the members participating in that program.

(c) Contributions to the guaranteed program and the alternative investment programs shall be invested as of the last day of the quarter in which the contributions are received **or at an alternate time established by the rules of each board.** Contributions to the guaranteed program shall begin to accumulate interest at the beginning of the quarter after the quarter in which the contributions are received **or at an alternate time established by the rules of each board.**

(d) When a member retires or withdraws with a balance in the guaranteed program, a proportional interest credit determined by the board shall be granted for the period elapsed since the last interest date on that balance.

(e) This subsection applies whenever the board is required to establish an interest or earnings rate in order to credit interest or earnings to an omitted contribution to a member's annuity savings account. As used in this subsection, "omitted contribution" means a contribution contributed by or on behalf of a member under IC 5-10.3-7-9 or IC 5-10.4-4-11 that is received by the board after the time required by IC 5-10.3-7-12.5 or IC 5-10.4-7-6(b)(1). Notwithstanding any law to the contrary, each board may by rule specify:

(1) a single composite interest rate and the period to which the rate applies for the purpose of computing the interest credits

on a member's contributions (including omitted contributions) in the guaranteed fund; and

(2) a single composite earnings rate for the gain or loss in market value for each alternative investment program and the period to which the rate applies for the purpose of computing the gain or loss in market value on a member's contributions (including omitted contributions) in the alternate investment program.

SECTION 4. IC 5-10.2-2-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 12.5. (a) This section applies to reports, records, and contributions submitted after December 31, 2009, by an employer.**

(b) As used in this section, "electronic funds transfer" has the meaning set forth in IC 4-8.1-2-7(f).

(c) Except as provided in subsection (e), an employer shall submit through the use of electronic funds transfer:

(1) the employer contributions determined under section 11 of this chapter; and

(2) contributions paid by or on behalf of a member under IC 5-10.3-7-9 or IC 5-10.4-4-11.

(d) Except as provided in subsection (e), an employer shall submit in a uniform format through a secure connection over the Internet or through other electronic means specified by the board the reports and records described in:

(1) IC 5-10.3-7-12.5, for the public employees' retirement fund; or

(2) IC 5-10.4-7-6, for the Indiana state teachers' retirement fund.

(e) An employer that is unable to comply with either subsection (c) or (d), or both, may request that the board grant a waiver of the requirement of subsection (c) or (d), or both. The employer must:

(1) state the reason for requesting the waiver;

(2) provide a date, not to exceed two (2) years from the date the employer is first subject to either the electronic funds transfer requirement or the electronic reporting requirement of this section, by which the employer agrees to comply with the requirement of subsection (c) or (d), or both; and

(3) sign and verify the waiver form.

(f) The board may:

(1) grant the employer's request for a waiver; and

(2) specify the date by which the employer is required to comply with the electronic funds transfer requirement or the electronic reporting requirement, or both.

(g) The board shall establish a waiver form consistent with this section.

(h) The board may establish or amend its rules or policies as necessary to administer this section.

SECTION 5. IC 5-10.2-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. ~~Suspension of Membership.~~ (a) A member who is not eligible for retirement or disability retirement may suspend ~~his~~ **the member's** membership if ~~he~~ **the member** terminates employment.

(b) After five (5) continuous years in which ~~he~~ **the member** performs no service, ~~his~~ **the member's** membership shall be automatically suspended by the board unless ~~he is~~ **the member has** vested status.

(c) The board may suspend a member's membership in the fund if:

(1) the member has not performed any service in a covered position during the past two (2) years;

(2) the member has not attained vested status in the fund; and

(3) the value of the member's annuity savings account is not more than ~~two hundred~~ **one thousand** dollars ~~($200).~~ **($1,000).**

(d) On resuming service the member may claim as creditable service the period of employment before the suspension of membership, but only to the extent that the same period of employment is not being used by another governmental plan for purposes of the member's benefit in the other governmental plan.

SECTION 6. IC 5-10.3-7-12.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12.5. **(a)** An employer or department ~~must~~ **shall** make the reports, membership records, or payments required by IC 5-10.3-6 or by sections 10 through 12 of this chapter:

(1) not more than thirty (30) days after the end of the calendar quarter, if applicable; ~~or~~

(2) another due date specified in sections 10 through 12 of this chapter; **or**

(3) an alternate due date established by the rules of the board.

(b) If the employer or department does not make the reports, records, or payments within ~~that~~ **the** time **specified in subsection (a):**

(1) the board may fine the employer or department one hundred dollars ($100) for each additional day that the reports, records, or payments are late, to be withheld under IC 5-10.3-6-7; and

(2) if the employer or department is habitually late, as determined by the board, the board shall report the employer or the department to the auditor of state for additional withholding under IC 5-10.3-6-7.

(c) After December 31, 2009, an employer or department shall submit:

(1) the reports and records described in subsection (a) in a uniform format through a secure connection over the Internet or through other electronic means specified by the board in accordance with IC 5-10.2-2-12.5; and

(2) both:

(A) employer contributions determined under IC 5-10.2-2-11; and

(B) contributions paid by or on behalf of a member under section 9 of this chapter;

by electronic funds transfer in accordance with IC 5-10.2-2-12.5.

SECTION 7. IC 5-10.4-7-6, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) As used in this section, "net contributions" means the gross amount of a member's contributions minus any refund paid or due a teacher.

(b) Not later than January 15, April 15, July 15, and October 15 of each year **or an alternate due date established by the rules of the board,** the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall make an employer report as provided in section 7 of this chapter, on a form furnished by the board, to the board accompanied by a warrant for payment of:

(1) the total net contributions to the fund made for or by the members in the preceding three (3) months; and

(2) the employer contributions as required by section 11 of this

chapter.

(c) Amendatory reports to correct errors or omissions may be required and made.

(d) After December 31, 2009, the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall submit:

(1) the employer report described in section 7 of this chapter in a uniform format through a secure connection over the Internet or through other electronic means specified by the board in accordance with IC 5-10.2-2-12.5; and

(2) the:

(A) employer contributions; and

(B) contributions paid by or on behalf of a member;

described in subsection (b) by electronic funds transfer in accordance with IC 5-10.2-2-12.5.

SECTION 8. IC 5-10.4-7-7, AS AMENDED BY HEA 1198-2009, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Not later than January 15, April 15, July 15, and October 15 of each year **or an alternate due date established by the rules of the board,** the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall make a report to the board on a form furnished by the board and within the time set by the board. Amendatory reports to correct errors or omissions may be required and made.

(b) The report required by subsection (a) must include:

(1) the name of each member employed in the preceding reporting period, except substitute teachers;

(2) the total salary and other compensation paid for personal services to each member in the reporting period;

(3) the sum of contributions made for or by each member, except for a retired member who may not make contributions during a period of reemployment as provided under IC 5-10.2-4-8(d);

(4) the sum of employer contributions made by the school corporation or other institution, except for a retired member for whom or on whose behalf an employer may not make contributions during a period of reemployment as provided under IC 5-10.2-4-8(d);

(5) the number of days each member received salary or other compensation for teaching services; and

(6) any other information that the board determines necessary for the effective management of the fund.

(c) As often as the board determines necessary, the board may review or cause to be reviewed the pertinent records of any public entity contributing to the fund under this article.

P.L.166-2009

[H.1014. Approved May 13, 2009.]

AN ACT to amend the Indiana Code concerning labor and safety.

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

SECTION 1. IC 22-9-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. For the purpose of this chapter:

"Discrimination" shall mean dismissal from employment of, or refusal to employ or rehire any person because of his age, if such person has attained the age of forty (40) years and has not attained the age of ~~seventy (70)~~ **seventy-five (75)** years.

"Person" shall mean and include an individual, partnership, limited liability company, corporation, or association.

"Employer" shall mean and include any person in this state employing one (1) or more individuals, labor organizations, the state and all political subdivisions, boards, departments and commissions thereof, but does not include:

(1) religious, charitable, fraternal, social, educational or sectarian corporations, or associations not organized for private profit, other than labor organizations and nonsectarian corporations, or organizations engaged in social service work; or

(2) a person or governmental entity which is subject to the federal Age Discrimination in Employment Act (29 U.S.C. 621 et seq.).

SECTION 2. IC 22-9-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. It is declared to be an unfair employment practice and to be against public policy to dismiss from employment, or to refuse to employ or rehire, any person solely because of his age if such person has attained the age of forty (40) years and has not attained the age of ~~seventy (70)~~ **seventy-five (75)** years.

SECTION 3. IC 22-9-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. It is hereby declared to be an unfair employment practice for any labor organization to deny full and equal membership rights to any applicant for membership or to fail or refuse to classify properly or refer for employment any member solely because of the age of such applicant or member if such person has attained the age of forty (40) years and has not attained the age of ~~seventy (70)~~ **seventy-five (75)** years.

SECTION 4. IC 22-9-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Any provision in any contract, agreement or understanding entered into on or after October 1, 1965, but before October 1, 1979, which shall prevent or tend to prevent the employment of any person solely because of ~~his~~ **the person's** age, who has attained the age of forty (40) years and has not attained the age of sixty-five (65) years shall be null and void.

(b) Any provision in any contract, agreement or understanding entered into after September 30, 1979, **and before July 1, 2009,** which prevents or tends to prevent the employment of any person solely because of ~~his~~ **the person's** age, who has attained the age of forty (40) years and has not attained the age of seventy (70) years is null and void.

(c) Any provision in any contract, agreement, or understanding entered into after June 30, 2009, that prevents or tends to prevent the employment of any person who has attained forty (40) years of age and has not attained seventy-five (75) years of age solely because of the person's age is null and void.

SECTION 5. IC 22-9-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. Nothing contained herein shall be deemed to repeal any of the provisions of any law of this state relating to discrimination because of age, race or color, religion, or country of ancestral origin. Nothing herein shall be deemed

to limit, restrict or affect the freedom of any employer in regard to (a) fixing compulsory retirement requirements for any class of employees at an age or ages less than ~~seventy (70)~~ **seventy-five (75)** years; (b) fixing eligibility requirements for participation in, or enjoyment by employees of, benefits under any annuity plan or pension or retirement plan on the basis that any employee may be excluded from eligibility therefor who, at the time he would otherwise become eligible for such benefits, is older than the age fixed in such eligibility requirements; or (c) keeping age records for any such purposes.

SECTION 6. IC 22-9-2-9 IS REPEALED [EFFECTIVE JULY 1, 2009].

P.L.167-2009
[H.1071. Approved May 13, 2009.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 6-1.1-12.6-2.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.1. (a) This section applies only to a model residence that is first assessed as:**

(1) a partially completed structure; or

(2) a fully completed structure;

for the assessment date in 2008 and was still a model residence on January 1, 2009.

(b) Except as provided in subsection (c) and sections 4, 5, and 6 of this chapter, and subject to sections 7 and 8 of this chapter, an owner of a model residence is entitled to a deduction from the assessed value of the model residence in the amount of fifty percent (50%) of the assessed value of the model residence for the 2008 assessment date. A deduction under this section counts as a

deduction for an assessment date for purposes of section 2 of this chapter.

(c) A property owner that qualifies for the deduction under this section must file a statement containing the information required by subsection (d) with the county auditor to claim the deduction for the 2008 assessment date in the manner prescribed in emergency rules, which shall be adopted by the department of local government finance under IC 4-22-2. The township assessor shall verify each statement filed under this section, and the county auditor shall:

(1) make the deductions; and

(2) notify the county property tax assessment board of appeals of all deductions approved;

under this section. If the property taxes due for the 2008 assessment date have been paid, the person that paid the property taxes is entitled to a refund of the amount that has been overpaid after applying the deduction under this section. A property owner is not required to apply for a refund due under this section. The county auditor shall, without an appropriation being required, issue a warrant to the property owner payable from the county general fund for the amount of the refund due the property owner. In the June or December settlement and apportionment of taxes, or both, immediately following a refund made under this section the county auditor shall deduct the amount refunded from the gross tax collections of the taxing units for which the refunded taxes were originally paid and shall pay the amount so deducted into the general fund of the county. However, the county auditor shall make the deductions and payments required by this subsection not later than the December settlement and apportionment.

(d) The statement referred to in subsection (c) must be verified under penalties for perjury and must contain the following information:

(1) The assessed value of the real property for which the person is claiming the deduction.

(2) The full name and complete business address of the person claiming the deduction.

(3) The complete address and a brief description of the real property for which the person is claiming the deduction.

(4) The name of any other county in which the person has applied for a deduction under this section for that assessment date.

(5) The complete address and a brief description of any other real property for which the person has applied for a deduction under this section for the 2008 assessment date.

(e) This section expires January 1, 2011.

SECTION 2. IC 32-25.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

ARTICLE 25.5. HOMEOWNERS ASSOCIATIONS

Chapter 1. Applicability

Sec. 1. This article applies to the following:

(1) A homeowners association established after June 30, 2009.

(2) A homeowners association established before July 1, 2009:

(A) if a majority of the members of the homeowners association elect to be governed by this article; or

(B) if the number of members required by the homeowners association's governing documents elect to be governed by this article if a different number of members other than the number established in clause (A) is required by the governing documents.

Chapter 2. Definitions

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

Sec. 2. "Board" refers to the board of directors of a homeowners association.

Sec. 3. "Governing documents" includes:

(1) the articles of incorporation and bylaws of a homeowners association and all adopted amendments to the articles of incorporation and bylaws; and

(2) any applicable declaration of plat.

Sec. 4. "Homeowners association" means a corporation or another entity that:

(1) is organized and operated exclusively for the benefit of two

(2) or more persons who each own a dwelling in fee simple;

(2) acts, in accordance with the articles, bylaws, or other documents governing the corporation or entity, to:

(A) acquire, transfer, manage, repair, maintain, or engage

in construction on or in the land and improvements on the land related to the use of the dwellings owned by the members of the corporation or entity;

(B) purchase insurance to cover a casualty or an activity on or in the land and improvements on the land;

(C) engage in an activity incidental to an activity described in clause (A) or (B); or

(D) engage in more than one (1) of the activities described in clauses (A) through (C); and

(3) may be governed by a board that serves the purpose of setting policy and controlling or otherwise overseeing the activities or functional responsibilities of the corporation or entity.

Sec. 5. "Subdivision" means the division of a parcel of land into lots, parcels, tracts, units, or interests in the manner defined and prescribed by a subdivision control ordinance adopted by a legislative body under IC 36-7-4.

Chapter 3. Homeowners Associations

Sec. 1. (a) A homeowners association shall maintain:

(1) a current roster of all members of the association; and

(2) the mailing address and legal description for each member of the association.

(b) The homeowners association shall also maintain any electronic mail addresses or facsimile (fax) numbers of those members who have consented to receive notice by electronic mail or facsimile (fax). Electronic mail addresses and facsimile (fax) numbers provided by a member to receive notice by electronic mail or facsimile (fax) shall be removed from the association's records when the member revokes consent to receive notice by electronic mail or facsimile (fax). However, the association is not liable for an erroneous disclosure of an electronic mail address or a facsimile (fax) number for receiving notices.

(c) The mailing addresses and legal descriptions maintained by a homeowners association under subsection (a):

(1) shall be made available to a member of the homeowners association upon request;

(2) may be used by a member of the homeowners association only for a purpose related to the operation of the homeowners association; and

(3) may not be used by a member of the homeowners association for personal reasons.

(d) Except as provided in subsection (c), a homeowners association may not sell, exchange, or otherwise transfer information maintained by the homeowners association under this section to any person.

Sec. 2. (a) In addition to any other meeting held by a board, a board shall hold a special meeting of the members of a homeowners association if at least ten percent (10%) of the members of the homeowners association submit to the board at least one (1) written demand for the special meeting that:

(1) describes the purpose for which the meeting is to be held; and

(2) is signed by the members requesting the special meeting.

(b) If a board does not send out a notice of the date, time, and the place for a special meeting not more than thirty (30) days after the date the board receives a valid written demand for the special meeting under subsection (a), a member of the homeowners association who signed the written demand may:

(1) set the date, time, and place for the special meeting; and

(2) send out the notice for the special meeting to the other members.

Sec. 3. (a) A homeowners association shall prepare an annual budget.

(b) The annual budget must reflect:

(1) the estimated revenues and expenses for the budget year; and

(2) the estimated surplus or deficit as of the end of the current budget year.

(c) The homeowners association shall provide each member of the homeowners association with:

(1) a:

(A) copy of the proposed annual budget; or

(B) written notice that a copy of the proposed annual budget is available upon request at no charge to the member; and

(2) a written notice of the amount of any increase or decrease in a regular annual assessment paid by the members that would occur if the proposed annual budget is approved;

before the homeowners association meeting held under subsection (d).

(d) Subject to subsection (f), a homeowners association budget must be approved at a meeting of the homeowners association members by a majority of the members of the homeowners association in attendance at a meeting called and conducted in accordance with the requirements of the homeowners association's governing documents.

(e) For purposes of this section, a member of a homeowners association is considered to be in attendance at a meeting if the member attends:

(1) in person;

(2) by proxy; or

(3) by any other means allowed under:

(A) state law; or

(B) the governing documents of the homeowners association.

(f) If the number of members of the homeowners association in attendance at a meeting held under subsection (d) does not constitute a quorum as defined in the governing documents of the homeowners association, the board may adopt an annual budget for the homeowners association for the ensuing year in an amount that does not exceed one hundred percent (100%) of the amount of the last approved homeowners association annual budget. However, the board may adopt an annual budget for the homeowners association for the ensuing year in an amount that does not exceed one hundred ten percent (110%) of the amount of the last approved homeowners association annual budget if the governing documents of the homeowners association allow the board to adopt an annual budget under this subsection for the ensuing year in an amount that does not exceed one hundred ten percent (110%) of the amount of the last approved homeowners association annual budget.

Sec. 4. (a) This section does not apply to a contract entered into by a board that would resolve, settle, or otherwise satisfy an act of enforcement against a homeowners association for violating a state or local law.

(b) A board may not enter into any contract that would result in a new assessment or the increase in an existing assessment

payable by the affected members of the homeowners association in the amount of more than five hundred dollars ($500) per year for each affected member of the homeowners association unless:

(1) the board holds at least two (2) homeowners association meetings concerning the contract; and

(2) the contract is approved by the affirmative vote of at least two-thirds (2/3) of the affected members of the homeowners association.

(c) A board shall give notice of the first homeowners association meeting held under subsection (b):

(1) to each member of the homeowners association; and

(2) at least seven (7) calendar days before the date the meeting occurs.

Sec. 5. (a) This section does not apply to money borrowed by a homeowners association that is needed to:

(1) resolve, settle, or otherwise satisfy an act of enforcement against the homeowners association for violating a state or local law; or

(2) address an emergency that affects the public health, safety, or welfare.

(b) A homeowners association may not borrow money during any calendar year on behalf of the homeowners association in an amount that exceeds the greater of:

(1) five thousand dollars ($5,000) during any calendar year; or

(2) if the homeowners association operated under an annual budget in the previous calendar year, an amount equal to at least ten percent (10%) of the previous annual budget of the homeowners association;

unless borrowing the money is approved by the affirmative vote of a majority of the members of the homeowners association voting under this section.

(c) A person who owns a lot, parcel, tract, unit, or interest in land in a subdivision may cast one (1) vote under this section for each lot, parcel, tract, unit, or interest in land in the subdivision that is owned by the person unless the governing documents provide for a different voting procedure.

(d) A vote held under this section must be conducted by paper ballot.

(e) A homeowners association shall distribute paper ballots to persons eligible to vote under this section at least thirty (30) days before the date the votes are to be opened and counted.

(f) Votes cast under this section shall be opened and counted at a public meeting held by the homeowners association.

Sec. 6. The governing documents must include grievance resolution procedures that apply to all members of the homeowners association and the board.

Sec. 7. A homeowners association may not suspend the voting rights of a member for nonpayment of any assessments unless:

(1) the governing documents provide for suspension; and

(2) the assessments are delinquent for more than six (6) months.

SECTION 3. IC 32-28-14-8, AS ADDED BY P.L.135-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) A homeowners association may enforce a homeowners association lien by filing a complaint in the circuit or superior court of the county where the real estate that is the subject of the lien is located. The complaint:

(1) may not be filed earlier than one (1) year; and

(2) must be filed not later than ~~one (1) year~~ **five (5) years;** after the date the statement and notice of intention to hold a lien was recorded under section 6 of this chapter.

(b) If a lien is not enforced within the time set forth in subsection (a), the lien is void.

(c) If a lien is foreclosed under this chapter, the court rendering judgment shall order a sale to be made of the real estate subject to the lien. The officers making the sale shall sell the real estate without any relief from valuation or appraisement laws.

SECTION 4. IC 32-28-14-9, AS ADDED BY P.L.135-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) A homeowners association lien under this chapter is void if both of the following occur:

(1) The owner of the real estate subject to the homeowners association lien or any person or corporation having an interest in the real estate, including a mortgagee or a lienholder, provides written notice to the owner or holder of the lien to file an action to foreclose the lien.

(2) The owner or holder of the lien fails to file an action to

foreclose the lien in the county where the real estate is located within ~~thirty (30) days~~ **one (1) year** after the date the owner or holder of the lien received the notice described in subdivision (1).

However, this section does not prevent the claim from being collected as other claims are collected by law.

(b) A person who gives notice under subsection (a)(1) by registered or certified mail to the owner or holder of the homeowners association lien at the address given in the recorded statement may file an affidavit of service of the notice to file an action to foreclose the lien with the recorder of the county in which the real estate is located. The affidavit must state the following:

(1) The facts of the notice.

(2) That more than ~~thirty (30) days have~~ **one (1) year has** passed since the notice was received by the owner or holder of the lien.

(3) That an action for foreclosure of the lien is not pending.

(4) That an unsatisfied judgment has not been rendered on the lien.

(c) The recorder shall record the affidavit of service in the miscellaneous record book of the recorder's office. When the recorder records the affidavit under this subsection, the real estate described in the homeowners association lien is released from the lien.

(d) An affidavit recorded under subsection (c) must cross reference the lien.

SECTION 5. **An emergency is declared for this act.**

P.L.168-2009
[H.1097. Approved May 13, 2009.]

AN ACT to amend the Indiana Code concerning the environment.

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

SECTION 1. IC 14-33-5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) If the board issues revenue bonds for the collection, treatment, and disposal of sewage and liquid waste, the board may do the following:

(1) **Subject to sections 21.1 and 21.2 of this chapter,** establish just and equitable rates and charges and use the same basis for the rates as provided in IC 36-9-23-25 through IC 36-9-23-29.

(2) Collect and enforce the rates, beginning with the commencement of construction as provided in IC 36-9-23.

(3) Establish rules and regulations.

(4) Require connection to the board's sewer system of any property producing sewage or similar waste and require discontinuance of use of privies, cesspools, septic tanks, and similar structures. The board may enforce this requirement by civil action in circuit or superior court as provided in IC 36-9-23-30.

(5) Provide for and collect a connection charge to the board's sewer system as provided in IC 36-9-23-25 through IC 36-9-23-29.

(6) Contract for treatment of the board's sewage and pay a fair and reasonable connection fee or rate for treatment, or a combination of both, as provided in IC 36-9-23-16.

(7) Secure the bonds by a trust indenture as provided in IC 36-9-23-22.

(8) Create a sinking fund for the payment of principal and interest and accumulate reasonable reserves as provided in IC 36-9-23-21.

(9) Issue temporary revenue bonds to be exchanged for definite

revenue bonds as provided in IC 36-9-23-17 through IC 36-9-23-20.

(10) Issue additional revenue bonds as part of the same issue if the issue does not meet the full cost of the project for which the bonds were issued as provided in IC 36-9-23-17 through IC 36-9-23-20.

(11) Issue additional revenue bonds for improvements, enlargements, and extensions as provided in IC 36-9-23-18.

(12) Covenant with the holders of the revenue bonds for the following:

(A) Protection of the holders concerning the use of money derived from the sale of bonds.

(B) The collection of necessary rates and charges and segregation of the rates and charges for payment of principal and interest.

(C) Remedy if a default occurs.

The covenants may extend to both repayment from revenues and other money available to the district by other statute as provided in IC 36-9-23.

(b) In the same manner as provided by IC 36-9-23, the rates or charges made, assessed, or established by the district are a lien on a lot, parcel of land, or building that is connected with or uses the works by or through any part of the sewage system of the district. The liens:

(1) attach;

(2) are recorded;

(3) are subject to the same penalties, interest, and reasonable attorney's fees on recovery; and

(4) shall be collected and enforced;

in substantially the same manner as provided in IC 36-9-23-31 through IC 36-9-23-32.

SECTION 2. IC 14-33-5-21.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 21.1. (a) This section applies to a campground that:**

(1) is connected with the sewage works of a district established for the purpose described in IC 14-33-1-1(a)(5); or

(2) uses or is served by the sewage works of a district established for the purpose described in IC 14-33-1-1(a)(5).

(b) Beginning September 1, 2009, if a campground is billed for sewage service at a flat rate under section 21(a)(1) of this chapter, the campground may instead elect to be billed for the sewage service under this subsection by installing, at the campground's expense, a meter to measure the actual amount of sewage discharged by the campground into the district's sewers. If a campground elects to be billed by use of a meter:

(1) the rate charged by the district's board for the metered sewage service may not exceed the rate charged to residential customers for equivalent usage; and

(2) the amount charged by the board for the campground's monthly sewage service for the period beginning September 1 and ending May 31 must be equal to the greater of:

(A) the actual amount that would be charged for the sewage discharged during the month by the campground as measured by the meter; or

(B) the lowest monthly charge paid by the campground for sewage service during the previous period beginning June 1 and ending August 31.

(c) If a campground does not install a meter under subsection (b) and is billed for sewage service at a flat rate under section 21(a)(1) of this chapter, for a calendar year beginning after December 31, 2009, each campsite at the campground may not equal more than one-third (1/3) of one (1) resident equivalent unit. The basic monthly charge for the campground's sewage service must be equal to the number of the campground's resident equivalent units multiplied by the rate charged by the board for a resident unit.

(d) The board may impose additional charges on a campground under subsections (b) and (c) if the board incurs additional costs that are caused by any unique factors that apply to providing sewage service for the campground, including, but not limited to:

(1) the installation of:

(A) oversized pipe; or

(B) any other unique equipment;

necessary to provide sewage service for the campground; and

(2) concentrations of biochemical oxygen demand (BOD) that exceed federal pollutant standards.

SECTION 3. IC 14-33-5-21.2 IS ADDED TO THE INDIANA

CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 21.2. (a) As used in this section, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.**

(b) This section applies to an owner or operator of a campground described in section 21.1(b) or 21.1(c) of this chapter who disputes:

(1) that the campground is being billed at rates charged to residential customers for equivalent usage as required by section 21.1(b)(1) of this chapter;

(2) the number of resident equivalent units determined for the campground under section 21.1(c) of this chapter; or

(3) that any additional charges imposed on the campground under section 21.1(d) of this chapter are reasonable or nondiscriminatory.

(c) If an owner or operator:

(1) makes a good faith attempt to resolve a disputed matter described in subsection (b)(1) through (b)(3) through:

(A) any grievance or complaint procedure prescribed by the board; or

(B) other negotiations with the board; and

(2) is dissatisfied with the board's proposed disposition of the matter;

the owner or operator may file with the commission a written request for review of the disputed matter and the board's proposed disposition of the matter to be conducted by the commission's appeals division established under IC 8-1-2-34.5(b). The owner or operator must file a request under this section with the commission and the board not later than seven (7) days after receiving notice of the board's proposed disposition of the matter.

(d) The commission's appeals division shall provide an informal review of the disputed matter. The review must include a prompt and thorough investigation of the dispute. Upon request by either party, or on the division's own motion, the division shall require the parties to attend a conference on the matter at a date, time, and place determined by the division.

(e) In any case in which the basic monthly charge for a campground's sewage service is in dispute, the owner or operator shall pay, on any disputed bill issued while a review under this

section is pending, the basic monthly charge billed during the year immediately preceding the year in which the first disputed bill is issued. If the basic monthly charge paid while the review is pending exceeds any monthly charge determined by the commission in a decision issued under subsection (f), the board shall refund or credit the excess amount paid to the owner or operator. If the basic monthly charge paid while the review is pending is less than any monthly charge determined by the appeals division or commission in a decision issued under subsection (f), the owner or operator shall pay the board the difference owed.

(f) After conducting the review required under subsection (d), the appeals division shall issue a written decision resolving the disputed matter. The division shall send a copy of the decision to:

(1) the owner or operator of the campground; and

(2) the board;

by United States mail. Not later than seven (7) days after receiving the written decision of the appeals division, either party may make a written request for the dispute to be formally docketed as a proceeding before the commission. Subject to the right of either party to an appeal under IC 8-1-3, the decision of the commission is final.

(g) The commission shall maintain a record of all requests for a review made under this section. The record must include:

(1) a copy of the appeals division's and commission's decision under subsection (f) for each dispute filed; and

(2) any other documents filed with the appeals division or commission under this section.

The record must be made available for public inspection and copying in the office of the commission during regular business hours under IC 5-14-3.

(h) The commission may adopt rules under IC 4-22-2 to implement this section.

SECTION 4. IC 16-41-37.5-2, AS AMENDED BY P.L.79-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The state department ~~may~~ **shall before July 1, 2010:**

(1) adopt rules under IC 4-22-2 to establish an indoor air quality inspection, ~~and~~ evaluation, **and employee notification** program to assist ~~schools and~~ state agencies in ~~developing plans to~~

~~improve~~ **improving** indoor air quality; **and**

(2) amend 410 IAC 6-5.1 or adopt new rules under IC 4-22-2 to do the following:

(A) Establish an indoor air quality inspection, evaluation, and parent and employee notification program to assist schools in improving indoor air quality.

(B) Establish best practices to assure healthful indoor air quality in schools.

(b) **Subject to subsection (c),** the state department shall:

(1) inspect a school or state agency if the state department receives a complaint about the quality of air in the school or state agency;

(2) prepare a report, which may be in letter form, that:

(A) describes the state department's inspection findings;

(B) identifies any conditions that are contributing or could contribute to poor indoor air quality at the school or state agency, including:

(i) carbon dioxide levels;

(ii) humidity;

(iii) evidence of mold or water damage; and

(iv) excess dust;

(C) provides guidance on steps the school or state agency should take to address any issues; and

(D) requests a response from the school or state agency not later than sixty (60) days after the date of the report;

~~(2)~~ **(3)** report the results of the inspection to:

(A) the person who complained about the quality of air;

(B) the school's principal or the state agency head;

(C) the superintendent of the school corporation, if the school is part of a school corporation;

(D) the Indiana state board of education, if the school is a public school or an accredited nonpublic school;

(E) the Indiana department of administration, if the inspected entity is a state agency; and

(F) the appropriate local or county board of health; and

~~(3)~~ **(4)** assist the school or state agency in developing a reasonable plan to improve air quality conditions found in the inspection.

(c) A complaint referred to in subsection (b)(1):

(1) must be in writing; and

(2) may be made by electronic mail.

(d) The state department may release the name of a person who files a complaint referred to in subsection (b)(1) only if the person has authorized the release in writing.

SECTION 5. IC 16-41-37.5-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.5. (a) Before July 1, 2010, the state department shall distribute a manual of best practices for managing indoor air quality at schools as described in this section. The state department may use a manual on indoor air quality in schools developed by a federal health or environmental agency or another state and make additions or revisions to the manual, with the input and advice of the air quality panel established by section 3 of this chapter, to make the manual most useful to Indiana schools. The state department shall provide the manual:**

(1) to:

(A) the legislative council; and

(B) the department of education;

in an electronic format under IC 5-14-6; and

(2) to the facilities manager and superintendent of each school corporation.

(b) The department shall review and revise the manual developed under subsection (a) at least once every three (3) years to assure that the manual continues to represent best practices available to schools.

SECTION 6. IC 16-41-37.5-3, AS AMENDED BY P.L.79-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The air quality panel is established to assist the state department in carrying out this chapter.

(b) The panel consists of the following members:

(1) A representative of the state department, appointed by the commissioner of the state department.

(2) A representative of the department of education, appointed by the state superintendent of public instruction.

(3) A representative of the Indiana department of administration, appointed by the commissioner of the Indiana department of administration.

(4) A member of the governing body of a school corporation, appointed by the state superintendent of public instruction.

(5) A teacher licensed under IC 20-28-4 or IC 20-28-5, appointed by the governor.

(6) A representative of a statewide parent organization, appointed by the state superintendent of public instruction.

(7) A physician who has experience in indoor air quality issues, appointed by the commissioner of the state department.

(8) An individual with training and experience in occupational safety and health, appointed by the commissioner of the department of labor.

(9) A mechanical engineer with experience in building ventilation system design, appointed by the governor.

(10) A building contractor with experience in air flow systems who is a member of a national association that specializes in air flow systems, appointed by the governor.

(11) A member of a labor organization whose members install, service, evaluate, and balance heating, ventilation, and air conditioning equipment, appointed by the governor.

(12) An individual with experience in the cleaning and maintenance of commercial facilities, appointed by the governor.

(c) The chairperson of the panel shall be the representative of the state department.

(d) The panel shall convene **at least twice annually** at the discretion of the chairperson.

(e) The state department shall post minutes of each meeting of the panel on the state department's web site not later than forty-five (45) days after the meeting.

~~(e)~~ **(f)** The state department shall provide administrative support for the panel.

~~(f)~~ **(g)** The panel shall:

(1) identify and make available to schools and state agencies best operating practices for indoor air quality; ~~and~~

(2) assist the state department in developing plans to improve air quality conditions found in inspections under section 2 of this chapter; **and**

(3) assist the state department in adopting rules under section 2 of this chapter.

~~(g)~~ **(h)** The state department shall prepare and make available to the public an annual report describing the panel's actions.

SECTION 7. IC 16-41-37.5-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5. After June 30, 2009, if the department amends 410 IAC 6-5.1 concerning school buildings and school sites, the department shall consider the effects of outdoor air quality when establishing criteria for school siting.**

SECTION 8. IC 36-9-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. "Improvement" includes the construction, equipment, remodeling, extension, repair, and betterment of structures, including:

(1) sanitary sewers and sanitary sewer tap-ins;
(2) sidewalks;
(3) curbs;
(4) streets;
(5) alleys;
(6) pedestrian-ways or malls set aside entirely or partly, or during restricted hours, for pedestrian rather than vehicular traffic;
(7) other paved public places;
(8) parking facilities;
(9) lighting;
(10) electric signals;
(11) landscaping, including trees, shrubbery, flowers, grass, fountains, benches, statues, floodlighting, gaslighting, and structures of a decorative, educational, or historical nature; ~~and~~
(12) for units that own and operate a water utility, water main extensions from the water utility; **and**
(13) for units that establish and operate a department of public sanitation under IC 36-9-25, sewage works that are:
(A) overhead plumbing or backflow prevention devices;
(B) installed in private dwellings; and
(C) financed in whole or in part through assistance provided under IC 36-9-25-42.

SECTION 9. IC 36-9-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. "Sewage works" means:

(1) sewage treatment plants;
(2) intercepting sewers;
(3) main sewers;
(4) submain sewers;

(5) local sewers;
(6) lateral sewers;
(7) outfall sewers;
(8) storm sewers;
(9) force mains;
(10) pumping stations;
(11) ejector stations; ~~and~~
(12) any other structures necessary or useful for the collection, treatment, purification, and sanitary disposal of the liquid waste, solid waste, sewage, storm drainage, and other drainage of a municipality; **and**
(13) for purposes of IC 36-9-25, overhead plumbing or backflow prevention devices that are financed in whole or in part through assistance provided under IC 36-9-25-42.

SECTION 10. IC 36-9-25-11, AS AMENDED BY P.L.175-2006, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) In connection with its duties, the board may fix fees for the treatment and disposal of sewage and other waste discharged into the sewerage system, collect the fees, and establish and enforce rules governing the furnishing of and payment for sewage treatment and disposal service. The fees must be just and equitable and shall be paid by any user of the sewage works and the owner of every lot, parcel of real property, or building that is connected with and uses the sewage works of the district by or through any part of the sewerage system. This section applies to owners of property that is partially or wholly exempt from taxation, as well as owners of property subject to full taxation.

(b) The board may change fees from time to time. The fees, together with the taxes levied under this chapter, must at all times be sufficient to produce revenues sufficient to pay operation, maintenance, and administrative expenses, to pay the principal and interest on bonds as they become due and payable, and to provide money for the revolving fund authorized by this chapter.

(c) Fees may not be established until a public hearing has been held at which all the users of the sewage works and owners of property served or to be served by the works, including interested parties, have had an opportunity to be heard concerning the proposed fees. After introduction of the resolution fixing fees, and before they are finally

adopted, notice of the hearing setting forth the proposed schedule of fees shall be given by publication in accordance with IC 5-3-1. After the hearing the resolution establishing fees, either as originally introduced or as amended, shall be passed and put into effect. However, fees related to property that is subject to full taxation do not take effect until they have been approved by ordinance of the municipal legislative body or, in the case of a district described in section 3(b)(2) of this chapter, under section 11.3 of this chapter.

(d) A copy of the schedule of the fees shall be kept on file in the office of the board and must be open to inspection by all interested parties. The fees established for any class of users or property served shall be extended to cover any additional premises thereafter served that fall within the same class, without the necessity of hearing or notice.

(e) A change of fees may be made in the same manner as fees were originally established. However, if a change is made substantially pro rata for all classes of service, hearing or notice is not required, but approval of the change by ordinance of the municipal legislative body is required, and, in the case of a district described in section 3(b)(2) of this chapter, approval under section 11.3 of this chapter is required.

(f) If a fee established is not paid within thirty (30) days after it is due, the amount, together with a penalty of ten percent (10%) and a reasonable attorney's fee, may be recovered by the board from the delinquent user or owner of the property served in a civil action in the name of the municipality.

(g) Fees assessed against real property under this section also constitute a lien against the property assessed. The lien attaches at the time of the filing of the notice of lien in the county recorder's office. The lien is superior to all other liens except tax liens, and shall be enforced and foreclosed in the same manner as is provided for liens under IC 36-9-23-33 and IC 36-9-23-34.

(h) A fee assessed against real property under this section constitutes a lien against the property assessed only when the fee is delinquent for no more than three (3) years from the day after the fee is due.

(i) In addition to the penalties under subsections (f) and (g) and section 11.5 of this chapter, a delinquent user may not discharge water into the public sewers and may have the property disconnected from

the public sewers.

(j) The authority to establish a user fee under this section includes fees to recover the cost of construction of sewage works from industrial users as defined and required under federal statute or rule. Any industrial users' cost recovery fees may become a lien upon the real property and shall be collected in the manner provided by law. In addition, the imposition of the fees, the use of the amounts collected, and the criteria for the fees must be consistent with the regulations of the federal Environmental Protection Agency.

(k) The authority to establish a user fee under this section includes fees to recover the costs associated with providing financial assistance under section 42 of this chapter. A fee that is:

(1) established under this subsection or any other law; and

(2) used to provide financial assistance under section 42 of this chapter;

is considered just and equitable if the project for which the financial assistance is provided otherwise complies with the requirements of this chapter.

SECTION 11. IC 36-9-25-42 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 42. (a) The board may adopt a resolution authorizing the board to provide financial assistance, including grants, to property owners to construct or install regulating devices, improvements, or overhead plumbing or backflow prevention devices for one (1) or more of the following purposes:**

(1) To regulate or prevent discharge into private dwellings.

(2) To prevent the pollution of streams or bodies of water.

(3) To reduce or ameliorate inflow and infiltration in sewage works.

(4) To remedy or prevent a menace to the public health and welfare.

(b) A resolution adopted by the board under subsection (a) must do the following:

(1) State that provided financial assistance as described in subsection (a) will accomplish one (1) or more of the purposes listed in subsection (a)(1) through (a)(4).

(2) State that the board anticipates that the costs associated with providing the financial assistance will be less than the

financial burdens potentially incurred if the financial assistance is not provided.

(3) Find that providing financial assistance as described in subsection (a) is necessary to avoid or reduce additional financial burdens.

(4) Establish rules and regulations concerning financial assistance provided under subsection (a). A rule or regulation must provide that:

(A) a grant or other financial assistance provided by the board may not exceed eighty percent (80%); and

(B) the property owner that receives the financial assistance must pay for at least twenty percent (20%);

of the total anticipated cost of the project for which the financial assistance is provided.

SECTION 12. **An emergency is declared for this act.**

P.L.169-2009

[H.1175. Approved May 13, 2009.]

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

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

SECTION 1. IC 35-36-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) This section applies to criminal actions ~~for felonies under IC 35-42,~~ for:

(1) an offense listed in IC 11-8-8-4.5(a);

(2) neglect of a dependent (IC 35-46-1-4);

(3) battery (IC 35-42-2-1) if the victim is:

(A) less than eighteen (18) years of age; or

(B) an endangered adult (as defined in IC 12-10-3-2); and ~~for~~

(4) attempts of ~~those felonies (IC 35-41-5-1).~~ **the crimes listed in subdivisions (1) through (3).**

(b) If a motion is made to postpone a trial or other court proceeding that involves an offense listed in subsection (a), the court shall consider whether a postponement will have an adverse impact upon **an endangered adult (as defined in IC 12-10-3-2) or** a child who is less than ~~ten (10)~~ **sixteen (16)** years of age and who:

(1) is the alleged victim of an offense listed in subsection (a); or

(2) will be a witness in the trial.

SECTION 2. IC 35-40-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. A victim has the right to be:

(1) treated with fairness, dignity, and respect; **and**

(2) free from intimidation, harassment, and abuse;

throughout the criminal justice process.

SECTION 3. IC 35-40-5-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 11. (a) This section applies only to a child less than sixteen (16) years of age who is the victim or alleged victim of a sex offense (as defined in IC 11-8-8-5.2).**

(b) As used in this section, "defense counsel" includes an agent of:

(1) the defense counsel; or

(2) the defendant.

(c) After charges are filed against a defendant, if defense counsel would like to interview a child described in subsection (a), the defendant or defense counsel must contact the prosecuting attorney. The child has the right under section 3 of this chapter to confer with the prosecuting attorney before the interview occurs. The prosecuting attorney may not instruct the child not to speak with defense counsel.

(d) If the parties are unable to agree to the terms of the interview, the parties may petition the court for a hearing on the terms of the interview prior to the interview taking place. The court shall review the terms suggested by the parties and consider the age of the child, any special considerations, and the rights of victims provided by IC 35-40-5-1 in setting reasonable terms for the interview.

P.L.170-2009
[H.1210. Approved May 13, 2009.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 11-10-4-6.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6.6. (a) As used in this section, "advisory committee" refers to the mental health corrections quality advisory committee established by subsection (b).**

(b) The mental health corrections quality advisory committee is established. The advisory committee consists of the following members:

(1) The commissioner of the department or the commissioner's designee, who shall serve as chairperson of the advisory committee.

(2) The director of the division of mental health and addiction or the director's designee.

(3) A representative of a statewide mental health advocacy organization.

(4) A representative of a statewide mental health provider organization.

(5) A representative from a medical services organization that participates in the department's medical services program.

(6) A member with expertise in psychiatric research representing a postsecondary educational institution.

(7) A pharmacist licensed under IC 25-26 with expertise in mental health disorders.

The governor shall make the appointments under subdivisions (3) through (7) for a term of four (4) years and fill any vacancy on the

advisory committee.

(c) The affirmative votes of a majority of the voting members appointed to the advisory committee are required for the committee to take action on any measure.

(d) The advisory committee shall advise the department and make recommendations concerning the department's formulary for medications for mental health and addictive disorders and consider the following:

(1) Peer reviewed medical literature.

(2) Observational studies.

(3) Health economic studies.

(4) Input from physicians and patients.

(5) Any other information determined by the advisory committee to be appropriate.

(e) The department shall report recommendations made by the advisory committee to the department's medical director.

(f) The department shall report the following information to the Indiana commission on mental health (IC 12-21-6.5-2):

(1) The advisory committee's advice and recommendations made under this section.

(2) The number and types of restrictions implemented by the department and the outcome of each restriction.

(3) The transition of individuals with mental illness into the community and the rate of recidivism.

(4) Any decision by the department to change the mental health care delivery system in which medication is provided to inmates.

SECTION 2. IC 12-21-4.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 4.1. Workforce Development Task Force

Sec. 1. (a) As used in this section, "task force" means the workforce development task force for mental health and addiction.

(b) The workforce development task force for mental health and addiction is established.

(c) The task force consists of the following individuals to be appointed by the governor:

(1) One (1) representative from the division of mental health and addiction (IC 12-21-1-1) who shall serve as chairperson

of the task force.

(2) One (1) representative from the state department of health (IC 16-19-3-1).

(3) One (1) representative from the department of education (IC 20-19-3-1).

(4) One (1) representative from the department of correction (IC 11-8-2-1).

(5) One (1) representative from the Indiana professional licensing agency (IC 25-1-5-3).

(6) One (1) representative from the Indiana department of veterans' affairs (IC 10-17-1-2).

(7) One (1) representative from the commission on Hispanic/Latino affairs (IC 4-23-28-2).

(8) Two (2) representatives of different advocacy groups for consumers of mental health services.

(9) One (1) representative from a statewide coalition that represents minority health issues.

(10) One (1) member of the Indiana commission on mental health (IC 12-21-6.5-2).

(11) One (1) representative of community mental health centers.

(12) One (1) representative from a college or university from a program for an undergraduate degree in social work.

(13) One (1) representative from a college or university with a school of nursing.

(14) One (1) psychologist licensed under IC 25-33 and engaged in private practice.

(15) One (1) representative from the Indiana University School of Medicine, department of psychiatry.

(16) One (1) representative from the Indiana University School of Medicine, department of:

(A) pediatrics; or

(B) internal medicine.

(17) One (1) representative from Riley Hospital for Children specializing in:

(A) infant; or

(B) toddler;

mental health.

(18) One (1) representative from Ivy Tech Community

College, human service degree program.

(19) Two (2) representatives of consumers.

(d) The division of mental health and addiction shall provide staff for the task force.

(e) The task force shall study the following issues concerning individuals with mental illness:

(1) Increases in wages and other compensation for difficult to recruit mental health and addiction professional classifications.

(2) Loan repayment programs to attract individuals in classifications that provide services in mental health and addiction programs.

(3) Tuition reimbursement, including license and certification fees, for individuals in classifications that provide services in mental health and addiction programs.

(4) Internship opportunities for individuals in classifications that provide services in mental health and addiction programs.

(5) Mentoring opportunities for individuals in classifications that provide services in mental health and addiction programs.

(6) Revision of curriculum in master's, doctorate, and medical level programs to require courses in mental health and addiction.

(7) Marketing programs offering sign-on bonuses and referral incentives for difficult to recruit mental health and addiction professional classifications.

(8) Medical rate setting, including comparison of the state's rate with similar states.

(f) The task force shall present findings and make recommendations to the Indiana commission on mental health not later than August 2011.

(g) This section expires December 31, 2011.

SECTION 3. IC 21-13-1-5, AS ADDED BY P.L.144-2007, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. "Fund":

(1) for purposes of IC 21-13-2, refers to the minority teacher or special education services scholarship fund established by IC 21-13-2-1;

(2) for purposes of IC 21-13-3, refers to the nursing scholarship fund established by IC 21-13-3-1;

(3) for purposes of IC 21-13-4, refers to the National Guard tuition supplement program fund established by IC 21-13-4-1; ~~and~~

(4) for purposes of IC 21-13-5, refers to the National Guard scholarship extension fund established by IC 21-13-5-1; **and**

(5) for purposes of IC 21-13-6, refers to the primary care physician loan forgiveness fund established by IC 21-13-6-3.

SECTION 4. IC 21-13-6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 6. Primary Care Physician Loan Forgiveness Program

Sec. 1. As used in this chapter, "primary care physician" means a physician who practices in any of the following areas:

(1) Family practice.

(2) Pediatrics.

(3) Obstetrics and gynecology.

(4) Internal medicine.

Sec. 2. (a) The primary care physician loan forgiveness program is established.

(b) The commission shall administer the primary care physician loan forgiveness program.

Sec. 3. (a) The primary care physician loan forgiveness fund is established to encourage and promote qualified physicians to pursue a medical career in Indiana.

(b) The fund consists of the following:

(1) Appropriations by the general assembly.

(2) Gifts to the fund.

Sec. 4. (a) The commission shall administer the fund.

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

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds. Interest that accrues from those investments shall be deposited in the fund.

(d) Money in the fund at the end of a fiscal year does not revert to the state general fund but remains available to be used to provide money for student loan forgiveness payments under this

chapter.

Sec. 5. (a) The money in the fund must be used to provide annual student loan forgiveness payments to qualified primary care physicians who are residents of Indiana and practice medicine in Indiana.

(b) Subject to section 8 of this chapter, a student loan forgiveness payment awarded in a particular year under this section is equal to the lesser of the following amounts:

(1) The balance of the physician's total amount of student loans.

(2) Five thousand dollars ($5,000).

(c) A primary care physician is eligible for a student loan forgiveness payment under this section each year that the individual meets the qualifications under section 6 of this chapter.

Sec. 6. To qualify for a student loan forgiveness payment from the fund, an individual must:

(1) be a resident of Indiana;

(2) be licensed as a physician under IC 25-22.5;

(3) practice as a primary care physician;

(4) conduct the majority of the individual's medical practice in Indiana;

(5) have an outstanding student loan balance at the beginning of the calendar year; and

(6) be approved by the commission.

Sec. 7. The medical education board shall annually make available to the commission the most recent information concerning the number of primary care physicians who are serving as medical residents in Indiana.

Sec. 8. The commission shall annually allocate the available money in the fund to each primary care physician approved under this chapter in proportion to the total number of primary care physicians approved under this chapter.

Sec. 9. Each:

(1) primary care physician who applies under this chapter; and

(2) primary care physician approved under this chapter;

shall provide to the commission any information that the commission determines is necessary to administer this chapter.

SECTION 5. IC 21-44-1-3, AS ADDED BY P.L.2-2007, SECTION

285, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. **(a)** "Board", **for purposes of IC 21-44-5,** refers to the medical education board established by IC 21-44-5-1.

(b) "Board", for purposes of IC 21-44-6, refers to the mental health services development programs board established by IC 21-44-6-1.

SECTION 6. IC 21-44-1-12, AS ADDED BY P.L.2-2007, SECTION 285, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. "Intern, residency, and graduate program", for purposes of IC 21-44-5, refers to an intern, residency, and graduate program for which the **medical education** board establishes policies under IC 21-44-5.

SECTION 7. IC 21-44-1-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 15. "Public sector psychiatry" refers to the practice of psychiatry in:**

(1) state institutions;

(2) community mental health centers; and

(3) other settings determined by the board to be public sector psychiatry settings.

SECTION 8. IC 21-44-1-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 16. "Training track program", for purposes of IC 21-44-6, refers to the program for individuals in the public sector psychiatry development program.**

SECTION 9. IC 21-44-6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 6. Mental Health Services Development Programs

Sec. 1. There is established the mental health services development programs board.

Sec. 2. The board consists of the following members:

(1) The dean of the Indiana University School of Medicine or the dean's designee. The dean of the Indiana University School of Medicine or the dean's designee shall serve as the chairperson of the board.

(2) The chairperson of the department of psychiatry of the Indiana University School of Medicine or the chairperson's designee.

(3) The director of the division of mental health and addiction created by IC 12-21-1-1 or the director's designee.

(4) The commissioner of the state department of health or the commissioner's designee.

(5) The administrator of a graduate program in an institution of higher education in Indiana engaged in training psychologists.

(6) The administrator of a program in an institution of higher education in Indiana engaged in training advanced practice psychiatric nurses.

(7) One (1) psychiatrist who practices psychiatry in Indiana.

The governor shall appoint the members of the board described in subdivisions (5) through (7).

Sec. 3. The board shall meet initially at the call of the governor. After the initial meeting, the board shall meet at least twice each year at the call of the chairperson.

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

(b) Each member of the board who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Except as provided in subsection (d), the affirmative votes of a majority of the members appointed to the board are required for the board to take action on any measure.

(d) The affirmative votes of a majority of the members appointed to the board, including the unanimous votes of the members under section 2(1), 2(2), and 2(7) of this chapter who are present, are required for the board to take any action concerning the public sector psychiatry development program or the training track program.

Sec. 5. The purpose of the board is to do the following:

(1) To establish and oversee a loan forgiveness program designed to attract:

(A) psychiatrists;

(B) psychologists; and

(C) psychiatric nurses;

to provide services to individuals with mental illness in public psychiatry settings in Indiana by assisting the individuals listed in this section to pay off loans incurred in the training needed to practice psychiatry and psychology and as a psychiatric nurse in Indiana.

(2) To establish and oversee a public sector psychiatry development program to attract and train psychiatrists who will engage in the practice of psychiatry in:

(A) state mental health institutions;

(B) community mental health centers; and

(C) other settings determined by the board to be public sector settings.

(3) To develop and oversee a public sector psychiatry residency training track program through the Indiana University School of Medicine, Department of Psychiatry residency training program. The training track program must provide an opportunity for psychiatry residents to work in public sector psychiatry settings, including:

(A) state psychiatric hospitals;

(B) community mental health centers; and

(C) other settings determined to be public sector settings by the board.

(4) To develop standards for participation in the training track program that include:

(A) guidelines for the amounts of grants and other assistance a participant receives;

(B) guidelines for the type of training in public sector psychiatry the participant receives;

(C) guidelines for agreements with mental health hospitals, community mental health centers, and other entities participating in the training track program; and

(D) other guidelines and standards necessary for governing the training track program.

Sec. 6. The board shall establish guidelines for the repayment of

the loans incurred by a psychiatrist, psychologist, or psychiatric nurse, including the following:

(1) A participant may not receive more than twenty-five thousand dollars ($25,000) in a year.

(2) A participant may not receive grants for more than four (4) years.

(3) A participant must commit to a full year of service in a public psychiatry setting for each year of loan repayment.

(4) A participant must be a practitioner who:

(A) is:

(i) from Indiana; and

(ii) establishing a new practice in Indiana; or

(B) is:

(i) from outside Indiana;

(ii) not currently practicing in Indiana and has not practiced in Indiana for three (3) years before applying for the program; and

(iii) establishing a new practice in Indiana.

Sec. 7. (a) As used in this section, "account" refers to the mental health services loan forgiveness account established in subsection (b).

(b) The mental health services loan forgiveness account within the state general fund is established for the purpose of providing grants for loan repayment under this chapter. The account shall be administered by the board. Money in the account shall be used to fund loan forgiveness grants under this chapter.

(c) The account consists of:

(1) appropriations made by the general assembly;

(2) grants; and

(3) gifts and bequests.

(d) The expenses of administering the account shall be paid from money in the account.

(e) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

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

Sec. 8. (a) As used in this section, "account" refers to the public

sector psychiatry development program account established in subsection (b).

(b) The public sector psychiatry development program account within the state general fund is established for the purpose of providing funding for the public sector psychiatry development program established under this chapter. The account shall be administered by the board. Money in the account shall be used to fund psychiatric residency positions, including:

(1) educational expenses;

(2) grants and scholarships;

(3) salaries; and

(4) benefits.

(c) The account consists of:

(1) appropriations made by the general assembly;

(2) grants; and

(3) gifts and bequests.

(d) The expenses of administering the account shall be paid from money in the account.

(e) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

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

SECTION 10. IC 31-9-2-52 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 52. "Health care provider", for purposes of **IC 31-32-6-4,** IC 31-32-11-1, IC 31-33, IC 31-34-7-4, and IC 31-39-8-4, means any of the following:

(1) A licensed physician, intern, or resident.

(2) An osteopath.

(3) A chiropractor.

(4) A dentist.

(5) A podiatrist.

(6) A registered nurse or other licensed nurse.

(7) A mental health professional.

(8) A paramedic or an emergency medical technician.

(9) A social worker, an x-ray technician, or a laboratory technician employed by a hospital.

(10) A pharmacist.

(11) A person working under the direction of any of the practitioners listed in subdivisions (1) through (10).

SECTION 11. IC 31-32-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. **(a)** Upon motion of the prosecuting attorney, the child, or the child's guardian ad litem, counsel, parent, guardian, or custodian, the court may issue an order closing a proceeding during the testimony of a child witness or child victim if the court finds that:

(1) an allegation or a defense involves matters of a sexual nature; and

(2) closing the proceeding is necessary to protect the welfare of a child witness or child victim.

(b) Upon motion of the prosecuting attorney, the child, or the child's guardian ad litem, counsel, parent, guardian, or custodian, the court may issue an order closing a proceeding during the testimony of a health care provider if the court finds that:

(1) the testimony involves matters that would be protected under 45 CFR Parts 160 and 164 (Health Insurance Portability and Accountability Act of 1996 (HIPAA)); or

(2) the testimony involves matters that would be a privileged communication between a health care provider and the health care provider's patient.

(c) Upon motion of the prosecuting attorney, the child, or the child's guardian ad litem, counsel, parent, guardian, or custodian, the court may issue an order closing a proceeding during the testimony of:

(1) a:

(A) certified social worker;

(B) certified clinical social worker; or

(C) certified marriage and family therapist;

regarding a client;

(2) a school counselor regarding a student; or

(3) a school psychologist regarding a student.

SECTION 12. [EFFECTIVE JULY 1, 2009] **(a) The definitions under IC 11-10-4-6.6, as added by this act, apply to this SECTION.**

(b) Notwithstanding IC 11-10-4-6.6(b), as added by this act, the initial members appointed by the governor to the advisory committee are appointed for the following terms:

(1) Members appointed under IC 11-10-4-6.6(b)(3) and

IC 11-10-4-6.6(b)(4) are appointed for a term of four (4) years.

(2) A member appointed under IC 11-10-4-6.6(b)(5) is appointed for a term of three (3) years.

(3) A member appointed under IC 11-10-4-6.6(b)(6) is appointed for a term of two (2) years.

(4) A member appointed under IC 11-10-4-6.6(b)(7) is appointed for a term of one (1) year.

(c) This SECTION expires December 31, 2013.

P.L.171-2009

[H.1243. Approved May 13, 2009.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-2-11-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.5. (a) As used in this section, "training courses" refers to training courses related to the office of county recorder that are developed by the Association of Indiana Counties and approved by the state board of accounts.**

(b) An individual elected to the office of county recorder after November 4, 2008, shall complete at least:

(1) fifteen (15) hours of training courses within one (1) year; and

(2) forty (40) hours of training courses within three (3) years; after beginning the county recorder's term.

SECTION 2. IC 36-2-12-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.5. (a) This section does not apply to an individual who is:**

(1) an actively registered land surveyor;

(2) a graduate of an accredited land surveying curriculum; or

(3) a land-surveyor-in-training (as defined in IC 25-21.5-1-5).

(b) An individual elected to the office of county surveyor after June 30, 2009, shall, within two (2) years after beginning the county surveyor's term, complete at least twenty-four (24) hours of training courses related to land surveying that are developed by the Association of Indiana Counties and approved by the state board of accounts.

(c) An individual shall fulfill the training requirement established by subsection (b) for each term the individual serves.

P.L.172-2009

[H.1278. Approved May 13, 2009.]

AN ACT to amend the Indiana Code concerning water and utilities.

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

SECTION 1. IC 8-1-2-92 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 92. **(a)** Every license, permit, or franchise granted after April 30, 1913, to any public utility shall have the effect of an indeterminate permit subject to the provisions of this chapter, and subject to the provisions that:

(1) the license, franchise, or permit may be revoked by the commission for cause; or ~~that~~

(2) the municipality may purchase **or condemn** the property ~~of such public utility,~~ as provided in ~~this section.~~ **IC 8-1.5-2, IC 36-9-23, or IC 36-9-25, as applicable.**

Any such municipality is authorized to purchase such property and every such public utility is required to sell such property at the value and according to the terms and conditions as provided in ~~this chapter.~~ **IC 8-1.5-2, IC 36-9-23, or IC 36-9-25, as applicable.**

(b) If this chapter should be repealed or annulled, then all such indeterminate franchises, permits, or grants shall cease and become inoperative, and in place thereof such utility shall be reinstated in the possession and enjoyment of the license, permit, or franchise surrendered by such utility at the time of the issue of the indeterminate franchise, permit, or grant; but in no event shall such reinstated license, permit, or franchise be terminated within a less period than five (5) years from the date of the repeal or annulment of this chapter.

SECTION 2. IC 8-1-2-93 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 93. Any public utility accepting or operating under any indeterminate license, permit, or franchise granted after April 30, 1913, shall by acceptance of any such indeterminate license, permit, or franchise be deemed to have consented to a future purchase **or condemnation** of its property including property located in contiguous territory within six (6) miles of the corporate limits of such municipality by the municipality in which such utility is located, at the value and under the terms and conditions as provided in ~~this chapter,~~ **IC 8-1.5-2, IC 36-9-23, or IC 36-9-25, as applicable,** and shall thereby be deemed to have waived the right of requiring the necessity of such taking to be established by the judgment of a court, and to have waived all other remedies and rights relative to condemnation, except such rights and remedies as are provided in ~~this chapter~~ **IC 8-1.5-2, IC 36-9-23, or IC 36-9-25, as applicable,** and shall have been deemed to have consented to the revocation of its license, permit, or franchise by the commission for cause.

SECTION 3. IC 8-1.5-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) A certificate of public convenience and necessity is not required as a condition precedent to the owning, leasing, acquisition, construction, or operation of a utility by a municipality, even if there is a public utility engaged in a similar service. The acquisition of electric utility property and assignment of a municipal electric utility's service area are, however, subject to the provisions of IC 8-1-2.3 and IC 8-1-2-95.1.

(b) A municipality that wants to own and operate a utility where there is a public utility engaged in a similar service:

(1) under a franchise granted by the municipality; or

(2) under an indeterminate permit as defined in IC 8-1-2-1;

may, after a hearing as provided by section 10 of this chapter, ~~and an~~

~~election as provided by section 16 of this chapter,~~ declare by ordinance that public convenience and necessity require the establishment of a municipally owned utility.

SECTION 4. IC 8-1.5-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. Before a municipal legislative body:

(1) proposes to construct or acquire a utility; and

(2) makes a determination as to public convenience and necessity;

it may appropriate out of its general fund an amount not exceeding five percent (5%) of the total estimated cost of constructing or acquiring the utility, as necessary to pay the expenses of a preliminary investigation, surveys, plans, specifications, and appraisals, including engineering and legal expenses in constructing or acquiring the utility. Any action by the municipal legislative body in making an appropriation is final and not subject to review by the department of local government finance. **The municipal legislative body may renew or adjust the appropriation on an annual basis until the construction or acquisition of the utility is complete.**

SECTION 5. IC 8-1.5-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) A municipality owning a utility under this chapter shall furnish reasonably adequate services and facilities.

(b) The rates and charges made by a municipality for a service rendered or to be rendered, either directly or in connection therewith, must be nondiscriminatory, reasonable, and just.

(c) "Reasonable and just rates and charges for services" means rates and charges that produce sufficient revenue to:

(1) pay all the legal and other necessary expenses incident to the operation of the utility, including:

(A) maintenance costs;

(B) operating charges;

(C) upkeep;

(D) repairs;

(E) depreciation; ~~and~~

(F) interest charges on bonds or other obligations, including leases; **and**

(G) costs associated with the acquisition of utility property under IC 8-1.5-2;

(2) provide a sinking fund for the liquidation of bonds or other obligations, including leases;

(3) provide a debt service reserve for bonds or other obligations, including leases, in an amount established by the municipality, not to exceed the maximum annual debt service on the bonds or obligations or the maximum annual lease rentals;

(4) provide adequate money for working capital;

(5) provide adequate money for making extensions and replacements to the extent not provided for through depreciation in subdivision (1); and

(6) provide money for the payment of any taxes that may be assessed against the utility.

(d) It is the intent of this section that the rates and charges produce an income sufficient to maintain the utility property in a sound physical and financial condition to render adequate and efficient service. Rates and charges too low to meet these requirements are unlawful.

(e) The board may recommend to the municipal legislative body rates and charges sufficient to include a reasonable return on the utility plant of the municipality.

(f) Rates and charges established under this section are subject to the approval of:

(1) the municipal legislative body by ordinance; and

(2) the commission, in accordance with the procedures set forth in IC 8-1-2.

The commission shall approve rates and charges that are sufficient, in addition to the cash revenue requirements set forth in subsection (c), to include a reasonable return on the utility plant of the municipality if the legislative body so elects.

(g) Except for a municipally owned utility taxed under IC 6-1.1-8-3, the commission shall approve rates and charges sufficient to compensate the municipality for taxes that would be due the municipality on the utility property were it privately owned. These rates and charges in lieu of taxes may be transferred to the municipal general fund, if the legislative body so elects.

(h) The commission shall grant a request that an increase in rates and charges not be effective until after the occurrence of a future event if the legislative body so requests.

(i) A municipality that acquires and operates a utility under

IC 8-1.5-2 by exercising the power of eminent domain may not impose a special rate, charge, surcharge, or other fee, other than rates and charges approved under this section or otherwise authorized by law, on the customers of the utility in order to pay for the costs associated with acquiring the utility through the exercise of the power of eminent domain.

SECTION 6. IC 32-24-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) This chapter applies if the works board of a municipality wants to acquire property for the use of the municipality or to open, change, lay out, or vacate a street, an alley, or a public place in the municipality, including a proposed street or alley crossings of railways or other rights-of-way. **However, this chapter does not apply if a municipality wants to acquire the property of a public utility (as defined in IC 8-1-2-1).**

(b) The works board must adopt a resolution that the municipality wants to acquire the property. The resolution must describe the property that may be injuriously or beneficially affected. The board shall have notice of the resolution published in a newspaper of general circulation published in the municipality once each week for two (2) consecutive weeks. The notice must name a date, at least ten (10) days after the last publication, at which time the board will receive or hear remonstrances from persons interested in or affected by the proceeding.

(c) The works board shall consider the remonstrances, if any, and then take final action, confirming, modifying, or rescinding its original resolution. This action is conclusive as to all persons.

SECTION 7. [EFFECTIVE UPON PASSAGE] **(a) The general assembly urges the legislative council to assign to an interim or statutory study committee the topic of water rights, drainage, and utilities (including utility easements). If a committee is assigned the topic recommended for study by this SECTION, the committee shall consider the following:**

(1) Water and drainage issues as they relate to urban and rural areas.

(2) Water and drainage issues as they affect the:

(A) construction of Class 2 structures;

(B) development of land for residential purposes;

(C) development of land for commercial and industrial purposes; and

(D) operation of utilities (including utility easements).

(3) The appropriate role of drainage boards.

(4) The appropriate role of condemnation with respect to water rights, drainage, and water utilities (including utility easements).

(5) Whether the common enemy doctrine of water diversion should be retained, modified, or abrogated.

(b) This SECTION expires January 1, 2010.

SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 8-1.5-2-11; IC 8-1.5-2-16.

SECTION 9. **An emergency is declared for this act.**

P.L.173-2009

[H.1289. Approved May 13, 2009.]

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

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

SECTION 1. IC 4-23-30.2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 30.2. Board for the Coordination of Programs Serving Vulnerable Individuals

Sec. 1. As used in this chapter, "board" refers to the board for the coordination of programs serving vulnerable individuals created by section 8 of this chapter.

Sec. 2. As used in this chapter, "director" refers to the director of the board appointed under section 10 of this chapter.

Sec 3. As used in this chapter, "disproportionality" refers to a situation in which members of a particular race or ethnic group in the United States are represented at a percentage higher or lower than the percentage of the general public that the particular race

or ethnic group comprises.

Sec. 4. As used in this chapter, "strength based" refers to a perspective that recognizes that:

(1) every individual, group, family, and community has strengths that should be considered by service providers when developing services for a client;

(2) a service provider can best serve a client by collaborating with the client to develop the client's strengths;

(3) service providers should work with a client to ensure that every environment in which the client receives services has adequate resources to meet the needs of the client; and

(4) a service plan for a client should not be based on diagnostic assessments of client deficits or needs but on a practice that uses the assessment process to discover strengths and engage clients in collaborative planning.

Sec. 5. As used in this chapter, "vulnerable population" includes:

(1) individuals receiving services:

(A) under IC 12;

(B) from the department of child services established by IC 31-25-1-1;

(C) through the criminal justice system or the juvenile justice system;

(D) from the department of education as students who are at risk or exceptional learners; and

(E) from the department of workforce development;

(2) young persons of color; and

(3) other individuals recognized by the board as members of a vulnerable population.

Sec. 6. As used in this chapter, "wraparound services" refers to support networks that are characterized by the creation of constructive relationships to assist recipients of services, families of recipients of services, and others using a strength based philosophy to guide service planning.

Sec. 7. For purposes of this chapter, "young person of color" refers to an individual who is less than eighteen (18) years of age and is identified as one (1) of the following:

(1) Black or African-American.

(2) Hispanic or Latino.

(3) Asian.

(4) American Indian.

(5) Alaska Native.

(6) Native Hawaiian or other Pacific Islander.

Sec. 8. The board for the coordination of programs serving vulnerable individuals is created to foster coordination of services and programs for vulnerable individuals in Indiana.

Sec. 9. (a) The board consists of the following members:

(1) The secretary of family and social services, or the secretary's designee.

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

(3) The director of the department of child services, or the director's designee.

(4) The commissioner of the department of correction, or the commissioner's designee.

(5) The director of the Indiana criminal justice institute, or the director's designee.

(6) The director of the budget agency, or the director's designee.

(7) An executive assistant to the governor designated by the governor, who shall serve as the board's chairperson.

(8) The commissioner of the department of workforce development, or the commissioner's designee.

(9) The director of the state personnel department, or the director's designee.

(10) The director of the civil rights commission, or the director's designee.

(11) The director of the division of mental health and addiction or the director's designee.

(12) The director of the office of Medicaid policy and planning or the director's designee.

(13) A representative of the Indiana judicial center.

(14) A representative of the public defender council of Indiana.

(15) A representative of the prosecuting attorneys council of Indiana.

(16) A representative of the office of guardian ad litem and court appointed special advocate services.

(b) The affirmative votes of a majority of the members appointed to the board are required for the board to take action on any measure, including reports.

(c) The board shall meet every two (2) months or more often, at the call of the chairperson.

(d) The board shall provide quarterly reports to the governor, the general assembly, and the Indiana criminal justice institute on the progress of the board and on issues affecting the provision of services to members of a vulnerable population. The report to the general assembly must be in an electronic format under IC 5-14-6.

Sec. 10. (a) The governor shall appoint a director, who shall serve at the pleasure of the governor. The director is entitled to a salary to be determined by the budget agency with the approval of the governor.

(b) The director, with the approval of the governor and the budget agency, and on the advice of the members of the board, may appoint staff necessary to fulfill the duties of the board.

Sec. 11. The board has the following duties:

(1) Oversee the implementation of the recommendations made by the commission on disproportionality in youth services, including the ongoing review and evaluation of recommended programs, practices, and procedures described in the report as mandated by P.L.234-2007.

(2) Suggest policy, program, and legislative changes related to services provided to members of a vulnerable population to accomplish the following:

(A) Enhance the quality of and access to services with positive outcomes for vulnerable populations.

(B) Reduce disproportionality of young persons of color in youth services by changing or eliminating policies that contribute to poor outcomes for young persons of color.

(3) Oversee and coordinate the review, evaluation, and development of consistent statewide standards for the use of risk and needs assessment tools that are culturally sensitive and promote objectivity in decision making at service delivery points in systems serving members of a vulnerable population.

(4) Work collaboratively within and across state and local agencies to create a central data warehouse to serve as a statewide system for standardized, disaggregated, race

specific data collection that has rapid accessibility and accountability measures for comparative use across service systems and geographic areas. The data system should include the following:

(A) Establishing measures to ensure the collection of consistent information to allow comparative racial and age data that are program based and outcome oriented.

(B) Recommending consistent, standardized reporting measurements.

(C) Working with agency participants to develop implementation plans that achieve consistency in:

(i) data collection;

(ii) program development and evaluation;

(iii) staff training; and

(iv) annual reporting.

(5) Work collaboratively within and across state and local agencies and programs to achieve consistent statewide standards for mandatory, ongoing cultural competency training and professional practice standards for government employees, school personnel, service providers, and professionals in systems serving members of a vulnerable population.

(6) Work collaboratively within and across state and local agencies and programs to develop and monitor a strategic plan to recruit and retain diverse professionals and staff level employees throughout all service delivery systems. The strategic plan developed must include provisions to ensure that bilingual training is available.

(7) Work collaboratively within and across state and local agencies to identify existing and to recommend new early intervention and preventive programming services for members of a vulnerable population. Intervention and preventive programming should be sensitive to race and should include culturally sensitive, evidence based programming or measures involving the following:

(A) Strength based approaches to engage and promote positive outcomes.

(B) Community based, wraparound services.

(C) Educational advocacy and support services.

(D) School based referrals to mental health care.

(E) Programming that supports collaborative relationships among community, faith based, private, and public organizations.

(F) Home based prevention services in the child welfare system.

(G) Transitional services for foster youth.

(H) Child and family teams for youth in system care.

(I) Other early intervention and preventive programming services.

(8) Work with local officials and the Indiana criminal justice institute to develop local juvenile justice councils and support the development of strategies to reduce disproportionality and disparity at the county level.

(9) Suggest policy development and fiscal planning efforts to achieve blended or braided funding for services delivered to members of a vulnerable population.

(10) Monitor and support ongoing implementation of agency efforts to reduce disproportionality and enhance quality of services to members of a vulnerable population.

(11) Report plans and progress to the governor, the legislative council, and the public at least semiannually. A report to the legislative council under this subdivision must be in an electronic format under IC 5-14-6.

(12) Coordinate program review and fiscal planning by participant agencies.

(13) Direct service delivery providers to collect and report disaggregated data based on race and ethnicity by geographic and program areas.

Sec. 12. To carry out this chapter, the board may do the following:

(1) Request any governmental entity that has an interest in or is involved in the delivery of human services to attend and participate in any meetings of the board that the board determines to be beneficial and necessary to achieve the goal of effective coordination and delivery of human services to members of a vulnerable population.

(2) Seek the cooperation of all agencies, departments, and institutions of state government to eliminate any duplication

or overlap that may exist in the administration of programs delivery service to members of a vulnerable population.

(3) Upon the request of one (1) of the members of the board, review the status of eligible recipients of services to determine whether an individual recipient is under the jurisdiction of the proper agency of state government. Following a review under this subdivision, the board may suggest the transfer of an individual recipient to the jurisdiction of another state agency if permitted by law.

(4) Create task forces to study issues and provide information to the board as needed. Members appointed to task forces created under this subdivision serve without compensation.

SECTION 2. IC 20-36-2-2, AS AMENDED BY P.L.84-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. A governing body shall develop and periodically update a local plan to provide appropriate educational experiences to high ability students in the school corporation in kindergarten through grade 12. The plan must include the following components:

(1) The establishment of a broad based planning committee that meets periodically to review the local education authority's plan for high ability students. The committee must have representatives from diverse groups representing the school and community.

(2) Student assessments that identify high ability students using multifaceted assessments to ensure that students not identified by traditional assessments because of economic disadvantage, cultural background, underachievement, or disabilities are included. The assessments must identify students with high abilities in the general intellectual domain and specific academic domains. The results of an assessment under this subdivision must be recorded with the student test number assigned to a student.

(3) Professional development.

(4) Development and implementation of local services for high ability students, including appropriately differentiated curriculum and instruction in the core academic areas designated by the state board for each grade consistent with federal, state, local, and private funding sources.

(5) Evaluation of the local program for high ability students.

(6) Best practices to increase the number of participants in high ability student programs who are from racial and ethnic groups that have been underrepresented in those programs.

P.L.174-2009

[H.1362. Approved May 13, 2009.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 34-31-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. IC 36-8-12-8 (Concerning volunteer firefighters **and emergency medical services personnel).**

SECTION 2. IC 36-8-12-2, AS AMENDED BY SEA 221-2009, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. As used in this chapter:

"Emergency medical services personnel" means individuals certified by the emergency medical services commission established by IC 16-31-2-1 who:

(1) as a result of a written application, have been elected or appointed to membership in a volunteer fire department; and

(2) have executed a pledge to faithfully perform, with or without nominal compensation, the work related duties assigned and orders given to the individuals by the chief of the volunteer fire department or an officer of the volunteer fire department, including orders or duties involving education and training.

"Employee" means a person in the service of another person under a written or implied contract of hire or apprenticeship.

"Employer" means:

(1) a political subdivision;

(2) an individual or the legal representative of a deceased individual;

(3) a firm;

(4) an association;

(5) a limited liability company;

(6) an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in IC 22-3-2-2.5(a); or

(7) a corporation or its receiver or trustee;

that uses the services of another person for pay.

"Essential employee" means an employee:

(1) who the employer has determined to be essential to the operation of the employer's daily enterprise; and

(2) without whom the employer is likely to suffer economic injury as a result of the absence of the essential employee.

"Nominal compensation" means annual compensation of not more than twenty thousand dollars ($20,000).

"Public servant" has the meaning set forth in IC 35-41-1-24.

"Responsible party" has the meaning set forth in IC 13-11-2-191(e).

"Volunteer fire department" means a department or association organized for the purpose of answering fire alarms, extinguishing fires, and providing other emergency services, the majority of members of which receive no compensation or nominal compensation for their services.

"Volunteer firefighter" means a firefighter:

(1) who, as a result of a written application, has been elected or appointed to membership in a volunteer fire department;

(2) who has executed a pledge to faithfully perform, with or without nominal compensation, the work related duties assigned and orders given to the firefighter by the chief of the volunteer fire department or an officer of the volunteer fire department, including orders or duties involving education and training as prescribed by the volunteer fire department or the state; and

(3) whose name has been entered on a roster of volunteer firefighters that is kept by the volunteer fire department and that has been approved by the proper officers of the unit.

"Volunteer member" means a member of a volunteer emergency

medical services association connected with a unit as set forth in IC 16-31-5-1(6).

SECTION 3. IC 36-8-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Each unit that has a volunteer fire department shall procure insurance in the name of and for the benefit of each member of the department. However, if a contract or agreement exists between a unit and a volunteer fire department, the contract or agreement must provide for insurance of the volunteer firefighters **and emergency medical services personnel** in the department in the amounts and with the coverages required by this chapter. Unless the contract or agreement stipulates otherwise, all insurance coverage must be under a group plan, rather than in the name of each individual firefighter **and member of the emergency medical services personnel.** Either the unit or the volunteer fire department, according to the contractor agreement, may undertake procurement of required insurance, but in either case, the costs of coverage must be borne by the unit. If a volunteer fire department serves more than one (1) unit under a contract or agreement, each unit that the department serves shall pay the amount for the insurance coverage determined under the following formula:

STEP ONE: For each census block or other area in a unit that is served by more than one (1) volunteer fire department, divide the population of the area by the number of volunteer fire departments serving the area, and round the quotient to the nearest one thousandth (.001).

STEP TWO: Add the quotients determined under STEP ONE for the unit.

STEP THREE: Determine the sum of the STEP TWO amounts for all of the units served by the same volunteer fire department.

STEP FOUR: Divide the STEP TWO amount for a unit by the STEP THREE amount and round the quotient to the nearest one thousandth (.001).

STEP FIVE: Multiply the costs of the insurance coverage for the volunteer fire department by the quotient determined under STEP FOUR, rounded to the nearest dollar.

(b) A diminution of insurance benefits may not occur under this section because of a change in the insurance carrier or a change as to who actually procures the required insurance.

(c) Each unit that has a volunteer fire department may procure an insurance policy for the benefit of auxiliary groups whose members could be injured while assisting the volunteer firefighters **and emergency medical services personnel** in the performance of their duties.

(d) Each unit that has a volunteer fire department may procure an insurance policy or any other type of instrument that provides retirement benefits as an incentive to volunteer firefighters **and emergency medical services personnel** for continued service.

(e) An insurance policy or other instrument containing any of the provisions authorized by subsection (d) may not be considered in the computation of nominal compensation for purposes of this chapter.

(f) A volunteer firefighter **or member of the emergency medical services personnel** who becomes covered by an insurance policy or other instrument containing any of the provisions authorized by subsection (d) does not thereby become eligible for membership in the public employees' retirement fund under IC 5-10.3.

(g) If a unit fails to provide the insurance for a volunteer firefighter **or member of the emergency medical services personnel** that this chapter requires it to provide, and a volunteer firefighter **or member of the emergency medical services personnel** suffers a loss of the type that the insurance would have covered, then the unit shall pay to that volunteer firefighter **or member of the emergency medical services personnel** the same amount of money that the insurance would have paid to ~~him.~~ **the volunteer firefighter or member of the emergency medical services personnel.**

SECTION 4. IC 36-8-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. Each policy of insurance must provide for payment to a member of a volunteer fire department, for accidental injury or smoke inhalation caused by or occurring in the course of the performance of the duties of a volunteer firefighter **or member of the emergency medical services personnel** and for a cardiac disease event proximately caused within forty-eight (48) hours by or occurring in the course of the performance of the duties of a volunteer firefighter **or member of the emergency medical services personnel** while in an emergency situation, as follows:

(1) For total disability that prevents the member from pursuing ~~his~~ **the member's** usual vocation:

(A) after June 30, 2009, and before July 24, 2009, a weekly indemnity of not less than two hundred ~~fifty~~ **sixty-two** dollars ~~($250),~~ **($262); and**

(B) after July 23, 2009, a weekly indemnity of not less than two hundred ninety dollars ($290);

up to a maximum of two hundred sixty (260) weeks. **After July 23, 2009, the weekly indemnity may not be less than the Indiana minimum wage computed on the basis of a forty (40) hour week.**

(2) For medical expenses, coverage for incurred expenses. However, the policy may not have medical expense limits of less than seventy-five thousand dollars ($75,000).

SECTION 5. IC 36-8-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) The policy of insurance required by section 6 of this chapter must provide for the payment of a sum not less than one hundred fifty thousand dollars ($150,000) to the beneficiary, beneficiaries, or estate of a volunteer firefighter **or member of the emergency medical services personnel** if the firefighter **or member of the emergency medical services personnel** dies from an injury or smoke inhalation occurring while in the performance of the firefighter's **or member of the emergency medical services personnel's** duties as a volunteer firefighter **or member of the emergency medical services personnel** or from a cardiac disease event proximately caused within forty-eight (48) hours by or occurring while in the performance of the firefighter's **or member of the emergency medical services personnel's** duties as a volunteer firefighter **or member of the emergency medical services personnel.**

(b) The policy of insurance must provide for the payment of a sum not less than one hundred fifty thousand dollars ($150,000) to the volunteer firefighter **or member of the emergency medical services personnel** if the firefighter **or member of the emergency medical services personnel** becomes totally and permanently disabled for a continuous period of not less than two hundred sixty (260) weeks as a result of an injury or smoke inhalation occurring in the performance of the firefighter's **or member of the emergency medical services personnel's** duties as a volunteer firefighter **or member of the emergency medical services personnel.**

(c) The policy of insurance must also provide for indemnification to a member of a volunteer fire department who becomes partially and permanently disabled or impaired as a result of an injury or smoke inhalation occurring in the performance of the firefighter's **or member of the emergency medical services personnel's** duties.

(d) For the purposes of this section, partial and permanent disability or impairment shall be indemnified as a percentage factor of a whole person.

(e) In addition to other insurance provided volunteer firefighters **or emergency medical services personnel** under this chapter, each unit shall be covered by an insurance policy that provides a minimum of three hundred thousand dollars ($300,000) of insurance coverage for the liability of all of ~~its~~ **the unit's** volunteer firefighters **or emergency medical services personnel** for bodily injury or property damage caused by the firefighters **or emergency medical services personnel** acting in the scope of their duties while on the scene of a fire or other emergency. The civil liability of a volunteer firefighter **or member of the emergency medical services personnel** for:

(1) an act that is within the scope of a volunteer firefighter's duties; or

(2) the failure to do an act that is within the scope of a volunteer firefighter's duties;

while performing emergency services at the scene of a fire or other emergency or while traveling in an emergency vehicle from the fire station to the scene of the fire or emergency or from the scene of a fire or emergency back to the fire station is limited to the coverage provided by the insurance policy purchased under this subsection. A volunteer firefighter **or member of the emergency medical services personnel** is not liable for punitive damages for any act that is within the scope of a volunteer firefighter's **or member of the emergency medical services personnel's** duties. However, if insurance as required under this subsection is not in effect to provide liability coverage for a volunteer firefighter **or member of the emergency medical services personnel**, the firefighter **or member of the emergency medical services personnel** is not subject to civil liability for an act or a failure to act as described in this subsection.

SECTION 6. IC 36-8-12-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) A:

(1) volunteer firefighter, **a member of the emergency medical services personnel,** or an emergency medical technician working in a volunteer capacity for a volunteer fire department or ambulance company is covered; and

(2) volunteer working for a hazardous materials response team may be covered;

by the medical treatment and burial expense provisions of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7).

(b) If compensability of the injury is an issue, the administrative procedures of IC 22-3-2 through IC 22-3-6 and IC 22-3-7 shall be used to determine the issue.

(c) This subsection applies to all units, including counties. All expenses incurred for premiums of the insurance allowed under this section may be paid from the unit's general fund in the same manner as other expenses in the unit are paid.

P.L.175-2009

[H.1379. Approved May 13, 2009.]

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

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

SECTION 1. IC 2-5-30 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 30. Unemployment Insurance Oversight Committee

Sec. 1. As used in this chapter, "committee" refers to the unemployment insurance oversight committee established by section 3 of this chapter.

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

unemployment insurance benefit fund established by IC 22-4-26-1.

Sec. 3. The unemployment insurance oversight committee is established.

Sec. 4. (a) The committee shall do all of the following:

(1) Oversee the implementation of unemployment insurance legislation enacted by the general assembly in 2009.

(2) Oversee the administration of the unemployment insurance system by the department of workforce development.

(3) Make recommendations to improve the following:

(A) The proper collection of employer contributions and reimbursements.

(B) The determination of eligibility for and the payment of benefits.

(4) Monitor the solvency of the fund.

(5) Make recommendations to improve the solvency of the fund.

(6) Make a report annually to the legislative council concerning the solvency of the fund. The report must be in an electronic format under IC 5-14-6.

(7) Study and make recommendations concerning approaches taken by other states to improve the solvency of unemployment insurance benefit trust funds, including the indexing of:

(A) unemployment benefits; and

(B) the taxable wage base.

(b) A committee recommendation does not take effect unless enacted by the general assembly.

Sec. 5. (a) The committee consists of the following members:

(1) Two (2) members of the house of representatives appointed by the speaker of the house of representatives. The members appointed under this subdivision may be members of the same political party.

(2) One (1) member of the house of representatives appointed by the minority leader of the house of representatives.

(3) Two (2) members representing labor in Indiana appointed by the speaker of the house of representatives.

(4) Two (2) members of the senate appointed by the president pro tempore of the senate. The members appointed under this

subdivision may be members of the same political party.

(5) One (1) member of the senate appointed by the minority leader of the senate.

(6) Two (2) members representing employers appointed by the president pro tempore of the senate.

(7) The commissioner, or the commissioner's designee, who serves as an ex officio nonvoting member.

(b) If a vacancy on the committee occurs, the person who appointed the member whose position is vacant shall appoint an individual to fill the vacancy using the criteria in subsection (a).

(c) In odd-numbered years the speaker of the house of representatives shall appoint one (1) of the members appointed by the speaker as the chair of the committee. In even-numbered years the president pro tempore of the senate shall appoint one (1) of the members appointed by the president as the chair of the committee.

Sec. 6. (a) The legislative services agency shall provide administrative support for the committee. At the request of the legislative services agency, the department of workforce development established by IC 22-4.1-2-1 shall assign staff to provide research and other support to assist the legislative services agency in providing administrative support to the committee.

(b) There is annually appropriated to the legislative services agency from the state general fund money necessary for the operation of the committee.

Sec. 7. Six (6) committee members constitute a quorum. The affirmative votes of at least six (6) committee members are necessary for the committee to take official action.

Sec. 8. The committee shall meet at the call of the chair and at other times as the committee considers necessary.

Sec. 9. (a) Each member of the committee who is not a state employee or is not a member of the general assembly is entitled to the following:

(1) The salary per diem provided under IC 4-10-11-2.1(b).

(2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.

(3) Other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the committee who is a state employee but not a member of the general assembly is entitled to the following:

(1) Reimbursement for traveling expenses as provided under IC 4-13-1-4.

(2) Other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the committee who is a member of the general assembly is entitled to the same:

(1) per diem;

(2) mileage; and

(3) travel allowances;

paid to legislative members of interim study committees established by the legislative council.

SECTION 2. IC 22-4-2-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 32. "Payment in lieu of contributions" means the required reimbursements by employers of benefits paid attributable to services performed for such employers which are liable to make these payments as provided in IC ~~1971,~~ 22-4-10-1. ~~of this article.~~ These payments shall equal the **full** amount of regular benefits and ~~one-half (1/2) of~~ the ~~extended benefits~~ **part of benefits not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970** paid ~~as~~ **that** are attributable to services in the employ of such liable employers.

SECTION 3. IC 22-4-2-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 34. (a) With respect to benefits for weeks of unemployment beginning after August 13, 1981, "extended benefit period" means a period which begins with the third week after a week for which there is a state "on" indicator and ends with **the later of the following:**

(1) The third week after the first week for which there is a state "off" indicator. ~~or~~

(2) The thirteenth consecutive week of such period.

(b) However, no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state.

(c) There is a state "on" indicator for this state for a week if the commissioner determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve (12) weeks, the rate of insured unemployment (not seasonally adjusted) under this article:

(1) equaled or exceeded one hundred twenty percent (120%) of the average of such rates for the corresponding 13-week period ending in each of the preceding two (2) calendar years; and

(2) equaled or exceeded

~~(A) with respect to benefits for weeks of unemployment beginning before September 25, 1982, four percent (4%); and~~

~~(B) with respect to benefits for weeks of unemployment beginning after September 25, 1982,~~ five percent (5%).

However, ~~with respect to benefits for weeks of unemployment beginning after December 31, 1977,~~ the determination of whether there has been a state "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if it did not contain subdivision (1) ~~and~~ **if** the insured unemployment rate ~~in subdivision (2) were:~~

~~(A) with respect to benefits for weeks of unemployment beginning before September 25, 1982, five percent (5%); and~~

~~(B) with respect to benefits for weeks of unemployment beginning after September 25, 1982,~~ **is at least** six percent (6%).

Any week for which there would otherwise be a state "on" indicator shall continue to be such a week and may not be determined to be a week for which there is a state "off" indicator.

(d) In addition to the test for a state "on" indicator under subsection (c), there is a state "on" indicator for this state for a week if:

(1) the average rate of total unemployment in Indiana, seasonally adjusted, as determined by the United States Secretary of Labor, for the period consisting of the most recent three (3) months for which data for all states are published before the close of the week, equals or exceeds six and five-tenths percent (6.5%); and

(2) the average rate of total unemployment in Indiana, seasonally adjusted, as determined by the United States

Secretary of Labor, for the three (3) month period referred to in subdivision (1) equals or exceeds one hundred ten percent (110%) of the average for either or both of the corresponding three (3) month periods ending in the two (2) preceding calendar years.

There is a state "off" indicator for a week if either of the requirements in subdivisions (1) and (2) are not satisfied. However, any week for which there would otherwise be a state "on" indicator under this section continues to be subject to the "on" indicator and shall not be considered a week for which there is a state "off" indicator. This subsection expires on the later of December 5, 2009, or the week ending four (4) weeks before the last week for which federal sharing is authorized by Section 2005(a) of Division B, Title II (the federal Assistance to Unemployed Workers and Struggling Families Act) of the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

~~(d)~~ **(e)** There is a state "off" indicator for this state for a week if the commissioner determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve (12) weeks, ~~the rate of insured unemployment (not seasonally adjusted) under this article:~~

~~(1) was less than one hundred twenty percent (120%) of the average of such rates for the corresponding 13-week period ending in each of the preceding two (2) calendar years; or~~

~~(2) was less than:~~

~~(A) with respect to benefits for weeks of unemployment beginning before September 25, 1982, four percent (4%); and~~

~~(B) with respect to benefits for weeks of unemployment beginning after September 25, 1982, five percent (5%).~~

the requirements of subsection (c) have not been met.

~~(c)~~ **(f)** With respect to benefits for weeks of unemployment beginning after August 13, 1981, "rate of insured unemployment," for purposes of ~~subsections (c) and (f),~~ **subsection (c),** means the percentage derived by dividing:

(1) the average weekly number of individuals filing claims for regular compensation in this state for weeks of unemployment with respect to the most recent 13 consecutive week period (as determined by the board on the basis of this state's reports to the United States Secretary of Labor); by

(2) the average monthly employment covered under this article for the first four (4) of the most recent six (6) completed calendar quarters ending before the end of such 13-week period.

~~(f)~~ **(g)** "Regular benefits" means benefits payable to an individual under this article or under the law of any other state (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. 8501 through 8525) other than extended benefits. "Additional benefits" means benefits other than extended benefits and which are totally financed by a state payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law. If extended compensation is payable to an individual by this state and additional compensation is payable to ~~him~~ **the individual** for the same week by any state, the individual may elect which of the two (2) types of compensation to claim.

~~(g)~~ **(h)** "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. 8501 through 8525) payable to an individual under the provisions of this article for weeks of unemployment in the individual's "eligibility period". Pursuant to Section 3304 of the Internal Revenue Code extended benefits are not payable to interstate claimants filing claims in an agent state which is not in an extended benefit period, against the liable state of Indiana when the state of Indiana is in an extended benefit period. This prohibition does not apply to the first two (2) weeks claimed that would, but for this prohibition, otherwise be payable. However, only one such two (2) week period will be granted on an extended claim. Notwithstanding any other provisions of this chapter, with respect to benefits for weeks of unemployment beginning after October 31, 1981, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that the individual would, but for this clause, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not below zero) by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

~~(h)~~ **(i)** "Eligibility period" of an individual means the period

consisting of the weeks in the individual's benefit period which begin in an extended benefit period and, if the individual's benefit period ends within such extended benefit period, any weeks thereafter which begin in such extended benefit period. **For any weeks of unemployment beginning after February 17, 2009, and before January 1, 2010, an individual's eligibility period (as described in Section 203(c) of the Federal-State Unemployment Compensation Act of 1970) is, for purposes of any determination of eligibility for extended compensation under state law, considered to include any week that begins:**

(1) after the date as of which the individual exhausts all rights to emergency unemployment compensation; and

(2) during an extended benefit period that began on or before the date described in subdivision (1).

~~(i)~~ **(j)** "Exhaustee" means an individual who, with respect to any week of unemployment in the individual's eligibility period:

(1) has received, prior to such week, all of the regular benefits including dependent's allowances that were available to the individual under this article or under the law of any other state (including benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. 8501 through 8525) in the individual's current benefit period that includes such week. However, for the purposes of this subsection, an individual shall be deemed to have received all of the regular benefits that were available to the individual although as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in the individual's benefit period or although a nonmonetary decision denying benefits is pending, the individual may subsequently be determined to be entitled to added regular benefits;

(2) may be entitled to regular benefits with respect to future weeks of unemployment but such benefits are not payable with respect to such week of unemployment by reason of seasonal limitations in any state unemployment insurance law; or

(3) having had the individual's benefit period expire prior to such week, has no, or insufficient, wages on the basis of which the individual could establish a new benefit period that would include such week;

and has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Act of 1974, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor, and has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada; but if the individual is seeking such benefits and the appropriate agency finally determines that the individual is not entitled to benefits under such law, ~~he~~ **the individual** is considered an exhaustee.

~~(j)~~ **(k)** "State law" means the unemployment insurance law of any state, approved by the United States Secretary of Labor under Section 3304 of the Internal Revenue Code.

SECTION 4. IC 22-4-4-2, AS AMENDED BY P.L.98-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Except as otherwise provided in this section, "wages" means all remuneration as defined in section 1 of this chapter paid to an individual by an employer, remuneration received as tips or gratuities in accordance with Sections 3301 and 3102 et seq. of the Internal Revenue Code, and includes all remuneration considered as wages under Sections 3301 and 3102 et seq. of the Internal Revenue Code. However, the term shall not include any amounts paid as compensation for services specifically excluded by IC 22-4-8-3 or IC 22-4-8-3.5 from the definition of employment as defined in IC 22-4-8-1 and IC 22-4-8-2. The term shall include, but not be limited to, any payments made by an employer to an employee or former employee, under order of the National Labor Relations Board, or a successor thereto, or agency named to perform the duties thereof, as additional pay, back pay, or for loss of employment, or any such payments made in accordance with an agreement made and entered into by an employer, a union, and the National Labor Relations Board.

(b) The term "wages" shall not include the following:

(1) That part of remuneration which, after remuneration equal to:

(A) seven thousand dollars ($7,000), has been paid in a calendar year to an individual by an employer or ~~his~~ **the employer's** predecessor with respect to employment during any calendar year ~~subsequent to~~ **that begins after** December 31, 1982, **and before January 1, 2010; or**

(B) nine thousand five hundred dollars ($9,500), has been paid in a calendar year to an individual by an employer or the employer's predecessor for employment during a calendar year that begins after December 31, 2009;

unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. For the purposes of this subdivision, the term "employment" shall include service constituting employment under any employment security law of any state or of the federal government. However, nothing in this subdivision shall be taken as an approval or disapproval of any related federal legislation.

(2) The amount of any payment (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment) made to, or on behalf of, an individual or any of the individual's dependents under a plan or system established by an employer which makes provision generally for individuals performing service for it (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents) on account of:

(A) retirement;

(B) sickness or accident disability;

(C) medical or hospitalization expenses in connection with sickness or accident disability; or

(D) death.

(3) The amount of any payment made by an employer to an individual performing service for it (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment) on account of retirement.

(4) The amount of any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability made by an employer to, or on behalf of, an individual performing services for it and after the expiration of six (6) calendar months following the last calendar month in which the individual performed services for such employer.

(5) The amount of any payment made by an employer to, or on

behalf of, an individual performing services for it or to the individual's beneficiary:

(A) from or to a trust exempt from tax under Section 401(a) of the Internal Revenue Code at the time of such payment unless such payment is made to an individual performing services for the trust as remuneration for such services and not as a beneficiary of the trust; or

(B) under or to an annuity plan which, at the time of such payments, meets the requirements of Section 401(a)(3), 401(a)(4), 401(a)(5), and 401(a)(6) of the Internal Revenue Code.

(6) Remuneration paid in any medium other than cash to an individual for service not in the course of the employer's trade or business.

(7) The amount of any payment (other than vacation or sick pay) made to an individual after the month in which the individual attains the age of sixty-five (65) if the individual did not perform services for the employer in the period for which such payment is made.

(8) The payment by an employer (without deduction from the remuneration of the employee) of the tax imposed upon an employee under Sections 3101 et seq. of the Internal Revenue Code (Federal Insurance Contributions Act).

SECTION 5. IC 22-4-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) "Employing unit" means any individual or type of organization, including any partnership, **limited liability partnership,** association, trust, joint venture, estate, **limited liability company,** joint stock company, insurance company, corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or successor to any of the foregoing, or the legal representative of a deceased person, which at any time has had one (1) or more individuals performing services for it within this state for remuneration or under any contract of hire, written or oral, expressed or implied. Where any such individual performing services hires a helper to assist in performing such services, each such helper shall be deemed to be performing services for such employing unit for all purposes of this article, whether such helper was hired or paid directly by the employing unit or by the individual, provided the employing unit

has actual or constructive knowledge of the services.

(b) All such individuals performing services within this state for any employing unit which maintains two (2) or more separate establishments within this state shall be deemed to be employed by a single employing unit for all purposes of this article.

SECTION 6. IC 22-4-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) If two (2) or more related **entities, including partnerships, limited liability partnerships, associations, trusts, joint ventures, estates, joint stock companies, limited liability companies, insurance companies, or** corporations, **or a combination of these entities,** concurrently employ the same individual and compensate that individual through a common paymaster that is one (1) of the ~~corporations,~~ **entities,** those ~~corporations~~ **entities** shall be considered to be one (1) employing unit.

(b) For purposes of this section, ~~corporations~~ **entities** shall be considered related ~~corporations~~ **entities** if they satisfy any one (1) of the following tests at any time during the calendar quarter:

(1) The corporations are members of a "controlled group of corporations", as defined in Section 1563 of the Internal Revenue Code (generally parent-subsidiary or brother-sister controlled groups), or would be members if Section 1563(a)(4) and 1563(b) of the Internal Revenue Code did not apply and if the phrase "more than fifty percent (50%)" were substituted for the phrase "at least eighty percent (80%)" wherever it appears in Section 1563(a) of the Internal Revenue Code.

(2) In the case of ~~a corporation~~ **an entity** that does not issue stock, either fifty percent (50%) or more of the members of one (1) ~~corporation's~~ **entity's** board of directors (or other governing body) are members of the other ~~corporation's~~ **entity's** board of directors (or other governing body), or the holders of fifty percent (50%) or more of the voting power to select ~~such~~ **these** members are concurrently the holders of fifty percent (50%) or more of that power with respect to the other ~~corporation.~~ **entity.**

(3) Fifty percent (50%) or more of one (1) ~~corporation's~~ **entity's** officers are concurrently officers of the other ~~corporation.~~ **entity.**

(4) Thirty percent (30%) or more of one (1) ~~corporation's~~ **entity's** employees are concurrently employees of the other ~~corporation.~~ **entity.**

(5) The entities are part of an affiliated group, as defined in Section 1504 of the Internal Revenue Code, except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%).

~~Corporations~~ **Entities** shall be considered related ~~corporations~~ **entities** for an entire calendar quarter if they satisfy the requirements of this subsection at any time during the calendar quarter.

(c) For purposes of this section, "concurrent employment" means the contemporaneous existence of an employment relationship between an individual and two (2) or more ~~corporations.~~ **entities.**

SECTION 7. IC 22-4-8-2, AS AMENDED BY P.L.3-2008, SECTION 158, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. The term "employment" shall include:

(a) An individual's entire service performed within or both within and without Indiana if the service is localized in Indiana.

(b) An individual's entire service performed within or both within and without Indiana if the service is not localized in any state, but some of the service is performed in Indiana and:

(1) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled is in Indiana;

(2) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in Indiana; or

(3) such service is not covered under the unemployment compensation law of any other state or Canada, and the place from which the service is directed or controlled is in Indiana.

(c) Services not covered under subsections (a) and (b) and performed entirely without Indiana, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the United States, shall be deemed to be employment subject to this article if the department approves the election of the individual performing such services and the employing unit for which such services are performed, that the entire services of such individual shall be deemed to be employment

subject to this article.

(d) Services covered by an election duly approved by the department, in accordance with an agreement pursuant to IC 22-4-22-1 through IC 22-4-22-5, shall be deemed to be employment during the effective period of such election.

(e) Service shall be deemed to be localized within a state if:

(1) the service is performed entirely within such state; or

(2) the service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, such as is temporary or transitory in nature or consists of isolated transactions.

(f) Periods of vacation with pay or leave with pay, other than military leave granted or given to an individual by an employer.

(g) Notwithstanding any other provisions of this article, the term employment shall also include all services performed by an officer or member of the crew of an American vessel or American aircraft, on or in connection with such vessel or such aircraft, provided that the operating office, from which the operations of such vessel operating on navigable waters within or the operations of such aircraft within, or the operation of such vessel or aircraft within and without the United States are ordinarily and regularly supervised, managed, directed, and controlled, is within this state.

(h) Services performed for an employer which is subject to contribution solely by reason of liability for any federal tax against which credit may be taken for contributions paid into a state unemployment compensation fund.

(i) The following:

(1) Service performed after December 31, 1971, by an individual in the employ of this state or any of its instrumentalities (or in the employ of this state and one (1) or more other states or their instrumentalities) for a hospital or eligible postsecondary educational institution located in Indiana.

(2) Service performed after December 31, 1977, by an individual in the employ of this state or a political subdivision of the state or any instrumentality of the state or a political subdivision, or any instrumentality which is wholly owned by the state and one (1) or more other states or political subdivisions, if the service is excluded from "employment" as defined in Section 3306(c)(7) of

the Federal Unemployment Tax Act (26 U.S.C. 3306(c)(7)). However, service performed after December 31, 1977, as the following is excluded:

(A) An elected official.

(B) A member of a legislative body or of the judiciary of a state or political subdivision.

(C) A member of the state national guard or air national guard.

(D) An employee serving on a temporary basis in the case of fire, snow, storm, earthquake, flood, or similar emergency.

(E) An individual in a position which, under the laws of the state, is designated as:

(i) a major nontenured policymaking or advisory position; or

(ii) a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight (8) hours per week.

(3) Service performed after March 31, 1981, by an individual whose service is part of an unemployment work relief or work training program assisted or financed in whole by any federal agency or an agency of this state or a political subdivision of this state, by an individual receiving such work relief or work training is excluded.

(j) Service performed after December 31, 1971, by an individual in the employ of a religious, charitable, educational, or other organization, but only if the following conditions are met:

(1) The service is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of Section 3306(c)(8) of that act (26 U.S.C. 3306(c)(8)).

(2) The organization had four (4) or more individuals in employment for some portion of a day in each of twenty (20) different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time.

(3) For the purposes of subdivisions (1) and (2), the term "employment" does not apply to service performed as follows:

(A) In the employ of:

(i) a church or convention or association of churches; or

(ii) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or

principally supported by a church or convention or association of churches.

(B) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order.

(C) Before January 1, 1978, in the employ of a school which is not an eligible postsecondary educational institution.

(D) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work.

(E) As part of an unemployment work relief or work training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training.

(k) The service of an individual who is a citizen of the United States, performed outside the United States (except in Canada), after December 31, 1971, in the employ of an American employer (other than service which is deemed "employment" under the provisions of subsection (a), (b), or (e) or the parallel provisions of another state's law), if **the following apply:**

(1) The employer's principal place of business in the United States is located in this state. ~~or~~

(2) The employer has no place of business in the United States, but **the employer is:**

(A) ~~The employer is~~ an individual who is a resident of this state; ~~or~~

(B) ~~The employer is~~ a corporation which is organized under the laws of this state; ~~or~~

(C) ~~The employer is~~ a partnership, **limited liability partnership,** or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one (1) other state; or

(D) an association, a joint venture, an estate, a limited liability company, a joint stock company, or an insurance

company (referred to as an "entity" in this clause), and either:

(i) the entity is organized under the laws of this state; or

(ii) the number of owners, members, or beneficiaries who are residents of this state is greater than the number who are residents of any one (1) other state.

(3) None of the criteria of subdivisions (1) and (2) is met but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state.

(4) An "American employer," for purposes of this subsection, means:

(A) an individual who is a resident of the United States; ~~or~~

(B) a partnership **or limited liability partnership,** if two-thirds (2/3) or more of the partners are residents of the United States; ~~or~~

(C) a trust, if all of the trustees are residents of the United States; or

(D) a corporation, **an association, a joint venture, an estate, a limited liability company, a joint stock company, or an insurance company** organized **or established** under the laws of the United States or of any state.

(l) **The term "employment" also includes the following:**

(1) Service performed after December 31, 1977, by an individual in agricultural labor (as defined in section 3(c) of this chapter) when the service is performed for an employing unit which:

(A) during any calendar quarter in either the current or preceding calendar year paid cash remuneration of twenty thousand dollars ($20,000) or more to individuals employed in agricultural labor; or

(B) for some portion of a day in each of twenty (20) different calendar weeks, whether or not the weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor ten (10) or more individuals, regardless of whether they were employed at the same time.

(2) For the purposes of this subsection, any individual who is a member of a crew furnished by a crew leader to perform service

in agricultural labor for any other person shall be treated as an employee of the crew leader:

(A) if the crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963, or substantially all the members of the crew operate or maintain tractors, mechanized harvesting or crop dusting equipment, or any other mechanized equipment, which is provided by the crew leader; and

(B) if the individual is not an employee of another person within the meaning of section 1 of this chapter.

(3) For the purposes of subdivision (1), in the case of an individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of the crew leader under subdivision (2):

(A) the other person and not the crew leader shall be treated as the employer of the individual; and

(B) the other person shall be treated as having paid cash remuneration to the individual in an amount equal to the amount of cash remuneration paid to the individual by the crew leader (either on the individual's own behalf or on behalf of the other person) for the service in agricultural labor performed for the other person.

(4) For the purposes of this subsection, the term "crew leader" means an individual who:

(A) furnishes individuals to perform service in agricultural labor for any other person;

(B) pays (either on the individual's own behalf or on behalf of the other person) the agricultural laborers furnished by the individual for the service in agricultural labor performed by them; and

(C) has not entered into a written agreement with the other person under which the individual is designated as an employee of the other person.

(m) The term "employment" includes domestic service after December 31, 1977, in a private home, local college club, or local chapter of a college fraternity or sorority performed for a person who paid cash remuneration of one thousand dollars ($1,000) or more after December 31, 1977, in the current calendar year or the preceding

calendar year to individuals employed in the domestic service in any calendar quarter.

SECTION 8. IC 22-4-10-1, AS AMENDED BY P.L.108-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Contributions shall accrue and become payable from each employer for each calendar year in which it is subject to this article with respect to wages paid during such calendar year. Where the status of an employer is changed by cessation or disposition of business or appointment of a receiver, trustees, trustee in bankruptcy, or other fiduciary, contributions shall immediately become due and payable on the basis of wages paid or payable by such employer as of the date of the change of status. Such contributions shall be paid to the department in such manner as the department may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in an employer's employ. When contributions are determined in accordance with Schedule A as provided in IC 22-4-11-3, the department may prescribe rules to require an estimated advance payment of contributions in whole or in part, if in the judgment of the department such advance payments will avoid a debit balance in the fund during the calendar quarter to which the advance payment applies. An adjustment shall be made following the quarter in which an advance payment has been made to reflect the difference between the estimated contribution and the contribution actually payable. Advance payment of contributions shall not be required for more than one (1) calendar quarter in any calendar year.

(b) Any employer which is, or becomes, subject to this article by reason of IC 22-4-7-2(g) or IC 22-4-7-2(h) shall pay contributions as provided under this article unless it elects to become liable for "payments in lieu of contributions" (as defined in IC 22-4-2-32).

(c) Except as provided in subsection (e), the election to become liable for "payments in lieu of contributions" must be filed with the department on a form prescribed by the department not later than thirty-one (31) days following the date upon which such entity qualifies as an employer under this article, and shall be for a period of not less than two (2) calendar years.

(d) Any employer that makes an election in accordance with subsections (b) and (c) will continue to be liable for "payments in lieu of contributions" until it files with the department a written notice

terminating its election. The notice filed by an employer to terminate its election must be filed not later than thirty (30) days prior to the beginning of the taxable year for which such termination shall first be effective.

(e) Any employer that qualifies to elect to become liable for "payments in lieu of contributions" and has been paying contributions under this article, may change to a reimbursable basis by filing with the department not later than thirty (30) days prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next year.

(f) Employers making "payments in lieu of contributions" under subsections (b) and (c) shall make reimbursement payments monthly. At the end of each calendar month the department shall bill each such employer (or group of employers) for an amount equal to the full amount of regular benefits plus ~~one-half (1/2) of~~ the ~~amount of extended~~ **part of** benefits **not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970** paid during such month that is attributable to services in the employ of such employers or group of employers. Governmental entities of this state and its political subdivisions electing to make "payments in lieu of contributions" shall be billed by the department at the end of each calendar month for an amount equal to the full amount of regular benefits plus the ~~full amount of extended~~ **part of** benefits **not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970** paid during the month that is attributable to service in the employ of the governmental entities.

(g) Payment of any bill rendered under subsection (f) shall be made not later than thirty (30) days after such bill was mailed to the last known address of the employer or was otherwise delivered to it, unless there has been an application for review and redetermination filed under subsection (i).

(h) Payments made by any employer under the provisions of subsections (f) through (j) shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the employer.

(i) The amount due specified in any bill from the department shall

be conclusive on the employer unless, not later than fifteen (15) days after the bill was mailed to its last known address or otherwise delivered to it, the employer files an application for redetermination. If the employer so files, the employer shall have an opportunity to be heard, and such hearing shall be conducted by a liability administrative law judge pursuant to IC 22-4-32-1 through IC 22-4-32-15. After the hearing, the liability administrative law judge shall immediately notify the employer in writing of the finding, and the bill, if any, so made shall be final, in the absence of judicial review proceedings, fifteen (15) days after such notice is issued.

(j) Past due payments of amounts in lieu of contributions shall be subject to the same interest and penalties that, pursuant to IC 22-4-29, apply to past due contributions.

(k) Two (2) or more employers that have elected to become liable for "payments in lieu of contributions" in accordance with subsections (b) and (c) may file a joint application with the department for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Such group account shall be established as provided in regulations prescribed by the commissioner.

SECTION 9. IC 22-4-10-3, AS AMENDED BY P.L.108-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. **(a) This subsection applies before January 1, 2010.** Except as provided in section 1(b) through 1(e) of this chapter, each employer shall pay contributions equal to five and six-tenths percent (5.6%) of wages, except as otherwise provided in IC 22-4-11-2, IC 22-4-11-3, IC 22-4-11.5, and IC 22-4-37-3.

(b) This subsection applies after December 31, 2009. Except as provided in section 1(b) through 1(e) of this chapter, each employer shall pay contributions equal to twelve percent (12%) of wages, except as otherwise provided in IC 22-4-11-2, IC 22-4-11-3.5, 22-4-11.5, and IC 22-4-37-3.

SECTION 10. IC 22-4-10-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5.5. (a) This section applies to:**

(1) an employer:

(A) that is subject to this article for wages paid during a calendar year;

(B) whose contribution rate for the calendar year is determined under this chapter, IC 22-4-11, IC 22-4-11.5, or IC 22-4-37-3; and

(C) that has a debit reserve ratio of greater than zero for the calendar year; and

(2) calendar years beginning after December 31, 2009.

(b) After December 31, 2009, and before January 1, 2012, an employer may elect to make a voluntary contribution to the fund (as defined in IC 22-4-2-9) and receive a credit computed under subsection (c) to the employer's experience account.

(c) The employer's credit for a voluntary contribution made under subsection (b) is equal to:

(1) the amount of the employer's voluntary contribution; multiplied by

(2) two hundred fifty percent (250%).

(d) The employer may pay the voluntary contribution by making equal periodic payments over a period not to exceed five (5) years. The employer must receive the department's approval for any payment schedule proposed by the employer.

(e) An employer may receive a credit under this section only:

(1) one (1) time;

(2) after making all of the periodic payments required under subsection (d); and

(3) to the extent necessary to attain the contribution rate that is the next lower rate to the contribution rate assigned to the employer at the time the employer elects to make the voluntary contribution.

(f) This section expires January 1, 2017.

SECTION 11. IC 22-4-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) For the purpose of charging employers' experience or reimbursable accounts with regular benefits paid subsequent to July 3, 1971, to any eligible individual but except as provided in IC 22-4-22 and subsection (f), such benefits paid shall be charged proportionately against the experience or reimbursable accounts of the individual's employers in the individual's base period (on the basis of total wage credits established in such base period) against whose accounts the maximum charges specified in this section shall not have been previously made. Such charges shall be made in the inverse chronological order in which

the wage credits of such individuals were established. However, when an individual's claim has been computed for the purpose of determining the individual's regular benefit rights, maximum regular benefit amount, and the proportion of such maximum amount to be charged to the experience or reimbursable accounts of respective chargeable employers in the base period, the experience or reimbursable account of any employer charged with regular benefits paid shall not be credited or recredited with any portion of such maximum amount because of any portion of such individual's wage credits remaining uncharged at the expiration of the individual's benefit period. The maximum so charged against the account of any employer shall not exceed twenty-eight percent (28%) of the total wage credits of such individual with each such employer with which wage credits were established during such individual's base period. Benefits paid under provisions of IC 22-4-22-3 in excess of the amount that the claimant would have been monetarily eligible for under other provisions of this article shall be paid from the fund and not charged to the experience account of any employer. This exception shall not apply to those employers electing to make payments in lieu of contributions who shall be charged for ~~all~~ **the full amount of regular** benefit payments ~~which~~ **and the part of benefits not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970 that** are attributable to service in their employ. Irrespective of the twenty-eight percent (28%) maximum limitation provided for in this section, ~~any extended~~ **the part of** benefits **not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970** paid to an eligible individual based on service with a governmental entity of this state or its political subdivisions shall be charged to the experience or reimbursable accounts of the employers, and ~~fifty percent (50%) of any extended~~ **the part of** benefits **not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970** paid to an eligible individual shall be charged to the experience or reimbursable accounts of the individual's employers in the individual's base period, other than governmental entities of this state or its political subdivisions, in the same proportion and sequence as are provided in this section for regular benefits paid. Additional benefits paid under IC 22-4-12-4(c) and benefits paid under

IC 22-4-15-1(c)(8) shall:

(1) be paid from the fund; and

(2) not be charged to the experience account or the reimbursable account of any employer.

(b) If the aggregate of wages paid to an individual by two (2) or more employers during the same calendar quarter exceeds the maximum wage credits (as defined in IC 22-4-4-3) then the experience or reimbursable account of each such employer shall be charged in the ratio which the amount of wage credits from such employer bears to the total amount of wage credits during the base period.

(c) When wage records show that an individual has been employed by two (2) or more employers during the same calendar quarter of the base period but do not indicate both that such employment was consecutive and the order of sequence thereof, then and in such cases it shall be deemed that the employer with whom the individual established a plurality of wage credits in such calendar quarter is the most recent employer in such quarter and its experience or reimbursable account shall be first charged with benefits paid to such individual. The experience or reimbursable account of the employer with whom the next highest amount of wage credits were established shall be charged secondly and the experience or reimbursable accounts of other employers during such quarters, if any, shall likewise be charged in order according to plurality of wage credits established by such individual.

(d) Except as provided in subsection (f), if an individual:

(1) voluntarily leaves an employer without good cause in connection with the work; or

(2) is discharged from an employer for just cause;

wage credits earned with the employer from whom the employee has separated under these conditions shall be used to compute the claimant's eligibility for benefits, but charges based on such wage credits shall be paid from the fund and not charged to the experience account of any employer. However, this exception shall not apply to those employers who elect to make payments in lieu of contributions, who shall be charged for all benefit payments which are attributable to service in their employ.

(e) Any nonprofit organization which elects to make payments in lieu of contributions into the unemployment compensation fund as

provided in this article is not liable to make the payments with respect to the benefits paid to any individual whose base period wages include wages for previously uncovered services as defined in IC 22-4-4-4, nor is the experience account of any other employer liable for charges for benefits paid the individual to the extent that the unemployment compensation fund is reimbursed for these benefits pursuant to Section 121 of P.L.94-566. Payments which otherwise would have been chargeable to the reimbursable or contributing employers shall be charged to the fund.

(f) If an individual:

(1) earns wages during the individual's base period through employment with two (2) or more employers concurrently;

(2) is separated from work by one (1) of the employers for reasons that would not result in disqualification under IC 22-4-15-1; and

(3) continues to work for one (1) or more of the other employers after the end of the base period and continues to work during the applicable benefit year on substantially the same basis as during the base period;

wage credits earned with the base period employers shall be used to compute the claimant's eligibility for benefits, but charges based on the wage credits from the employer who continues to employ the individual shall be charged to the experience or reimbursable account of the separating employer.

(g) Subsection (f) does not affect the eligibility of a claimant who otherwise qualifies for benefits nor the computation of benefits.

(h) Unemployment benefits paid shall not be charged to the experience account of a base period employer when the claimant's unemployment from the employer was a direct result of the condemnation of property by a municipal corporation (as defined in IC 36-1-2-10), the state, or the federal government, a fire, a flood, or an act of nature, when at least fifty percent (50%) of the employer's employees, including the claimant, became unemployed as a result. This exception does not apply when the unemployment was an intentional result of the employer or a person acting on behalf of the employer.

SECTION 12. IC 22-4-11-2, AS AMENDED BY P.L.108-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Except as provided in IC 22-4-11.5, the

department shall for each year determine the contribution rate applicable to each employer.

(b) The balance shall include contributions with respect to the period ending on the computation date and actually paid on or before July 31 immediately following the computation date and benefits actually paid on or before the computation date and shall also include any voluntary payments made in accordance with IC 22-4-10-5 **or IC 22-4-10-5.5:**

(1) for each calendar year, an employer's rate shall be determined in accordance with the rate schedules in section ~~3 or~~ 3.3 **or 3.5** of this chapter; and

(2) for each calendar year, an employer's rate shall be two and seven-tenths percent (2.7%) **before January 1, 2010, and two and five-tenths percent (2.5%) after December 31, 2009,** except as otherwise provided in IC 22-4-37-3, unless and until:

(A) the employer has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date; and

(B) there has been some annual payroll in each of the three (3) twelve (12) month periods immediately preceding the computation date.

(c) **This subsection applies before January 1, 2010.** In addition to the conditions and requirements set forth and provided in subsection (b)(2)(A) and (b)(2)(B), an employer's rate shall not be less than five and six-tenths percent (5.6%) unless all required contribution and wage reports have been filed within thirty-one (31) days following the computation date and all contributions, penalties, and interest due and owing by the employer or the employer's predecessors for periods prior to and including the computation date have been paid:

(1) within thirty-one (31) days following the computation date; or

(2) within ten (10) days after the department has given the employer a written notice by registered mail to the employer's last known address of:

(A) the delinquency; or

(B) failure to file the reports;

whichever is the later date.

The board or the board's designee may waive the imposition of rates under this subsection if the board finds the employer's failure to meet

the deadlines was for excusable cause. The department shall give written notice to the employer before this additional condition or requirement shall apply.

(d) This subsection applies after December 31, 2009. In addition to the conditions and requirements set forth and provided in subsection (b)(2)(A) and (b)(2)(B), an employer's rate shall not be less than twelve percent (12%) unless all required contributions and wage reports have been filed within thirty-one (31) days following the computation date and all contributions, penalties, and interest due and owning by the employer or the employer's predecessor for periods before and including the computation date have been paid:

(1) within thirty-one (31) days following the computation date; or

(2) within ten (10) days after the department has given the employer a written notice by registered mail to the employer's last known address of:

(A) the delinquency; or

(B) failure to file the reports;

whichever is the later date. The board or the board's designee may waive the imposition of rates under this subsection if the board finds the employer's failure to meet the deadlines was for excusable cause. The department shall give written notice to the employer before this additional condition or requirement shall apply.

~~(d)~~ **(e)** However, if the employer is the state or a political subdivision of the state or any instrumentality of a state or a political subdivision, or any instrumentality which is wholly owned by the state and one (1) or more other states or political subdivisions, the employer may contribute at a rate of:

(1) one percent (1%), **before January 1, 2010; or**

(2) one and six-tenths percent (1.6%), after December 31, 2009;

until it has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date.

~~(e)~~ **(f)** On the computation date every employer who had taxable wages in the previous calendar year shall have the employer's experience account charged with the amount determined under the following formula:

STEP ONE: Divide:

(A) the employer's taxable wages for the preceding calendar year; by

(B) the total taxable wages for the preceding calendar year.

STEP TWO: Multiply the quotient determined under STEP ONE by the total amount of benefits charged to the fund under section 1 of this chapter.

~~(f)~~ **(g)** One (1) percentage point of the rate imposed under subsection (c) **or (d),** or the amount of the employer's payment that is attributable to the increase in the contribution rate, whichever is less, shall be imposed as a penalty that is due and shall be deposited upon collection into the special employment and training services fund established under IC 22-4-25-1. The remainder of the contributions paid by an employer pursuant to the maximum rate shall be:

(1) considered a contribution for the purposes of this article; and

(2) deposited in the unemployment insurance benefit fund established under IC 22-4-26.

SECTION 13. IC 22-4-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The applicable schedule of rates for ~~the~~ calendar ~~year 1983 and thereafter~~ **years before January 1, 2010,** shall be determined by the ratio resulting when the balance in the fund as of the determination date is divided by the total payroll of all subject employers for the immediately preceding calendar year. Schedule A, B, C, or D, appearing on the line opposite the fund ratio in the schedule below, shall be applicable in determining and assigning each employer's contribution rate for the calendar year immediately following the determination date. For the purposes of this subsection, "total payroll" means total remuneration reported by all contributing employers as required by this article and does not include the total payroll of any employer who elected to become liable for payments in lieu of contributions (as defined in IC 22-4-2-32). For the purposes of this subsection, "subject employers" means those employers who are subject to contribution.

FUND RATIO SCHEDULE

When the Fund Ratio Is:

As Much As	But Less Than	Applicable Schedule
	1.0%	A

1.0%	1.5%	B
1.5%	2.25%	C
2.25%		D

~~(b) For calendar years before 2002, if the conditions and requirements of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a credit balance and who are eligible therefor according to each employer's credit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, or D on the line opposite his credit reserve ratio as set forth in the rate schedule below:~~

~~RATE SCHEDULE FOR ACCOUNTS WITH CREDIT BALANCES~~

~~When the Credit Reserve Ratio Is:~~

~~As Much As~~	~~But Less Than~~	~~Rate Schedules (%)~~				
		~~A~~	~~B~~	~~C~~	~~D~~	~~E~~
~~3.0~~		~~1.2~~	~~0.2~~	~~0.2~~	~~0.2~~	~~0.15~~
~~2.8~~	~~3.0~~	~~1.4~~	~~0.4~~	~~0.2~~	~~0.2~~	~~0.15~~
~~2.6~~	~~2.8~~	~~1.6~~	~~0.6~~	~~0.2~~	~~0.2~~	~~0.15~~
~~2.4~~	~~2.6~~	~~1.8~~	~~0.8~~	~~0.4~~	~~0.2~~	~~0.2~~
~~2.2~~	~~2.4~~	~~2.0~~	~~1.0~~	~~0.6~~	~~0.2~~	~~0.2~~
~~2.0~~	~~2.2~~	~~2.2~~	~~1.2~~	~~0.8~~	~~0.4~~	~~0.4~~
~~1.8~~	~~2.0~~	~~2.4~~	~~1.4~~	~~1.0~~	~~0.6~~	~~0.6~~
~~1.6~~	~~1.8~~	~~2.6~~	~~1.6~~	~~1.2~~	~~0.8~~	~~0.8~~
~~1.4~~	~~1.6~~	~~2.8~~	~~1.8~~	~~1.4~~	~~1.0~~	~~1.0~~
~~1.2~~	~~1.4~~	~~3.0~~	~~2.0~~	~~1.6~~	~~1.2~~	~~1.2~~
~~1.0~~	~~1.2~~	~~3.2~~	~~2.2~~	~~1.8~~	~~1.4~~	~~1.4~~
~~0.8~~	~~1.0~~	~~3.4~~	~~2.4~~	~~2.0~~	~~1.6~~	~~1.6~~
~~0.6~~	~~0.8~~	~~3.6~~	~~2.6~~	~~2.2~~	~~1.8~~	~~1.8~~
~~0.4~~	~~0.6~~	~~3.8~~	~~2.8~~	~~2.4~~	~~2.0~~	~~2.0~~
~~0.2~~	~~0.4~~	~~4.0~~	~~3.0~~	~~2.6~~	~~2.2~~	~~2.2~~
~~0~~	~~0.2~~	~~4.2~~	~~3.2~~	~~2.8~~	~~2.4~~	~~2.4~~

~~(c) Each employer whose account as of any computation date occurring on and after June 30, 1984, shows a debit balance shall be assigned the rate of contributions appearing on the line opposite his debit ratio as set forth in the following rate schedule for accounts with debit balances:~~

~~RATE SCHEDULE FOR ACCOUNTS WITH DEBIT BALANCES~~

~~When the Debit Reserve Ratio Is:~~

~~As Much As~~	~~But Less Than~~	~~Rate Schedules (%)~~				
		~~A~~	~~B~~	~~C~~	~~D~~	~~E~~
	~~1.5~~	~~4.5~~	~~4.4~~	~~4.3~~	~~4.2~~	~~3.6~~
~~1.5~~	~~3.0~~	~~4.8~~	~~4.7~~	~~4.6~~	~~4.5~~	~~3.8~~
~~3.0~~	~~4.5~~	~~5.1~~	~~5.0~~	~~4.9~~	~~4.8~~	~~4.1~~
~~4.5~~	~~6.0~~	~~5.4~~	~~5.3~~	~~5.2~~	~~5.1~~	~~4.4~~
~~6.0~~		~~5.7~~	~~5.6~~	~~5.5~~	~~5.4~~	~~5.4~~

(b) Except as provided in subsection (c), the applicable schedule of rates for calendar years after December 31, 2009, shall be determined by the ratio resulting when the balance in the fund as of the determination date is divided by the total payroll of all subject employers for the immediately preceding calendar year. Schedules A through I appearing on the line opposite the fund ratio in the schedule below are applicable in determining and assigning each employer's contribution rate for the calendar year immediately following the determination date. For purposes of this subsection, "total payroll" means total remuneration reported by all contributing employers as required by this article and does not include the total payroll of any employer who elected or is required to become liable for payments in lieu of contributions (as defined in IC 22-4-2-32). For purposes of this subsection, "subject employers" means those employers who are subject to contribution.

FUND RATIO SCHEDULE

When the Fund Ratio Is:

As Much As	But Less Than	Applicable Schedule
	0.2%	A
0.2%	0.4%	B
0.4%	0.6%	C
0.6%	0.8%	D
0.8%	1.0%	E
1.0%	1.2%	F
1.2%	1.4%	G
1.4%	1.6%	H

1.6% I

(c) For calendar year 2010 only, Schedule B applies in determining and assigning each employer's contribution rate.

(d) Any adjustment in the amount charged to any employer's experience account made subsequent to the assignment of rates of contributions for any calendar year shall not operate to alter the amount charged to the experience accounts of any other base-period employers.

SECTION 14. IC 22-4-11-3.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3.3. (a) For calendar years after 2001 **and before 2010,** if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a credit balance and who are eligible therefore according to each employer's credit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, D, or E on the line opposite the employer's credit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) A	B	C	D	E
3.00		1.10	0.10	0.10	0.10	0.15
2.80	3.00	1.30	0.30	0.10	0.10	0.15
2.60	2.80	1.50	0.50	0.10	0.10	0.15
2.40	2.60	1.70	0.70	0.30	0.10	0.20
2.20	2.40	1.90	0.90	0.50	0.10	0.20
2.00	2.20	2.10	1.10	0.70	0.30	0.40
1.80	2.00	2.30	1.30	0.90	0.50	0.60
1.60	1.80	2.50	1.50	1.10	0.70	0.80
1.40	1.60	2.70	1.70	1.30	0.90	1.00
1.20	1.40	2.90	1.90	1.50	1.10	1.20
1.00	1.20	3.10	2.10	1.70	1.30	1.40
0.80	1.00	3.30	2.30	1.90	1.50	1.60
0.60	0.80	3.50	2.50	2.10	1.70	1.80
0.40	0.60	3.70	2.70	2.30	1.90	2.00
0.20	0.40	3.90	2.90	2.50	2.10	2.20

0.00	0.20	4.10	3.10	2.70	2.30	2.40

(b) For calendar years after 2001 **and before 2010,** if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a debit balance and who are eligible therefore according to each employer's debit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, D, or E on the line opposite the employer's debit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As	But	Rate Schedules				
Much	Less			(%)		
As	Than	A	B	C	D	E
	1.50	4.40	4.30	4.20	4.10	5.40
1.50	3.00	4.70	4.60	4.50	4.40	5.40
3.00	4.50	5.00	4.90	4.70	4.70	5.40
4.50	6.00	5.30	5.20	5.10	5.00	5.40
6.00		5.60	5.50	5.40	5.40	5.40

SECTION 15. IC 22-4-11-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.5. (a) For calendar years after 2009, if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a credit balance and who are therefore eligible according to each employer's credit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A through I on the line opposite the employer's credit reserve ratio as set forth in the rate schedule below:**

RATE SCHEDULE FOR ACCOUNTS
WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As	**But**	**Rate Schedules**				
Much	**Less**			**(%)**		
As	**Than**	**A**	**B**	**C**	**D**	**E**
3.00		**0.75**	**0.70**	**0.70**	**0.60**	**0.50**
2.80	**3.00**	**1.00**	**0.90**	**0.90**	**0.80**	**0.70**

2.60	2.80	1.30	1.20	1.10	1.00	0.90
2.40	2.60	1.60	1.50	1.40	1.30	1.20
2.20	2.40	1.90	1.80	1.70	1.50	1.40
2.00	2.20	2.20	2.00	1.90	1.80	1.60
1.80	2.00	2.50	2.30	2.20	2.00	1.80
1.60	1.80	2.80	2.60	2.40	2.20	2.00
1.40	1.60	3.10	2.90	2.70	2.50	2.30
1.20	1.40	3.40	3.20	3.00	2.70	2.50
1.00	1.20	3.70	3.40	3.20	3.00	2.70
0.80	1.00	4.00	3.70	3.50	3.20	2.90
0.60	0.80	4.30	4.00	3.70	3.40	3.10
0.40	0.60	4.60	4.30	4.00	3.70	3.40
0.20	0.40	4.90	4.60	4.30	3.90	3.60
0.00	0.20	5.20	4.80	4.50	4.20	3.80

RATE SCHEDULE FOR ACCOUNTS WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) F	G	H	I
3.00		0.40	0.40	0.30	0.00
2.80	3.00	0.60	0.50	0.40	0.00
2.60	2.80	0.80	0.70	0.60	0.10
2.40	2.60	1.10	1.00	0.90	0.10
2.20	2.40	1.30	1.20	1.00	0.10
2.00	2.20	1.40	1.20	1.00	0.10
1.80	2.00	1.60	1.40	1.20	0.10
1.60	1.80	1.80	1.60	1.40	0.20
1.40	1.60	2.10	1.90	1.70	0.20
1.20	1.40	2.20	2.00	1.70	0.20
1.00	1.20	2.40	2.10	1.80	0.20
0.80	1.00	2.60	2.30	2.00	0.20
0.60	0.80	2.80	2.50	2.20	0.20
0.40	0.60	3.10	2.80	2.40	0.30
0.20	0.40	3.20	2.80	2.40	0.30
0.00	0.20	3.40	3.00	2.60	0.30

(b) For calendar years after 2009, if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to

employers whose accounts have a debit balance and who are therefore eligible according to each employer's debit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A through I on the line opposite the employer's debit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) A	B	C	D	E
0.00	1.50	6.75	6.30	5.90	5.40	4.90
1.50	3.00	7.00	6.50	6.10	5.60	5.10
3.00	4.50	7.25	6.70	6.30	5.80	5.30
4.50	6.00	7.50	7.00	6.50	6.00	5.50
6.00	8.00	7.75	7.20	6.70	6.20	5.70
8.00	10.00	8.25	7.70	7.20	6.60	6.00
10.00	12.00	8.75	8.10	7.60	7.00	6.40
12.00	14.00	9.25	8.60	8.00	7.40	6.80
14.00	16.00	9.75	9.10	8.50	7.80	7.10
16.00		10.20	9.50	8.90	8.20	7.40

RATE SCHEDULE FOR ACCOUNTS WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) F	G	H	I
0.00	1.50	4.40	3.90	3.40	0.40
1.50	3.00	4.60	4.10	3.60	0.40
3.00	4.50	4.80	4.30	3.80	0.40
4.50	6.00	4.90	4.40	3.80	0.40
6.00	8.00	5.10	4.50	3.90	0.40
8.00	10.00	5.40	4.80	4.20	0.50
10.00	12.00	5.80	5.20	4.50	0.50
12.00	14.00	6.10	5.40	4.70	0.50
14.00	16.00	6.40	5.70	5.00	0.50
16.00		6.70	6.00	5.40	5.40

SECTION 16. IC 22-4-11.5-8, AS AMENDED BY P.L.108-2006,

SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) If the department determines that an employing unit or other person that is not an employer under IC 22-4-7 at the time of the acquisition has acquired an employer's trade or business solely or primarily for the purpose of obtaining a lower employer contribution rate, the employing unit or other person:

(1) may not assume the experience account balance of the predecessor employer for the resources and liabilities of the predecessor employer's experience account that are attributable to the acquisition; and

(2) shall pay the applicable contribution rate as determined under this article.

(b) In determining whether an employing unit or other person acquired a trade or business solely or primarily for the purpose of obtaining a lower employer contribution rate under subsection (a), the department shall consider the following factors:

(1) The cost of acquiring the trade or business.

(2) Whether the employing unit or other person continued the business enterprise of the acquired trade or business, **including whether the predecessor employer is no longer performing the same trade or business and the trade or business is performed by the employing unit to whom the workforce is transferred. An employing unit is considered to continue the business enterprise if any one (1) of the following applies:**

(A) The predecessor employer and the employing unit are corporations that are members of a "controlled group of corporations", as defined in Section 1563 of the Internal Revenue Code (generally parent-subsidiary or brother-sister controlled groups), or would be members if Section 1563(a)(4) and 1563(b) of the Internal Revenue Code did not apply and if the phrase "more than fifty percent (50%)" were substituted for the phrase "at least eighty percent (80%)" wherever it appears in Section 1563(a) of the Internal Revenue Code.

(B) The predecessor employer and the employing unit are entities that are part of an affiliated group, as defined in Section 1504 of the Internal Revenue Code, except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent

(50%) instead of eighty percent (80%).

(C) A predecessor employer and an employing unit are entities that do not issue stock, either fifty percent (50%) or more of the members of one (1) entity's board of directors (or other governing body) are members of the other entity's board of directors (or other governing body), or the holders of fifty percent (50%) or more of the voting power to select these members are concurrently the holders of fifty percent (50%) or more of that power with respect to the other entity.

(D) Fifty percent (50%) or more of one (1) entity's officers are concurrently officers of the other entity.

(E) Thirty percent (30%) or more of one (1) entity's employees are concurrently employees of the other entity.

(3) The length of time the employing unit or other person continued the business enterprise of the acquired trade or business.

(4) Whether a substantial number of new employees were hired to perform duties unrelated to the business enterprise that the trade or business conducted before the trade or business was acquired.

(5) Whether the predecessor employer and the employing unit are united by factors of control, operation, or use.

(6) Whether a new employing unit is being created solely to obtain a lower contribution rate.

(c) Any written determination made by the department is conclusive and binding on the employing unit or other person, unless the employing unit or other person files a written protest with the department setting forth all reasons for the protest. A protest under this section must be filed not later than fifteen (15) days after the date the department sends the initial determination to the employing unit or other person. The protest shall be heard and determined under this section and IC 22-4-32-1 through IC 22-4-32-15. The department and the employing unit or other person shall be parties to the hearing before the liability administrative law judge and are entitled to receive copies of all pleadings and the decision.

SECTION 17. IC 22-4-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Benefits shall be computed upon the basis of wage credits of an individual in ~~his~~ **the**

individual's base period. Wage credits shall be reported by the employer and credited to the individual in the manner prescribed by the board. ~~With respect to initial claims filed for any week beginning on and after July 4, 1959, and before July 7, 1991, the maximum total amount of benefits payable to any eligible individual during any benefit period shall not exceed twenty-six (26) times his weekly benefit, or twenty-five percent (25%) of his wage credits with respect to his base period, whichever is the lesser.~~ With respect to initial claims filed for any week beginning on and after July 7, 1991, the maximum total amount of benefits payable to any eligible individual during any benefit period shall not exceed twenty-six (26) times the individual's weekly benefit, or twenty-eight percent (28%) of the individual's wage credits with respect to the individual's base period, whichever is less. If such maximum total amount of benefits is not a multiple of one dollar ($1), it shall be computed to the next lower multiple of one dollar ($1).

(b) **Except as provided in subsection (d),** the total extended benefit amount payable to any eligible individual with respect to ~~his~~ **the individual's** applicable benefit period shall be fifty percent (50%) of the total amount of regular benefits (including dependents' allowances) which were payable to ~~him~~ **the individual** under this article in the applicable benefit year, or thirteen (13) times the weekly benefit amount (including dependents' allowances) which was payable to ~~him~~ **the individual** under this article for a week of total unemployment in the applicable benefit year, whichever is the lesser amount.

(c) This subsection applies to individuals who file a disaster unemployment claim or a state unemployment insurance claim after June 1, 1990, and before June 2, 1991, or during another time specified in another state statute. An individual is entitled to thirteen (13) weeks of additional benefits, as originally determined, if:

(1) the individual has established:

(A) a disaster unemployment claim under the Stafford Disaster Relief and Emergency Assistance Act; or

(B) a state unemployment insurance claim as a direct result of a major disaster;

(2) all regular benefits and all disaster unemployment assistance benefits:

(A) have been exhausted by the individual; or

(B) are no longer payable to the individual due to the

expiration of the disaster assistance period; and

(3) the individual remains unemployed as a direct result of the disaster.

(d) For purposes of this subsection, "high unemployment period" means a period during which an extended benefit period would be in effect if IC 22-4-2-34(d)(1) were applied by substituting "eight percent (8%)" for "six and five-tenths percent (6.5%)". Effective with respect to weeks beginning in a high unemployment period, the total extended benefit amount payable to an eligible individual with respect to the applicable benefit year is equal to the least of the following amounts:

(1) Eighty percent (80%) of the total amount of regular benefits that were payable to the eligible individual under this article in the applicable benefit year.

(2) Twenty (20) times the weekly benefit amount that was payable to the eligible individual under this article for a week of total unemployment in the applicable benefit year.

(3) Forty-six (46) times the weekly benefit amount that was payable to the eligible individual under this article for a week of total unemployment in the applicable benefit year, reduced by the regular unemployment compensation benefits paid (or deemed paid) during the benefit year.

This subsection expires on the later of December 5, 2009, or the week ending four (4) weeks before the last week for which federal sharing is authorized by Section 2005(a) of Division B, Title II (the federal Assistance to Unemployed Workers and Struggling Families Act) of the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

SECTION 18. IC 22-4-13-1.1, AS ADDED BY P.L.108-2006, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.1. (a) Notwithstanding any other provisions of this article, if an individual knowingly:

(1) fails to disclose amounts earned during any week in the individual's waiting period, benefit period, or extended benefit period; or

(2) fails to disclose or has falsified any fact;

that would disqualify the individual for benefits, reduce the individual's benefits, or render the individual ineligible for benefits or extended benefits, the individual forfeits any wage credits earned or any benefits

or extended benefits that might otherwise be payable to the individual for the period in which the failure to disclose or falsification occurs.

(b) In addition to amounts forfeited under subsection (a), an individual is subject to the following civil penalties for each instance in which the individual knowingly fails to disclose or falsifies any fact that if accurately reported to the department would disqualify the individual for benefits, reduce the individual's benefits, or render the individual ineligible for benefits or extended benefits:

(1) For the first instance, an amount equal to twenty-five percent (25%) of the benefit overpayment.

(2) For the second instance, an amount equal to fifty percent (50%) of the benefit overpayment.

(3) For the third and each subsequent instance, an amount equal to one hundred percent (100%) of the benefit overpayment.

(c) The department's determination under this section constitutes an initial determination under ~~IC 22-4-17-2(c)~~ **IC 22-4-17-2(l)** and is subject to a hearing and review under IC 22-4-17-3 through IC 22-4-17-15.

(d) Interest and civil penalties collected under this chapter shall be deposited in the special employment and training services fund established under IC 22-4-25-1.

SECTION 19. IC 22-4-14-2, AS AMENDED BY P.L.108-2006, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) An unemployed individual is eligible to receive benefits with respect to any week only if the individual has:

(1) registered for work at an employment office or branch thereof or other agency designated by the commissioner within the time limits that the department by rule adopts; and

(2) subsequently reported with the frequency and in the manner, either in person or in writing, that the department by rule adopts.

(b) Failure to comply with subsection (a) shall be excused by the commissioner or the commissioner's authorized representative upon a showing of good cause therefor. The department shall ~~by rule~~ waive or alter the requirements of this section as to such types of cases or situations ~~with respect to which the department finds~~ that compliance with such requirements would be oppressive or would be inconsistent with the purposes of this article.

(c) The department shall provide job counseling or training to an

individual who remains unemployed for at least four (4) weeks. The manner and duration of the counseling shall be determined by the department.

(d) An individual who is receiving benefits as determined under IC 22-4-15-1(c)(8) is entitled to complete the reporting, counseling, or training that must be conducted in person at a one stop center selected by the individual. The department shall advise an eligible individual that this option is available.

(e) The department may waive the requirements of subsection (a) for a week only when one (1) of the following applies to an individual for that week:

(1) The individual is attending training or retraining approved by the department.

(2) The individual is a job-attached worker with a specific recall date that is not more than sixty (60) days after the individual's separation date.

(3) The individual is using:

(A) a hiring service;

(B) a referral service; or

(C) another job placement service as determined by the department.

(4) Any other situation exists for which the department considers requiring compliance by the individual with this section to be inconsistent with the purposes of this article.

SECTION 20. IC 22-4-14-3, AS AMENDED BY P.L.108-2006, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) An individual who is receiving benefits as determined under IC 22-4-15-1(c)(8) may restrict the individual's availability because of the individual's need to address the physical, psychological, or legal effects of being a victim of domestic or family violence (as defined in IC 31-9-2-42).

(b) An unemployed individual shall be eligible to receive benefits with respect to any week only if the individual:

(1) is physically and mentally able to work;

(2) is available for work;

(3) is found by the department to be making an effort to secure full-time work; and

(4) participates in reemployment services, such as job search assistance services, if the individual has been determined to be

likely to exhaust regular benefits and to need reemployment services under a profiling system established by the department, unless the department determines that:

(A) the individual has completed the reemployment services; or

(B) failure by the individual to participate in or complete the reemployment services is excused by the director under IC 22-4-14-2(b).

The term "effort to secure full-time work" shall be defined by the ~~board~~ **department** through rule which shall take into consideration whether such individual has a reasonable assurance of reemployment and, if so, the length of the prospective period of unemployment, **but must include as a condition the individual's submission of at least one (1) application for work in each week for which the individual is claiming benefits. An individual who submits an application for work online through an Internet web site complies with this condition.** However, if an otherwise eligible individual is unable to work or unavailable for work on any normal work day of the week the individual shall be eligible to receive benefits with respect to such week reduced by one-third (1/3) of the individual's weekly benefit amount for each day of such inability to work or unavailability for work.

(c) For the purpose of this article, unavailability for work of an individual exists in, but is not limited to, any case in which, with respect to any week, it is found:

(1) that such individual is engaged by any unit, agency, or instrumentality of the United States, in charge of public works or assistance through public employment, or any unit, agency, or instrumentality of this state, or any political subdivision thereof, in charge of any public works or assistance through public employment;

(2) that such individual is in full-time active military service of the United States, or is enrolled in civilian service as a conscientious objector to military service;

(3) that such individual is suspended for misconduct in connection with the individual's work; or

(4) that such individual is in attendance at a regularly established public or private school during the customary hours of the

individual's occupation or is in any vacation period intervening between regular school terms during which the individual is a student. However, this subdivision does not apply to any individual who is attending a regularly established school, has been regularly employed and upon becoming unemployed makes an effort to secure full-time work and is available for suitable full-time work with the individual's last employer, or is available for any other full-time employment deemed suitable.

(d) Notwithstanding any other provisions in this section or IC 22-4-15-2, no otherwise eligible individual shall be denied benefits for any week because the individual is in training with the approval of the department, nor shall such individual be denied benefits with respect to any week in which the individual is in training with the approval of the department by reason of the application of the provisions of this section with respect to the availability for work or active search for work or by reason of the application of the provisions of IC 22-4-15-2 relating to failure to apply for, or the refusal to accept, suitable work. The department shall by rule prescribe the conditions under which approval of such training will be granted.

SECTION 21. IC 22-4-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. ~~(a) As further conditions precedent to the payment of benefits to an individual with respect to benefit periods established on and after July 6, 1980, and before July 7, 1985:~~

~~(1) the individual must have established, after the last day of his last base period, if any, wage credits (as defined in IC 22-4-4-3) and within the meaning of IC 22-4-22-3 equal to at least one and one-quarter (1.25) times the wages paid to him in the calendar quarter in which his wages were highest; and~~

~~(2) the individual must have established wage credits in the last two (2) calendar quarters of his base period in a total amount of not less than nine hundred dollars ($900) and an aggregate amount in the four (4) calendar quarters of his base period of not less than one thousand five hundred dollars ($1,500).~~

~~(b) As further conditions precedent to the payment of benefits to an individual with respect to benefit periods established on and after July 7, 1985, and before January 1, 1992:~~

~~(1) the individual must have established, after the last day of the~~

~~individual's last base period, if any, wage credits (as defined in IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at least one and one-half (1.5) times the wages paid to the individual in the calendar quarter in which the individual's wages were highest; and~~

~~(2) the individual must have established wage credits in the last two (2) calendar quarters of the individual's base period in a total amount of not less than one thousand five hundred dollars ($1,500) and an aggregate amount in the four (4) calendar quarters of the individual's base period of not less than two thousand five hundred dollars ($2,500).~~

~~(c) As further conditions precedent to the payment of benefits to an individual with respect to benefit periods established on and after January 1, 1992, and before July 1, 1995:~~

~~(1) the individual must have established, after the last day of the individual's last base period, if any, wage credits (as defined in IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at least one and one-quarter (1.25) times the wages paid to the individual in the calendar quarter in which the individual's wages were highest; and~~

~~(2) the individual must have established wage credits in the last two (2) calendar quarters of the individual's base period in a total amount of not less than one thousand five hundred dollars ($1,500) and an aggregate in the four (4) calendar quarters of the individual's base period of not less than two thousand five hundred dollars ($2,500).~~

~~(d)~~ **(a)** As further conditions precedent to the payment of benefits to an individual with respect to benefit periods established on and after July 1, 1995, **but before January 1, 2010:**

(1) the individual must have established, after the last day of the individual's last base period, if any, wage credits (as defined in IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at least one and one-quarter (1.25) times the wages paid to the individual in the calendar quarter in which the individual's wages were highest; and

(2) the individual must have established wage credits in the last two (2) calendar quarters of the individual's base period in a total amount of not less than one thousand six hundred fifty dollars

($1,650) and an aggregate in the four (4) calendar quarters of the individual's base period of not less than two thousand seven hundred fifty dollars ($2,750).

~~(c)~~ **(b)** As a further condition precedent to the payment of benefits to an individual with respect to a benefit year established on and after July 1, 1995, an insured worker may not receive benefits in a benefit year unless after the beginning of the immediately preceding benefit year during which the individual received benefits, the individual performed insured work and earned wages in employment under IC 22-4-8 in an amount not less than the individual's weekly benefit amount established for the individual in the preceding benefit year in each of eight (8) weeks.

(c) As further conditions precedent to the payment of benefits to an individual with respect to benefit periods established on and after January 1, 2010:

(1) the individual must have established, after the last day of the individual's last base period, if any, wage credits (as defined in IC 22-4-4-3 and within the meaning of wages under IC 22-4-22-3) equal to at least one and five-tenths (1.5) times the wages paid to the individual in the calendar quarter in which the individual's wages were highest; and

(2) the individual must have established wage credits in the last two (2) calendar quarters of the individual's base period in a total amount of not less than two thousand five hundred dollars ($2,500) and a total amount in the four (4) calendar quarters of the individual's base period of not less than four thousand two hundred dollars ($4,200).

SECTION 22. IC 22-4-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) An individual shall be eligible to receive extended benefits with respect to any week of unemployment in the individual's eligibility period only if the commissioner finds that with respect to such week:

(1) the individual is an "exhaustee" (as defined in ~~IC 22-4-2-34(i)),~~ **IC 22-4-2-34(j)); and**

(2) the individual has satisfied the requirements of this article for the receipt of regular benefits that are applicable to extended benefits, including not being subject to a disqualification for the receipt of benefits.

(b) If an individual has been disqualified from receiving extended

benefits for failure to actively engage in seeking work under IC 22-4-15-2(c), the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of four (4) weeks. For purposes of this subsection, an individual shall be treated as actively engaged in seeking work during any week if:

(1) the individual has engaged in a systematic and sustained effort to obtain work during the week; and

(2) the individual provides tangible evidence to the department of workforce development that the individual has engaged in an effort to obtain work during the week.

(c) For claims for extended benefits established after September 25, 1982, notwithstanding any other provision of this article, an individual shall be eligible to receive extended benefits only if the individual's insured wages in the base period with respect to which the individual exhausted all rights to regular compensation were equal to or exceeded one and one-half (1 1/2) times the individual's insured wages in that calendar quarter of the base period in which the individual's insured wages were the highest.

SECTION 23. IC 22-4-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) With respect to benefit periods established on and after July 6, 1980, an individual who has voluntarily left the individual's most recent employment without good cause in connection with the work or who was discharged from the individual's most recent employment for just cause is ineligible for waiting period or benefit rights for the week in which the disqualifying separation occurred and until the individual has earned remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(b) When it has been determined that an individual has been separated from employment under disqualifying conditions as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by ~~twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount~~

~~is not an even dollar amount, the amount of such reduction will be raised to the next higher even dollar amount. The maximum benefit amount may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.~~ **an amount determined as follows:**

(1) For the first separation from employment under disqualifying conditions, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim, as initially determined; multiplied by

(B) seventy-five percent (75%);

rounded (if not already a multiple of one dollar ($1)) to the next higher dollar.

(2) For the second separation from employment under disqualifying conditions, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim determined under subdivision (1); multiplied by

(B) eighty-five percent (85%);

rounded (if not already a multiple of one dollar ($1)) to the next higher dollar.

(3) For the third and any subsequent separation from employment under disqualifying conditions, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim determined under subdivision (2); multiplied by

(B) ninety percent (90%);

rounded (if not already a multiple of one dollar ($1)) to the next higher dollar.

(c) The disqualifications provided in this section shall be subject to the following modifications:

(1) An individual shall not be subject to disqualification because of separation from the individual's employment if:

(A) the individual left to accept with another employer previously secured permanent full-time work which offered reasonable expectation of continued covered employment and

betterment of wages or working conditions and thereafter was employed on said job;

(B) having been simultaneously employed by two (2) employers, the individual leaves one (1) such employer voluntarily without good cause in connection with the work but remains in employment with the second employer with a reasonable expectation of continued employment; or

(C) the individual left to accept recall made by a base period employer.

(2) An individual whose unemployment is the result of medically substantiated physical disability and who is involuntarily unemployed after having made reasonable efforts to maintain the employment relationship shall not be subject to disqualification under this section for such separation.

(3) An individual who left work to enter the armed forces of the United States shall not be subject to disqualification under this section for such leaving of work.

(4) An individual whose employment is terminated under the compulsory retirement provision of a collective bargaining agreement to which the employer is a party, or under any other plan, system, or program, public or private, providing for compulsory retirement and who is otherwise eligible shall not be deemed to have left the individual's work voluntarily without good cause in connection with the work. However, if such individual subsequently becomes reemployed and thereafter voluntarily leaves work without good cause in connection with the work, the individual shall be deemed ineligible as outlined in this section.

(5) An otherwise eligible individual shall not be denied benefits for any week because the individual is in training approved under Section 236(a)(1) of the Trade Act of 1974, nor shall the individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this law (or any applicable federal unemployment compensation law), relating to availability for work, active search for work, or refusal to accept work. For purposes of this subdivision, the term "suitable employment" means with respect

to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

(6) An individual is not subject to disqualification because of separation from the individual's employment if:

(A) the employment was outside the individual's labor market;

(B) the individual left to accept previously secured full-time work with an employer in the individual's labor market; and

(C) the individual actually became employed with the employer in the individual's labor market.

(7) An individual who, but for the voluntary separation to move to another labor market to join a spouse who had moved to that labor market, shall not be disqualified for that voluntary separation, if the individual is otherwise eligible for benefits. Benefits paid to the spouse whose eligibility is established under this subdivision shall not be charged against the employer from whom the spouse voluntarily separated.

(8) An individual shall not be subject to disqualification if the individual voluntarily left employment or was discharged due to circumstances directly caused by domestic or family violence (as defined in IC 31-9-2-42). An individual who may be entitled to benefits based on this modification may apply to the office of the attorney general under IC 5-26.5 to have an address designated by the office of the attorney general to serve as the individual's address for purposes of this article.

As used in this subsection, "labor market" means the area surrounding an individual's permanent residence, outside which the individual cannot reasonably commute on a daily basis. In determining whether an individual can reasonably commute under this subdivision, the department shall consider the nature of the individual's job.

(d) "Discharge for just cause" as used in this section is defined to include but not be limited to:

(1) separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge;

(2) knowing violation of a reasonable and uniformly enforced rule of an employer, **including a rule regarding attendance;**

(3) **if an employer does not have a rule regarding attendance, an individual's** unsatisfactory attendance, if the individual cannot show good cause for absences or tardiness;

(4) damaging the employer's property through willful negligence;

(5) refusing to obey instructions;

(6) reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours;

(7) conduct endangering safety of self or coworkers; ~~or~~

(8) incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction; or ~~for~~

(9) any breach of duty in connection with work which is reasonably owed an employer by an employee.

(e) To verify that domestic or family violence has occurred, an individual who applies for benefits under subsection (c)(8) shall provide one (1) of the following:

(1) A report of a law enforcement agency (as defined in IC 10-13-3-10).

(2) A protection order issued under IC 34-26-5.

(3) A foreign protection order (as defined in IC 34-6-2-48.5).

(4) An affidavit from a domestic violence service provider verifying services provided to the individual by the domestic violence service provider.

SECTION 24. IC 22-4-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) With respect to benefit periods established on and after July 3, 1977, an individual is ineligible for waiting period or benefit rights, or extended benefit rights, if the department finds that, being totally, partially, or part-totally unemployed at the time when the work offer is effective or when the individual is directed to apply for work, the individual fails without good cause:

(1) to apply for available, suitable work when directed by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service;

(2) to accept, at any time after the individual is notified of a

separation, suitable work when found for and offered to the individual by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service, or an employment unit; or

(3) to return to the individual's customary self-employment when directed by the commissioner or the deputy.

(b) With respect to benefit periods established on and after July 6, 1980, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(c) With respect to extended benefit periods established on and after July 5, 1981, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of four (4) weeks.

(d) If an individual failed to apply for or accept suitable work as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by ~~twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction shall be raised to the next higher even dollar amount. The maximum benefit amount of the individual's current claim may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.~~ **an amount determined as follows:**

(1) For the first failure to apply for or accept suitable work, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim, as initially determined; multiplied by

(B) seventy-five percent (75%);

rounded (if not already a multiple of one dollar ($1)) to the next higher dollar.

(2) For the second failure to apply for or accept suitable work,

the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim determined under subdivision (1); multiplied by

(B) eighty-five percent (85%);

rounded (if not already a multiple of one dollar ($1)) to the next higher dollar.

(3) For the third and any subsequent failure to apply for or accept suitable work, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim determined under subdivision (2); multiplied by

(B) ninety percent (90%);

rounded (if not already a multiple of one dollar ($1)) to the next higher dollar.

(e) In determining whether or not any such work is suitable for an individual, the department shall consider:

(1) the degree of risk involved to such individual's health, safety, and morals;

(2) the individual's physical fitness and prior training and experience;

(3) the individual's length of unemployment and prospects for securing local work in the individual's customary occupation; and

(4) the distance of the available work from the individual's residence.

However, work under substantially the same terms and conditions under which the individual was employed by a base-period employer, which is within the individual's prior training and experience and physical capacity to perform, shall be considered to be suitable work unless the claimant has made a bona fide change in residence which makes such offered work unsuitable to the individual because of the distance involved. **During the fifth through the eighth consecutive week of claiming benefits, work is not considered unsuitable solely because the work pays not less than ninety percent (90%) of the individual's prior weekly wage. After eight (8) consecutive weeks of claiming benefits, work is not considered unsuitable solely because the work pays not less than eighty percent (80%) of the**

individual's prior weekly wage. However, work is not considered suitable under this section if the work pays less than Indiana's minimum wage as determined under IC 22-2-2. For an individual who is subject to section 1(c)(8) of this chapter, the determination of suitable work for the individual must reasonably accommodate the individual's need to address the physical, psychological, legal, and other effects of domestic or family violence.

(f) Notwithstanding any other provisions of this article, no work shall be considered suitable and benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute.

(2) If the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

(3) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining a bona fide labor organization.

(4) If as a condition of being employed the individual would be required to discontinue training into which the individual had entered with the approval of the department.

(g) Notwithstanding subsection (e), with respect to extended benefit periods established on and after July 5, 1981, "suitable work" means any work which is within an individual's capabilities. However, if the individual furnishes evidence satisfactory to the department that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good, the determination of whether any work is suitable work shall be made as provided in subsection (e).

(h) With respect to extended benefit periods established on and after July 5, 1981, no work shall be considered suitable and extended benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the gross average weekly remuneration payable to the individual for the position would not exceed the sum of:

(A) the individual's average weekly benefit amount for the

individual's benefit year; plus

(B) the amount (if any) of supplemental unemployment compensation benefits (as defined in Section 501(c)(17)(D) of the Internal Revenue Code) payable to the individual for such week.

(2) If the position was not offered to the individual in writing or was not listed with the department of workforce development.

(3) If such failure would not result in a denial of compensation under the provisions of this article to the extent that such provisions are not inconsistent with the applicable federal law.

(4) If the position pays wages less than the higher of:

(A) the minimum wage provided by 29 U.S.C. 206(a)(1) (the Fair Labor Standards Act of 1938), without regard to any exemption; or

(B) the state minimum wage (IC 22-2-2).

(i) The department of workforce development shall refer individuals eligible for extended benefits to any suitable work (as defined in subsection (g)) to which subsection (h) would not apply.

SECTION 25. IC 22-4-15-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.1. **(a)** Notwithstanding any other provisions of this article, all of the individual's wage credits established prior to the day upon which the individual was discharged for gross misconduct in connection with work are canceled.

(b) As used in this section, "gross misconduct" ~~includes~~ **means any of the following committed in connection with work, as determined by the department by a preponderance of the evidence:**

(1) A felony. ~~or~~

(2) A Class A misdemeanor. ~~committed in connection with work but only if the felony or misdemeanor is admitted by the individual or has resulted in a conviction.~~

(3) Working, or reporting for work, in a state of intoxication caused by the individual's use of alcohol or a controlled substance (as defined in IC 35-48-1-9).

(4) Battery on another individual while on the employer's property or during working hours.

(5) Theft or embezzlement.

(6) Fraud.

(c) An employer:

(1) has the burden of proving by a preponderance of the evidence that a discharged employee's conduct was gross misconduct; and

(2) may present evidence that the employer filled or maintained the position or job held by the discharged employee after the employee's discharge.

(d) Evidence that a discharged employee's conduct did not result in:

(1) a prosecution for an offense; or

(2) a conviction of an offense;

may be presented.

(e) If evidence is presented that an action or requirement of the employer may have caused the conduct that is the basis for the employee's discharge, the conduct is not gross misconduct under this section.

(f) Lawful conduct not otherwise prohibited by an employer is not gross misconduct under this section.

SECTION 26. IC 22-4-17-1, AS AMENDED BY P.L.108-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Claims for benefits shall be made in accordance with rules adopted by the department. The department shall adopt reasonable procedures consistent with the provisions of this article for the expediting of the taking of claims of individuals for benefits in instances of mass layoffs by employers, the purpose of which shall be to minimize the amount of time required for such individuals to file claims upon becoming unemployed as the result of such mass layoffs.

(b) Except when the result would be inconsistent with the other provisions of this article, as provided in the rules of the department, the provisions of this article which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits.

(c) Whenever an extended benefit period is to become effective in this state as a result of a state "on" indicator, or an extended benefit period is to be terminated in this state as a result of a state "off" indicator, the commissioner shall make an appropriate public announcement.

(d) Computations required by the provisions of ~~IC 22-4-2-34(c)~~

IC 22-4-2-34(f) shall be made by the department in accordance with regulations prescribed by the United States Department of Labor.

(e) Each employer shall display and maintain in places readily accessible to all employees posters concerning its regulations and shall make available to each such individual at the time the individual becomes unemployed printed benefit rights information furnished by the department.

SECTION 27. IC 22-4-17-2, AS AMENDED BY P.L.108-2006, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) When an individual files an initial claim, the department shall promptly **follow the procedure described in subsections (b) through (e) to** make a determination of the individual's status as an insured worker in a form prescribed by the department. A written notice of the determination of insured status shall be furnished to the individual promptly. **The notice must include the time by which the employer is required to respond to the department's notice of the individual's claim, and complete information about the rules of evidence and standards of proof that the department will apply to determine the validity of the individual's claim, if the employer disputes the claim.** Each such determination shall be based on and include a written statement showing the amount of wages paid to the individual for insured work by each employer during the individual's base period and shall include a finding as to whether such wages meet the requirements for the individual to be an insured worker, and, if so, the week ending date of the first week of the individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the individual for weeks of unemployment in the individual's benefit period. For the individual who is not insured, the notice shall include the reason for the determination. Unless the individual, within ten (10) days after such determination was mailed to the individual's last known address, or otherwise delivered to the individual, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits shall be paid or denied in accordance therewith.

(b) Not later than January 1, 2010, the department shall establish an unemployment claims compliance center. When an individual files an initial claim after the unemployment claims compliance center is established, the department, before making a

determination that the individual is eligible for benefits, shall compare the information provided by the individual making the claim with information from the separating employer concerning the individual's eligibility for benefits. If the information provided by the individual making the claim does not match the information from the separating employer, the department may not pay the individual benefits and shall refer the individual's claim to the department's unemployment claims compliance center for investigation. The department shall provide a written notice to the individual who filed the claim that the individual's claim is being referred to the unemployment claims compliance center, including the reason for the referral.

(c) After receiving a claim from the department, the unemployment claims compliance center shall contact the separating employer that provided information that does not match information provided by the individual making the claim to obtain information about the claim that is accurate and sufficient for the department to determine whether the individual is eligible for benefits. The center shall also obtain from the employer the name and address of a person to receive without delay notices served on the employer concerning the claim.

(d) Except as provided in subsection (e), the department may not pay the individual benefits under this article as long as the discrepancy between the information provided by the individual and the information provided by the individual's separating employer is unresolved. If the information provided by an individual and the information provided by the individual's separating employer does not match, the department shall notify both the separating employer and the individual that they have forty-eight (48) hours to resolve the discrepancy. If the discrepancy is not resolved at the end of the forty-eighth hour, the department shall use the information provided by the employer to determine the individual's eligibility for benefits.

(e) If the employer does not respond to the inquiry from the unemployment claims compliance center within five (5) days after the date of the inquiry, the center shall report to the department that the employer has not responded, and the department shall use the information provided by the individual to determine the individual's eligibility for benefits.

~~(b)~~ **(f) After the department makes a determination concerning the individual's eligibility for benefits,** the department shall promptly furnish each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to such individual with a notice in writing of the employer's benefit liability. ~~Such~~ **The** notice shall contain the date, the name and Social Security account number of the individual, the ending date of the individual's base period, ~~and~~ the week ending date of the first week of the individual's benefit period, ~~Such~~ **the time by which the employer is required to respond to the notice, and complete information about the rules of evidence and standards of proof that the department will apply to determine the validity of a claim, if an employer disputes the claim. The** notice shall further contain information as to the proportion of benefits chargeable to the employer's experience or reimbursable account in ratio to the earnings of such individual from such employer. Unless the employer within ten (10) days after such notice of benefit liability was mailed to the employer's last known address, or otherwise delivered to the employer, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits paid shall be charged in accordance therewith.

~~(c)~~ **(g)** An employing unit, including an employer, having knowledge of any facts which may affect an individual's eligibility or right to waiting period credits or benefits, shall notify the department of such facts within ten (10) days after the mailing of notice that a former employee has filed an initial or additional claim for benefits on a form prescribed by the department.

(h) If, after the department determines that additional information is necessary to make a determination under this chapter:

(1) the department makes a request in writing for additional information from an employing unit, including an employer, on a form prescribed by the department; and

(2) the employing unit fails to respond within ten (10) days after the date the request is delivered to the employing unit;

the department shall make the determination with the information available.

(i) If:

(1) an employer subsequently obtains a determination by the department that the employee is not eligible for benefits; and

(2) the determination is at least in part based on information that the department requested from the employer under subsection (h), but which the employer failed to provide within ten (10) days after the department's request was delivered to the employer;

the employer's experience account shall be charged an amount equal to fifty percent (50%) of the benefits paid to the employee to which the employee was not entitled.

(j) If:

(1) the employer's experience account is charged under subsection (i); and

(2) the employee repays all or a part of the benefits on which the charge under subsection (i) is based;

the employer shall receive a credit to the employer's experience account that is equal to the amount of the employee's repayment up to the amount charged to the employer's experience account under subsection (i).

~~(d)~~ **(k)** In addition to the foregoing determination of insured status by the department, the deputy shall, throughout the benefit period, determine the claimant's eligibility with respect to each week for which the claimant claims waiting period credit or benefit rights, the validity of the claimant's claim therefor, and the cause for which the claimant left the claimant's work, or may refer such claim to an administrative law judge who shall make the initial determination with respect thereto in accordance with the procedure in ~~IC 22-4-17-3.~~ **section 3 of this chapter.**

~~(e)~~ **(l)** In cases where the claimant's benefit eligibility or disqualification is disputed, the department shall promptly notify the claimant and the employer or employers directly involved or connected with the issue raised as to the validity of such claim, the eligibility of the claimant for waiting period credit or benefits, or the imposition of a disqualification period or penalty, or the denial thereof, and of the cause for which the claimant left the claimant's work, of such determination and the reasons thereof.

(m) Except as otherwise hereinafter provided in this ~~subsection~~ **section** regarding parties located in Alaska, Hawaii, and Puerto Rico, unless the claimant or such employer, within ten (10) days after ~~such~~

the notification **required by subsection (k)** was mailed to the claimant's or the employer's last known address or otherwise delivered to the claimant or the employer, asks **for** a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. ~~With respect to~~

(n) For a notice of disputed administrative determination or decision mailed or otherwise delivered to the claimant or employer either of whom is located in Alaska, Hawaii, or Puerto Rico, unless ~~such~~ **the** claimant or employer, within fifteen (15) days after ~~such~~ **the** notification **required by subsection (k)** was mailed to the claimant's or employer's last known address or otherwise delivered to the claimant or employer, asks **for** a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith.

(o) If ~~such~~ **a claimant or an employer requests a** hearing ~~is desired,~~ **under subsection (m) or (n),** the request therefor shall be filed with the department in writing within the prescribed periods as above set forth in this ~~subsection~~ **section** and shall be in such form as the department may prescribe. In the event a hearing is requested by an employer or the department after it has been administratively determined that benefits should be allowed to a claimant, entitled benefits shall continue to be paid to said claimant unless said administrative determination has been reversed by a due process hearing. Benefits with respect to any week not in dispute shall be paid promptly regardless of any appeal.

~~(f)~~ **(p)** A person may not participate on behalf of the department in any case in which the person is an interested party.

~~(g)~~ **(q)** Solely on the ground of obvious administrative error appearing on the face of an original determination, and within the benefit year of the affected claims, the commissioner, or a representative authorized by the commissioner to act in the commissioner's behalf, may reconsider and direct the deputy to revise the original determination so as to correct the obvious error appearing therein. Time for filing an appeal and requesting a hearing before an administrative law judge regarding the determinations handed down pursuant to this subsection shall begin on the date following the date of revision of the original determination and shall be filed with the

commissioner in writing within the prescribed periods as above set forth in subsection ~~(c).~~ **(g).**

~~(h)~~ **(r)** Notice to the employer and the claimant that the determination of the department is final if a hearing is not requested shall be prominently displayed on the notice of the determination which is sent to the employer and the claimant.

~~(i)~~ **(s)** If an allegation of the applicability of IC 22-4-15-1(c)(8) is made by the individual at the time of the claim for benefits, the department shall not notify the employer of the claimant's current address or physical location.

SECTION 28. IC 22-4-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. **(a)** Unless such request for hearing is withdrawn, an administrative law judge, after **providing the notice required under section 6 of this chapter and** affording the parties a reasonable opportunity for fair hearing, shall affirm, modify, or reverse the findings of fact and decision of the deputy.

(b) The parties shall be duly notified of ~~such~~ **the** decision **made under subsection (a)** and the reasons therefor, which shall be deemed to be the final decision of the review board, unless within fifteen (15) days after the date of notification or mailing of such decision, an appeal is taken by the commissioner or by any party adversely affected by such decision to the review board.

SECTION 29. IC 22-4-17-4, AS AMENDED BY P.L.108-2006, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. **(a)** The department shall employ one (1) or more administrative law judges to hear and decide disputed claims. Administrative law judges employed under this section are not subject to IC 4-21.5 or any other statute regulating administrative law judges, unless specifically provided.

(b) The department shall provide at least annually to all administrative law judges, review board members, and other individuals who adjudicate claims training concerning:

(1) unemployment compensation law;

(2) rules for the conduct of hearings and appeals; and

(3) rules of conduct for administrative law judges, review board members, and other individuals who adjudicate claims during a hearing or other adjudicative process.

(c) The department regularly shall monitor the hearings and decisions of its administrative law judges, review board members, and other individuals who adjudicate claims to ensure that the hearings and decisions strictly comply with the law and the rules described in subsection (b).

(d) An individual who does not strictly comply with the law and the rules described in subsection (b), including the rules of conduct for administrative law judges, review board members, and other individuals who adjudicate claims during a hearing or other adjudicative process, is subject to disciplinary action by the department, up to and including suspension from or termination of employment.

SECTION 30. IC 22-4-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) The governor shall appoint a review board composed of three (3) members, not more than two (2) of whom shall be members of the same political party, with salaries to be fixed by the governor. The review board shall consist of the chairman and the two (2) members who shall serve for terms of three (3) years. At least one (1) member must be admitted to the practice of law in Indiana.

(b) Any claim pending before an administrative law judge, and all proceedings therein, may be transferred to and determined by the review board upon its own motion, at any time before the administrative law judge announces ~~his~~ **a** decision. Any claim pending before either an administrative law judge or the review board may be transferred to the board for determination at the direction of the board. If the review board considers it advisable to procure additional evidence, it may direct the taking of additional evidence within a time period it shall fix. **An employer that is a party to a claim transferred to the review board or the board under this subsection is entitled to receive notice in accordance with section 6 of this chapter of the transfer or any other action to be taken under this section before a determination is made or other action concerning the claim is taken.**

(c) Any proceeding so removed to the review board shall be heard by a quorum of the review board in accordance with the requirements of section 3 of this chapter. The review board shall notify the parties to any claim of its decision, together with its reasons for the decision.

(d) Members of the review board, when acting as administrative law

judges, are subject to section 15 of this chapter.

(e) The review board may on the board's own motion affirm, modify, set aside, remand, or reverse the findings, conclusions, or orders of an administrative law judge on the basis of any of the following:

(1) Evidence previously submitted to the administrative law judge.

(2) The record of the proceeding after the taking of additional evidence as directed by the review board.

(3) A procedural error by the administrative law judge.

SECTION 31. IC 22-4-17-6, AS AMENDED BY P.L.108-2006, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. **(a)** The manner in which disputed claims shall be presented and the conduct of hearings and appeals, **including the conduct of administrative law judges, review board members, and other individuals who adjudicate claims during a hearing or other adjudicative process,** shall be in accordance with rules adopted by the department for determining the rights of the parties, whether or not the rules conform to common law or statutory rules of evidence and other technical rules of procedure.

(b) A full and complete record shall be kept of all proceedings in connection with a disputed claim. The testimony at any hearing upon a disputed claim need not be transcribed unless the disputed claim is further appealed.

(c) Each party to a hearing before an administrative law judge held under section 3 of this chapter shall be mailed a notice of the hearing at least ten (10) days before the date of the hearing specifying the **date,** place, and time of the hearing, ~~and~~ identifying the issues to be decided, **and providing complete information about the rules of evidence and standards of proof that the administrative law judge will use to determine the validity of the claim.**

(d) If a hearing so scheduled has not commenced within at least sixty (60) minutes of the time for which it was scheduled, then a party involved in the hearing may request a continuance of the hearing. Upon submission of a request for continuance of a hearing under circumstances provided in this section, the continuance shall be granted unless the party requesting the continuance was responsible for the delay in the commencement of the hearing as originally scheduled. In the latter instance, the continuance shall be discretionary with the

administrative law judge. Testimony or other evidence introduced by a party at a hearing before an administrative law judge or the review board that another party to the hearing:

(1) is not prepared to meet; and

(2) by ordinary prudence could not be expected to have anticipated;

shall be good cause for continuance of the hearing and upon motion such continuance shall be granted.

SECTION 32. IC 22-4-18-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. The department of workforce development established under IC 22-4.1-2-1 shall administer job training and placement services ~~the skills 2016 training program established by IC 22-4-10.5-2,~~ and unemployment insurance.

SECTION 33. IC 22-4-19-6, AS AMENDED BY P.L.108-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Each employing unit shall keep true and accurate records containing information the department considers necessary. These records are:

(1) open to inspection; and

(2) subject to being copied;

by an authorized representative of the department at any reasonable time and as often as may be necessary. The department, the review board, or an administrative law judge may require from any employing unit any verified or unverified report, with respect to persons employed by it, which is considered necessary for the effective administration of this article.

(b) Except as provided in subsections (d) and (f), information obtained or obtained from any person in the administration of this article and the records of the department relating to the unemployment tax ~~the skills 2016 assessment under IC 22-4-10.5-3,~~ or the payment of benefits is confidential and may not be published or be open to public inspection in any manner revealing the individual's or the employing unit's identity, except in obedience to an order of a court or as provided in this section.

(c) A claimant **or an employer** at a hearing before an administrative law judge or the review board shall be supplied with information from the records referred to in this section to the extent necessary for the proper presentation of the subject matter of the appearance. The

department may make the information necessary for a proper presentation of a subject matter before an administrative law judge or the review board available to an agency of the United States or an Indiana state agency.

(d) The department may release the following information:

(1) Summary statistical data may be released to the public.

(2) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the Indiana economic development corporation only for the following purposes:

(A) The purpose of conducting a survey.

(B) The purpose of aiding the officers or employees of the Indiana economic development corporation in providing economic development assistance through program development, research, or other methods.

(C) Other purposes consistent with the goals of the Indiana economic development corporation and not inconsistent with those of the department.

(3) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the budget agency only for aiding the employees of the budget agency in forecasting tax revenues.

(4) Information obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits for use by the following governmental entities:

(A) department of state revenue; or

(B) state or local law enforcement agencies;

only if there is an agreement that the information will be kept confidential and used for legitimate governmental purposes.

(e) The department may make information available under subsection (d)(1), (d)(2), or (d)(3) only:

(1) if:

(A) data provided in summary form cannot be used to identify information relating to a specific employer or specific employee; or

(B) there is an agreement that the employer specific information released to the Indiana economic development corporation or the budget agency will be treated as confidential and will be released only in summary form that cannot be used to identify information relating to a specific employer or a specific employee; and

(2) after the cost of making the information available to the person requesting the information is paid under IC 5-14-3.

(f) In addition to the confidentiality provisions of subsection (b), the fact that a claim has been made under IC 22-4-15-1(c)(8) and any information furnished by the claimant or an agent to the department to verify a claim of domestic or family violence are confidential. Information concerning the claimant's current address or physical location shall not be disclosed to the employer or any other person. Disclosure is subject to the following additional restrictions:

(1) The claimant must be notified before any release of information.

(2) Any disclosure is subject to redaction of unnecessary identifying information, including the claimant's address.

(g) An employee:

(1) of the department who recklessly violates subsection (a), (c), (d), (e), or (f); or

(2) of any governmental entity listed in subsection (d)(4) who recklessly violates subsection (d)(4);

commits a Class B misdemeanor.

(h) An employee of the Indiana economic development corporation or the budget agency who violates subsection (d) or (e) commits a Class B misdemeanor.

(i) An employer or agent of an employer that becomes aware that a claim has been made under IC 22-4-15-1(c)(8) shall maintain that information as confidential.

(j) The department may charge a reasonable processing fee not to exceed two dollars ($2) for each record that provides information about an individual's last known employer released in compliance with a court order under subsection (b).

SECTION 34. IC 22-4-19-7, AS AMENDED BY P.L.108-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. In any case where an employing unit, or any

officer, member, or agent thereof or any other person having possession of the records thereof, shall fail or refuse upon demand by the board, the department, the review board, or an administrative law judge, or the duly authorized representative of any of them, to produce or permit the examination or copying of any book, paper, account, record, or other data pertaining to payrolls or employment or ownership of interests or stock in any employing unit, or bearing upon the correctness of any contribution report, ~~or the skills 2016 training assessment under IC 22-4-10.5-3,~~ or for the purpose of making a report as required by this article where none has been made, then and in that event the board, the department, the review board, or the administrative law judge, or the duly authorized representative of any of them, may by issuance of a subpoena require the attendance of such employing unit, or any officer, member, or agent thereof or any other person having possession of the records thereof, and take testimony with respect to any such matter and may require any such person to produce any books or records specified in such subpoena.

SECTION 35. IC 22-4-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Whenever the commissioner shall consider any account or claim for contributions ~~or skills 2016 training assessments under IC 22-4-10.5-3, or both,~~ against an employer, and any penalty or interest due thereon, or any part thereof, to be uncollectible, written notification containing appropriate information shall be furnished to the attorney general by the commissioner setting forth the reasons therefor and the extent to which collection proceedings have been taken. The attorney general may review such notice and may undertake additional investigation as to the facts relating thereto, and shall thereupon certify to the commissioner an opinion as to the collectibility of such account or claim. If the attorney general consents to the cancellation of such claim for delinquent contributions, ~~or skills 2016 training assessments, or both,~~ and any interest or penalty due thereon, the board may then cancel all or any part of such claim.

(b) In addition to the procedure for cancellation of claims for delinquent contributions ~~or skills 2016 training assessments, or both,~~ set out in subsection (a), the board may cancel all or any part of a claim for delinquent contributions ~~or skills 2016 training assessments, or both,~~ against an employer if all of the following conditions are met:

(1) The employer's account has been delinquent for at least seven (7) years.

(2) The commissioner has determined that the account is uncollectible and has recommended that the board cancel the claim for delinquent contributions. ~~or skills 2016 training assessments, or both.~~

(c) When any such claim or any part thereof is cancelled by the board, there shall be placed in the files and records of the department, in the appropriate place for the same, a statement of the amount of contributions, ~~skills 2016 training assessments, and~~ any interest or penalty due thereon, and the action of the board taken with relation thereto, together with the reasons therefor.

SECTION 36. IC 22-4-25-1, AS AMENDED BY P.L.138-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) There is created in the state treasury a special fund to be known as the special employment and training services fund. All interest on delinquent contributions and penalties collected under this article, together with any voluntary contributions tendered as a contribution to this fund, shall be paid into this fund. The money shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said money be available to finance expenditures for the administration of this article, but nothing in this section shall prevent said money from being used as a revolving fund to cover expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The money in this fund shall be used by the board for the payment of refunds of interest on delinquent contributions and penalties so collected, for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds received for or in the employment and training services administration fund, on and after July 1, 1945. Such money shall be available either to satisfy the obligations incurred by the board directly, or by transfer by the board of the required amount from the special employment and training services fund to the employment and training services administration fund. The board shall order the transfer of such funds or the payment of any such obligation

or expenditure and such funds shall be paid by the treasurer of state on requisition drawn by the board directing the auditor of state to issue the auditor's warrant therefor. Any such warrant shall be drawn by the state auditor based upon vouchers certified by the board or the commissioner. The money in this fund is hereby specifically made available to replace within a reasonable time any money received by this state pursuant to 42 U.S.C. 502, as amended, which, because of any action or contingency, has been lost or has been expended for purposes other than or in amounts in excess of those approved by the bureau of employment security. The money in this fund shall be continuously available to the board for expenditures in accordance with the provisions of this section and shall not lapse at any time or be transferred to any other fund, except as provided in this article. Nothing in this section shall be construed to limit, alter, or amend the liability of the state assumed and created by IC 22-4-28, or to change the procedure prescribed in IC 22-4-28 for the satisfaction of such liability, except to the extent that such liability may be satisfied by and out of the funds of such special employment and training services fund created by this section.

(b) Whenever the balance in the special employment and training services fund ~~is deemed excessive by the board,~~ **exceeds eight million five hundred thousand dollars ($8,500,000),** the board shall order payment **of the amount that exceeds eight million five hundred thousand dollars ($8,500,000)** into the unemployment insurance benefit fund. ~~of the amount of the special employment and training services fund deemed to be excessive.~~

(c) Subject to the approval of the board and the availability of funds, on July 1, 2008, and each subsequent July 1, the commissioner shall release:

(1) one million dollars ($1,000,000) to the state educational institution established under IC 21-25-2-1 for training provided to participants in apprenticeship programs approved by the United States Department of Labor, Bureau of Apprenticeship and Training;

(2) four million dollars ($4,000,000) to the state educational institution instituted and incorporated under IC 21-22-2-1 for training provided to participants in joint labor and management apprenticeship programs approved by the United States

Department of Labor, Bureau of Apprenticeship and Training; and

(3) two hundred fifty thousand dollars ($250,000) for journeyman upgrade training to each of the state educational institutions described in subdivisions (1) and (2).

Each state educational institution described in this subsection is entitled to keep ten percent (10%) of the funds released under this subsection for the payment of costs of administering the funds. On each June 30 following the release of the funds, any funds released under this subsection not used by the state educational institutions under this subsection shall be returned to the special employment and training services fund.

SECTION 37. IC 22-4-29-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. In addition to all other powers granted to the commissioner by this article, the commissioner or the commissioner's authorized representatives shall have the power to make assessments against any employing unit which fails to pay contributions, interest, ~~skills 2016 training assessments under IC 22-4-10.5-3,~~ or penalties as required by this article, or for additional contributions ~~and skills 2016 training assessments~~ due and unpaid, which assessment is considered prima facie correct. Such assessments shall consist of contributions ~~skills 2016 training assessments under IC 22-4-10.5-3,~~ and any interest or penalties which may be due by reason of section 1 of this chapter. ~~or the skills 2016 training assessment and interest due under IC 22-4-10.5.~~ Such assessment must be made not later than four (4) calendar years subsequent to the date that said contributions, ~~skills 2016 training assessments,~~ interest, or penalties would have become due, except that this limitation shall not apply to any contributions, ~~skills 2016 training assessments,~~ interest, or penalties which should have been paid with respect to any incorrect report filed with the department which report was known or should have been known to be incorrect by the employing unit.

SECTION 38. IC 22-4-31-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. No injunction to restrain or delay the collection of any contributions ~~skills 2016 training assessments under IC 22-4-10.5-3,~~ or other amounts claimed to be due under the provisions of this article shall be issued by any court.

SECTION 39. IC 22-4-32-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. In the event of any distribution of any employer's assets pursuant to an order of any court under the laws of this state including but not necessarily limited to any receivership, assignment for benefit of creditors, adjudicated insolvency, composition or similar proceeding, contributions ~~and skills 2016 training assessments under IC 22-4-10.5-3~~ then or thereafter due shall be paid in full prior to all other claims except claims for remuneration.

SECTION 40. IC 22-4-32-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. No final report or act of any executor, administrator, receiver, other fiduciary, or other officer engaged in administering the assets of any employer subject to the payment of contributions under this article and acting under the authority and supervision of any court shall be allowed or approved by the court unless such report or account shows and the court finds that all contributions, interest, ~~skills 2016 training assessments under IC 22-4-10.5-3,~~ and penalties imposed by this article have been paid pursuant to this section, and that all contributions ~~and skills 2016 training assessments~~ which may become due under this article are secured by bond or deposit.

SECTION 41. IC 22-4-32-19, AS AMENDED BY P.L.108-2006, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 19. (a) The department may grant an application for adjustment or refund, make an adjustment or refund, or set off a refund as follows:

(1) Not later than four (4) years after the date upon which any contributions ~~skills 2016 training assessments under IC 22-4-10.5-3,~~ or interest thereon were paid, an employing unit which has paid such contributions ~~skills 2016 training assessments,~~ or interest thereon may make application for an adjustment or a refund of such contributions ~~skills 2016 training assessments,~~ or an adjustment thereon in connection with subsequent contribution payments. ~~or skills 2016 training assessments.~~ The department shall thereupon determine whether or not such contribution ~~or skills 2016 training assessment,~~ or interest or any portion thereof, was erroneously paid or wrongfully assessed.

(2) The department may grant such application in whole or in part and may make an adjustment, without interest, in connection with subsequent contribution payments ~~or skills 2016 training assessments,~~ or refund such amounts, without interest, from the fund. Adjustments or refund may be made on the commissioner's own initiative.

(3) Any adjustments or refunds of interest or penalties collected for contributions due under IC 22-4-10-1 shall be charged to and paid from the special employment and training services fund created by IC 22-4-25. ~~Any adjustments or refunds of interest or penalties collected for skills 2016 training assessments due under IC 22-4-10.5-3 shall be charged to and paid from the skills 2016 training fund established by IC 5-28-27-3.~~

(4) The department may set off any refund available to an employer under this section against any delinquent contributions, payments in lieu of contributions, ~~skills 2016 training assessments,~~ and the interest and penalties, if any, related to the delinquent payments and assessments.

(b) Any decision by the department to:

(1) grant an application for adjustment or refund;

(2) make an adjustment or refund on its own initiative; or

(3) set off a refund;

constitutes the initial determination referred to in section 4 of this chapter and is subject to hearing and review as provided in sections 1 through 15 of this chapter.

(c) If any assessment has become final by virtue of a decision of a liability administrative law judge with the result that no proceeding for judicial review as provided in this article was instituted, no refund or adjustment with respect to such assessment shall be made.

SECTION 42. IC 22-4-32-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20. The contributions, penalties, ~~skills 2016 training assessments under IC 22-4-10.5-3,~~ and interest due from any employer under the provisions of this article from the time they shall be due shall be a personal liability of the employer to and for the benefit of the fund and the employment and training services administration fund.

SECTION 43. IC 22-4-32-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 23. (a) As used in this

section:

(1) "Dissolution" refers to dissolution of a corporation under IC 23-1-45 through IC 23-1-48 **or dissolution under Indiana law of an association, a joint venture, an estate, a partnership, a limited liability partnership, a limited liability company, a joint stock company, or an insurance company (referred to as a "noncorporate entity" in this section).**

(2) "Liquidation" means the operation or act of winding up a corporation's **or entity's** affairs, when normal business activities have ceased, by settling its debts and realizing upon and distributing its assets.

(3) "Withdrawal" refers to the withdrawal of a foreign corporation from Indiana under IC 23-1-50.

(b) The officers and directors of a corporation effecting dissolution, liquidation, or withdrawal **or the appropriate individuals of a noncorporate entity** shall do the following:

(1) File all necessary documents with the department in a timely manner as required by this article.

(2) Make all payments of contributions ~~and skills 2016 training assessments under IC 22-4-10.5~~ to the department in a timely manner as required by this article.

(3) File with the department a form of notification within thirty (30) days of the adoption of a resolution or plan. The form of notification shall be prescribed by the department and may require information concerning:

(A) the corporation's **or noncorporate entity's** assets;

(B) the corporation's **or noncorporate entity's** liabilities;

(C) details of the plan or resolution;

(D) the names and addresses of corporate officers, directors, and shareholders **or the noncorporate entity's owners, members, or trustees;**

(E) a copy of the minutes of the shareholders' meeting **or the noncorporate entity's meeting** at which the plan or resolution was formally adopted; and

(F) such other information as the board may require.

The commissioner may accept, in lieu of the department's form of notification, a copy of Form 966 that the corporation filed with the Internal Revenue Service.

(c) Unless a clearance is issued under subsection (g), for a period of one (1) year following the filing of the form of notification with the department, the corporate officers and directors **of a corporation and the chief executive of a noncorporate entity** remain personally liable, subject to IC 23-1-35-1(e), for any acts or omissions that result in the distribution of corporate **or noncorporate entity** assets in violation of the interests of the state. An officer or director **of a corporation or a chief executive of a noncorporate entity** held liable for an unlawful distribution under this subsection is entitled to contribution:

(1) from every other director who voted for or assented to the distribution, subject to IC 23-1-35-1(e); and

(2) from each shareholder, **owner, member, or trustee** for the amount the shareholder, **owner, member, or trustee** accepted.

(d) The corporation's officers' and directors' **and the noncorporate entity's chief executive's** personal liability includes all contributions, ~~skills 2016 training assessments,~~ penalties, interest, and fees associated with the collection of the liability due the department. In addition to the penalties provided elsewhere in this article, a penalty of up to thirty percent (30%) of the unpaid contributions and skills 2016 training assessments may be imposed on the corporate officers and directors **and the noncorporate entity's chief executive** for failure to take reasonable steps to set aside corporate assets to meet the liability due the department.

(e) If the department fails to begin a collection action against a corporate officer or director **or a noncorporate entity's chief executive** within one (1) year after the filing of a completed form of notification with the department, the personal liability of the corporate officer or director **or noncorporate entity's chief executive** expires. The filing of a substantially blank form of notification or a form containing misrepresentation of material facts does not constitute filing a form of notification for the purpose of determining the period of personal liability of the officers and directors of the corporation **or the chief executive of the noncorporate entity.**

(f) In addition to the remedies contained in this section, the department is entitled to pursue corporate assets that have been distributed to shareholders **or noncorporate entity assets that have been distributed to owners, members, or beneficiaries,** in violation of the interests of the state. The election to pursue one (1) remedy does

not foreclose the state's option to pursue other legal remedies.

(g) The department may issue a clearance to a corporation **or noncorporate entity** effecting dissolution, liquidation, or withdrawal if:

(1) the:

(A) officers and directors of the corporation have; **or**

(B) chief executive of the noncorporate entity has;

met the requirements of subsection (b); and

(2) request for the clearance is made in writing by the officers and directors of the corporation **or chief executive of the noncorporate entity** within thirty (30) days after the filing of the form of notification with the department.

(h) The issuance of a clearance by the department under subsection (g) releases the officers and directors **of a corporation and the chief executive of a noncorporate entity** from personal liability under this section.

SECTION 44. IC 22-4-32-24, AS AMENDED BY P.L.108-2006, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 24. (a) This section applies to notices given under sections 4, 7, 8, and 9 of this chapter.

(b) As used in this section, "notices" includes mailings pertaining to:

(1) the assessment of contributions, ~~skills 2016 training assessments under IC 22-4-10.5-3,~~ penalties, and interest;

(2) the transfer of charges from an employer's account;

(3) successorships and related matters arising from successorships;

(4) claims for refunds and adjustments;

(5) violations under IC 22-4-11.5;

(6) decisions; and

(7) notices of intention to appeal or seek judicial review.

(c) If a notice under this chapter is served through the United States Postal Service, three (3) days must be added to a period that commences upon service of that notice.

(d) The filing of a document with the unemployment insurance appeals division or review board is complete on the earliest of the following dates that apply to the filing:

(1) The date on which the document is delivered to the unemployment insurance appeals division or review board.

(2) The date of the postmark on the envelope containing the document if the document is mailed to the unemployment insurance appeals division or review board by the United States Postal Service.

(3) The date on which the document is deposited with a private carrier, as shown by a receipt issued by the carrier, if the document is sent to the unemployment insurance appeals division or review board by a private carrier.

SECTION 45. IC 22-4-33-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. Except as provided in IC 22-4-39, any agreement by an individual to waive, release or commute ~~his~~ **the individual's** rights to benefits or any other rights under this article is void. Any agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions required under this article ~~or skills 2016 training assessments under IC 22-4-10.5-3~~ from the employer is void. No employer may make or require or accept any deduction from the remuneration of individuals in ~~his~~ **the employer's** employ to finance the employer's contributions ~~or skills 2016 training assessments under IC 22-4-10.5-3~~ required from ~~him,~~ **the employer,** or require or accept any waiver by any individual in ~~his~~ **the employer's** employ of any right under this article.

SECTION 46. IC 22-4-37-3, AS AMENDED BY P.L.108-2006, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) Should:

(1) the Congress of the United States amend, repeal, or authorize the implementation of a demonstration project under 29 U.S.C. 49 et seq., 26 U.S.C. 3301 through 3311, 42 U.S.C. 301 et seq., or 26 U.S.C. 3101 through 3504, or any statute or statutes supplemental to or in lieu thereof or any part or parts of said statutes, or should any or all of said statutes or any part or parts thereof be held invalid, to the end and with such effect that appropriations of funds by the said Congress and grants thereof to the state for the payment of costs of administration of the department are or no longer shall be available for such purposes;

(2) the primary responsibility for the administration of 26 U.S.C. 3301 through 26 U.S.C. 3311 be transferred to the state as a demonstration project authorized by Congress; or

(3) employers in Indiana subject to the payment of tax under 26 U.S.C. 3301 through 3311 be granted full credit upon such tax for contributions or taxes paid to the department;

then, beginning with the effective date of such change in liability for payment of such federal tax and for each year thereafter, the normal contribution rate under this article shall be established by the department and may not exceed three and one-half percent (3.5%) per year of each employer's payroll subject to contribution. With respect to each employer having a rate of contribution for such year pursuant to terms of IC 22-4-11-2(b)(2)(A), IC 22-4-11-2(b)(2)(B), IC 22-4-11-2(c), IC 22-4-11-3, IC 22-4-11-3.3, **IC 22-4-11-3.5,** and IC 22-4-11.5, to the rate of contribution, as determined for such year in which such change occurs, shall be added not more than eight-tenths percent (0.8%) as prescribed by the department.

(b) The amount of the excess of tax for which such employer is or may become liable by reason of this section over the amount which such employer would pay or become liable for except for the provisions of this section, together with any interest or earnings thereon, shall be paid and transferred into the employment and training services administration fund to be disbursed and paid out under the same conditions and for the same purposes as is other money provided to be paid into such fund. If the commissioner shall determine that as of January 1 of any year there is an excess in said fund over the money and funds required to be disbursed therefrom for the purposes thereof for such year, then and in such cases an amount equal to such excess, as determined by the commissioner, shall be transferred to and become part of the unemployment insurance benefit fund, and such funds shall be deemed to be and are hereby appropriated for the purposes set out in this section.

SECTION 47. IC 22-4-43 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 43. Hoosier Workers First Training Program

Sec. 1. As used in this chapter, "fund" refers to the Hoosier workers first training fund established by section 5 of this chapter.

Sec. 2. The Hoosier workers first training program is established for the following purposes:

(1) To improve manufacturing productivity levels in Indiana.

(2) To enable firms to become competitive by making workers more productive through training.

(3) To create a competitive economy by creating and retaining jobs.

(4) To encourage the increased training necessary because of an aging workforce.

(5) To avoid potential payment of unemployment compensation by providing workers with enhanced job skills.

Sec. 3. The department shall administer the Hoosier workers first training program.

Sec. 4. For each state fiscal year, the department shall prepare an annual report on the use of the fund as a part of the report required by IC 22-4-18-7.

Sec. 5. (a) The Hoosier workers first training fund is established to do the following:

(1) Administer the costs of the Hoosier workers first training program established by section 2 of this chapter.

(2) Undertake any program or activity that furthers the purposes of this chapter.

(b) The money in the fund shall be allocated to employers or consortiums for worker training grants that enable workers who reside in Indiana to obtain recognizable credentials or certifications and transferable employment skills that improve employer competitiveness.

(c) Special consideration shall be given to Ivy Tech Community College (as defined in IC 21-7-13-22) to be the provider of the training funded under this chapter whenever the state educational institution:

(1) meets the identified training needs of an employer or a consortium with an existing credentialing or certification program; and

(2) is the most cost effective provider.

(d) For the worker training grants described in subsection (b), the department shall do the following:

(1) Provide grant applications to interested employers and consortiums.

(2) Accept completed applications for the grants.

(3) Obtain all information necessary or appropriate to determine whether an applicant qualifies for a grant,

including information concerning:

(A) the applicant;

(B) the training to be offered;

(C) the training provider; and

(D) the workers to be trained.

(4) Allocate the money in the fund in accordance with subsections (b) and (c).

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

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

(g) The fund consists of the following:

(1) Appropriations from the general assembly.

(2) Earnings acquired through the use of money belonging to the fund.

(3) Money deposited in the fund from any other source.

(h) Any balance in the fund does not lapse but is available continuously to the department for expenditures for the program established by this chapter.

SECTION 48. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 5-28-27; IC 22-4-10.5; IC 22-4-12-2.1; IC 22-4-17-10.

SECTION 49. [EFFECTIVE JULY 1, 2009] **(a) As used in this SECTION, "committee" refers to the unemployment insurance oversight committee established by IC 2-5-30-3, as added by this act.**

(b) As used in this SECTION, "department" refers to the department of workforce development established by IC 22-4.1-2-1.

(c) As used in this SECTION, "fund" refers to the unemployment insurance benefit fund established under IC 22-4-26.

(d) The commissioner of the department shall do the following, not later than ninety (90) days after the earliest effective date of this act:

(1) Examine the annual cost of implementing changes to eligibility and other requirements of the state's existing unemployment insurance system in order for the state to

qualify for the maximum amount available under the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

(2) Compare the cost determined in subdivision (1) to the maximum amount available to the state under the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5) as the result of the state making the changes.

(3) Initiate the changes examined under subdivisions (1) and (2), unless the commissioner determines, after the examination under subdivision (1) and the comparison performed under subdivision (2), that the negative fiscal impact to the fund outweighs the benefits of:

(A) the amounts available to the state under the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5); and

(B) the expansion of eligibility and other requirements of the state's existing unemployment insurance system.

(4) Submit in an electronic format under IC 5-14-6 to the legislative council, the committee, the speaker of the house of representatives, and the president pro tempore of the senate a report that provides the following:

(A) Details of the commissioner's actions, or the commissioner's decision not to initiate changes, under subdivisions (1), (2), and (3).

(B) Recommendations for any legislation necessary to modify the state's unemployment insurance system in order for the state to qualify for amounts available under the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

(C) An analysis of the fiscal impact to the fund of:

(i) the commissioner's actions, or the commissioner's decision not to initiate changes, under subdivision (3); and

(ii) any legislation recommended under clause (B), if the legislation is enacted.

(e) This SECTION expires July 1, 2011.

SECTION 50. **An emergency is declared for this act.**

P.L.176-2009
[H.1514. Approved May 13, 2009.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-4-1-18, AS AMENDED BY P.L.146-2008, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. (a) Except as provided in subsection (b), the following city, town, county, or township officers and employees shall file an individual surety bond:

(1) City judges, controllers, clerks, and clerk-treasurers.

(2) Town judges and clerk-treasurers.

(3) Auditors, treasurers, recorders, surveyors, sheriffs, coroners, assessors, and clerks.

(4) Township trustees.

(5) Those employees directed to file an individual bond by the fiscal body of a city, town, or county.

(6) Township assessors (if any).

(b) The fiscal body of a city, town, county, or township may by ordinance authorize the purchase of a blanket bond or a crime insurance policy endorsed to include faithful performance to cover the faithful performance of all employees, commission members, and persons acting on behalf of the local government unit, including those officers described in subsection (a).

(c) **Except as provided in subsections (h) and (i),** the fiscal bodies of the respective units shall fix the amount of the bond of city controllers, city clerk-treasurers, town clerk-treasurers, Barrett Law fund custodians, county treasurers, county sheriffs, circuit court clerks, township trustees, and conservancy district financial clerks as follows:

(1) The amount **of annual coverage** must equal ~~fifteen~~ **thirty** thousand dollars ~~($15,000)~~ **($30,000)** for each one million dollars

($1,000,000) of receipts of the officer's office during the last complete fiscal year before the purchase of the bond, subject to subdivision (2).

(2) The amount **of annual coverage** may not be less than ~~fifteen~~ **thirty** thousand dollars ~~($15,000)~~ **($30,000)** nor more than three hundred thousand dollars ($300,000) **unless the fiscal body approves a greater amount of annual coverage for the officer or employee.**

County auditors shall file bonds ~~in amounts~~ **that provide annual coverage** of not less than ~~fifteen~~ **thirty** thousand dollars ~~($15,000)~~ **($30,000)**, as fixed by the fiscal body of the county. The amount of **annual coverage of** the bond of any other person required to file an individual bond shall be fixed by the fiscal body of the unit at not less than ~~eight~~ **fifteen** thousand ~~five hundred~~ dollars ~~($8,500).~~ **($15,000).**

(d) **Except as provided in subsection (j),** a controller of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) shall file an individual surety bond in an amount:

(1) fixed by the board of directors of the solid waste management district; and

(2) that is at least ~~fifteen~~ **thirty** thousand dollars ~~($15,000).~~ **($30,000) in annual coverage.**

(e) Except as provided under subsection (d), a person who is required to file an individual surety bond by the board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) shall file a bond in an amount fixed by the board of directors.

(f) In 1982 and every four (4) years after that, the state examiner shall review the bond amounts fixed under this section and report in an electronic format under IC 5-14-6 to the general assembly whether changes are necessary to ensure adequate and economical coverage.

(g) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section, in consultation with the commission on public records under IC 5-15-5.1-6.

(h) Notwithstanding subsection (c), the state board of accounts may fix the amount of the bond for a city controller, city clerk-treasurer, town clerk-treasurer, Barrett Law fund custodian, county treasurer, county sheriff, circuit court clerk, township trustee, or conservancy district financial clerk at an amount that

exceeds thirty thousand dollars ($30,000) for each one million dollars ($1,000,000) of receipts of the officer's office during the last complete fiscal year before the purchase of the bond. However, the bond amount may not exceed three hundred thousand dollars ($300,000). An increased bond amount may be established under this subsection only if the state examiner issues a report under IC 5-11-5-1 that includes a finding that the officer engaged in malfeasance, misfeasance, or nonfeasance that resulted in the misappropriation of, diversion of, or inability to account for public funds.

(i) Notwithstanding subsection (c), the state board of accounts may fix the amount of the bond for any person who is not described in subsection (h) and is required to file an individual bond at an amount that exceeds fifteen thousand dollars ($15,000). An increased bond amount may be established under this subsection only if the state examiner issues a report under IC 5-11-5-1 that includes a finding that the person engaged in malfeasance, misfeasance, or nonfeasance that resulted in the misappropriation of, diversion of, or inability to account for public funds.

(j) Notwithstanding subsection (d), the state board of accounts may fix the amount of the bond for a controller of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) at an amount that exceeds thirty thousand dollars ($30,000). An increased bond amount may be established under this subsection only if the state examiner issues a report under IC 5-11-5-1 that includes a finding that the controller engaged in malfeasance, misfeasance, or nonfeasance that resulted in the misappropriation of, diversion of, or inability to account for public funds.

SECTION 2. IC 5-11-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. ~~(a)~~ The state board of accounts shall formulate, prescribe, and install a system of accounting and reporting in conformity with this chapter, which must comply with the following:

(1) Be uniform for every public office and every public account of the same class and contain written standards that an entity that is subject to audit must observe.

(2) Exhibit true accounts and detailed statements of funds collected, received, obligated, and expended for or on account of

the public for any and every purpose whatever, and by all public officers, employees, or other individuals.

(3) Show the receipt, use, and disposition of all public property and the income, if any, derived from the property.

(4) Show all sources of public income and the amounts due and received from each source.

(5) Show all receipts, vouchers, contracts, obligations, and other documents kept, or that may be required to be kept, to prove the validity of every transaction.

The state board of accounts shall formulate or approve all statements and reports necessary for the internal administration of the office to which the statements and reports pertain. The state board of accounts shall approve all reports that are published or that are required to be filed in the office of state examiner. The state board of accounts shall from time to time make and enforce changes in the system and forms of accounting and reporting as necessary to conform to law.

~~(b) Notwithstanding subsection (a), the state board of accounts may not require a municipality to use an electronic, automated, or computerized system of accounting and reporting. However, if a municipality elects to use an electronic, automated, or computerized system of accounting, the system must conform to the requirements of this chapter.~~

SECTION 3. IC 5-11-1-4, AS AMENDED BY P.L.189-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. ~~(a)~~ The state examiner shall require from every municipality and every state or local governmental unit, entity, or instrumentality financial reports covering the full period of each fiscal year. ~~Except as provided by subsection (b),~~ These reports shall be prepared, verified, and filed with the state examiner not later than ~~thirty (30)~~ **sixty (60)** days after the close of each fiscal year. **The reports must be filed electronically, in a manner prescribed by the state examiner that is compatible with the technology employed by the political subdivision.**

~~(b) The following shall prepare, verify, and file the reports required under subsection (a) not later than sixty (60) days after the close of each fiscal year:~~

~~(1) A municipal government.~~

~~(2) A public library.~~

~~(3) A district (as defined in IC 13-11-2-58(a)) that owns a landfill (as defined in IC 13-11-2-116(c)).~~

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

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

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

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

(b) Before an examination report is signed, verified, and filed as required by subsection (a), the officer or the chief executive officer of the state office, municipality, or entity examined must have an opportunity to review the report and to file with the state examiner a

written response to that report. If a written response is filed, it becomes a part of the examination report that is signed, verified, and filed as required by subsection (a).

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

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

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

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

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

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

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

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

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

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

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

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

(c) The state examiner, the deputy examiner, and a field examiner may enforce attendance and answers to questions and interrogatories, as provided by law, with respect to examinations and investigations

made by the state examiner, deputy examiner, field examiner, or private examiner of public offices.

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

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

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

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

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

(f) The report must ~~be:~~ **meet the following requirements:**

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

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

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

(g) The attorney general shall diligently institute and prosecute civil proceedings against any or all officers, individuals, and persons in the form and manner that the attorney general determines will secure a proper recovery to the state, municipality, taxing or assessment district, or other public entity injured, defrauded, or damaged by the matters in the report. These prosecutions may be made by the attorney general and the recovery may be had, either upon public official bonds, contractors' bonds, surety or other bonds, or upon individual liability, either upon contract or in tort, as the attorney general determines is wise. No action or recovery in any form or manner, or against any party or parties, precludes further or additional action or recovery in any other form or manner or against another party, either concurrently with or later found

necessary, to secure complete recovery and restitution with respect to all matters exhibited, set out, or described in the report. The suits may be brought in the name of the state on the relation of the attorney general for the benefit of the state, or the municipality, taxing or assessment district, or other public entity that may be proper. The actions brought against any defendants may be joined, as to parties, form, and causes of action, in the manner that the attorney general decides.

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

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

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

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

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

(k) After receiving a preliminary report under subsection (j), the state examiner may provide a copy of the report to the attorney general. The attorney general may institute and prosecute civil proceedings against the delinquent officer or employee, or upon the

officer's or employee's official bond, or both, and against any other proper person that will secure to the state or to the proper municipality the recovery of any funds misappropriated, diverted, or unaccounted for.

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

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

SECTION 6. IC 6-9-2.5-7.5, AS AMENDED BY P.L.224-2007, SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.5. (a) The county treasurer shall establish a tourism capital improvement fund.

(b) The county treasurer shall deposit money in the tourism capital improvement fund as follows:

(1) Before January 1, ~~2010,~~ **2015,** the county treasurer shall deposit in the tourism capital improvement fund the amount of money received under section 6 of this chapter that is generated by a three and one-half percent (3.5%) rate.

(2) After December 31, ~~2009,~~ **2014,** the county treasurer shall deposit in the tourism capital improvement fund the amount of money received under section 6 of this chapter that is generated by a four and one-half percent (4.5%) rate.

(c) The commission may transfer money in the tourism capital improvement fund to:

(1) the county government, a city government, or a separate body corporate and politic in a county described in section 1 of this chapter; or

(2) any Indiana nonprofit corporation;

for the purpose of making capital improvements in the county that promote conventions, tourism, or recreation. The commission may transfer money under this section only after approving the transfer. Transfers shall be made quarterly or less frequently under this section.

SECTION 7. IC 6-9-2.5-7.7, AS AMENDED BY P.L.168-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.7. (a) The county treasurer shall establish a convention center operating fund.

(b) Before January 1, ~~2010,~~ **2015,** the county treasurer shall deposit in the convention center operating fund the amount of money received under section 6 of this chapter that is generated by a two percent (2%) rate. Money in the fund must be expended for the operating expenses of a convention center.

(c) After December 31, ~~2009,~~ **2014,** the county treasurer shall deposit in the convention center operating fund the amount of money received under section 6 of this chapter that is generated by a one percent (1%) rate. Money in the fund must be expended for the operating expenses of a convention center with the unused balance transferred on January 1 of each year to the tourism capital improvement fund.

SECTION 8. IC 6-9-20-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The fiscal body of the county may adopt an ordinance to impose an excise tax, known as the county food and beverage tax, on those transactions described in section 4 of this chapter.

(b) If a fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(c) If a fiscal body adopts an ordinance under subsection (a), the county food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance was adopted.

~~(d) The tax terminates in a county on January 1 of the year immediately following the year in which the last of the bonds issued to finance the construction of an airport terminal and the last of any bonds issued to refund those bonds have been completely paid as to both principal and interest.~~

~~(e) Notwithstanding subsection (d),~~ **(d) Except as provided in subsection (e),** if the county fiscal body determines that the tax under this chapter should be continued in order to finance improvements to a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities, the tax ~~does not terminate as specified in subsection (d) but instead~~ continues until January 1 of the year following the year in which the last of the bonds issued to finance improvements to a county auditorium or auditorium renovation resulting in a new convention center and related parking

facilities, and the last of any bonds issued to refund those bonds, have been completely paid or defeased as to both principal and interest. An action to contest the validity of the determination under this subsection must be instituted not more than thirty (30) days after the determination.

(e) Notwithstanding subsection (d), if the county fiscal body determines that the tax under this chapter should be continued to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities, the tax does not terminate as specified in subsection (d) but continues until January 1 of the year following the year in which the last of the bonds issued to finance the acquisition, construction, and equipping of the arena and other facilities that serve or support the arena activities, and the last of any bonds issued to refund those bonds, have been completely paid or defeased as to both principal and interest. An action to contest the validity of the determination under this subsection must be instituted not more than thirty (30) days after the determination.

SECTION 9. IC 6-9-20-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.5. If

~~(1) the treasurer of the airport authority has certified to the treasurer of state that the last of the bonds issued to finance the construction of an airport terminal and the last of any bonds issued to refund those bonds have been completely paid as to both principal and interest; and~~

~~(2)~~ the county fiscal body has determined to continue the tax to finance improvements to a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities **or to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities,** the amounts received from the taxes imposed under this chapter shall be paid monthly by the treasurer of state to the county treasurer **under section 8.5 of this chapter or the fiscal officer of the largest municipality in the county under section 9.5 of this chapter** upon warrants issued by the auditor of state.

SECTION 10. IC 6-9-20-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.5. (a) If the tax imposed under section 3 of this chapter is continued to finance

improvements to the county auditorium or auditorium renovation resulting in a new convention center and related parking facilities, the county treasurer shall establish an auditorium fund.

(b) **Except as provided in sections 8.8 and 9.5 of this chapter,** the county treasurer shall deposit in this fund all amounts received under this chapter.

(c) Any money earned from the investment of money in the fund becomes a part of the fund.

(d) Money in the fund shall be used by the county for the financing, construction, renovation, improvement, and equipping of a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities.

SECTION 11. IC 6-9-20-8.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8.8. (a) If the tax imposed under section 3 of this chapter is continued to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities, the county treasurer shall determine whether there is any food and beverage tax revenue under this chapter that is not required to be deposited and held to:**

(1) pay any debt service on bonds issued or rentals on leases entered into by January 1, 2009, for which a pledge of revenues of the food and beverage tax has been made by the county as set forth in section 8.7 of this chapter; or

(2) provide for a debt service reserve related to the bonds or leases described in subdivision (1).

(b) Before the twentieth day of each month, the county treasurer shall determine whether there is excess food and beverage tax revenue under subsection (a) and by the last day of that month transfer the excess food and beverage tax revenue to the fiscal officer of the most populated municipality in the county. The municipal fiscal officer shall deposit the excess food and beverage tax revenue in a municipal arena fund. Any money earned from the investment of money in the municipal arena fund becomes a part of the municipal arena fund. Money in the municipal arena fund shall be used by the most populated municipality in the county for financing the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities. This money shall be retained in the municipal arena fund until applied

or transferred to another fund pledged to the payment of debt service on bonds, rent on leases, or other obligations incurred to finance the facilities.

SECTION 12. IC 6-9-20-8.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8.9. (a) If the tax imposed under section 3 of this chapter is continued to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities, the most populated municipality in the county may issue bonds, enter into leases, or incur other obligations to:**

(1) pay any costs associated with the financing, acquisition, construction, and equipping of the arena and other facilities that serve or support the arena activities; or

(2) refund bonds issued or other obligations incurred under this chapter so long as any bonds issued or other obligations incurred to refund bonds or retire other obligations do not extend the date when the previous bonds or other obligations will be completely paid as to principal and interest.

(b) Bonds issued or other obligations incurred under this section:

(1) are payable from money provided in this chapter, any other revenues available to the municipality, or any combination of these sources;

(2) must be issued in the manner prescribed by IC 36-4-6-19 through IC 36-4-6-20;

(3) may not have a term ending more than thirty (30) years after the first February 1 following the date on which construction of the arena and other facilities that serve or support the arena activities is estimated to be completed;

(4) may be payable at any regular designated intervals and may be paid in unequal amounts if the municipality reasonably expects to pay the debt service from funds other than property taxes that are exempt from the levy limitations of IC 6-1.1-18.5 (even if the municipality has pledged to levy property taxes to pay the debt service if those other funds are insufficient); and

(5) may, in the discretion of the municipality, be sold at a negotiated sale at a price to be determined by the municipality or in accordance with IC 5-1-11 and IC 5-3-1.

(c) Leases entered into under this section:

(1) may be for a term ending not later than thirty (30) years after the first February 1 following the date on which construction of the arena and other facilities that serve or support the arena activities is estimated to be completed;

(2) may be payable at any regular designated intervals and may be paid in unequal amounts if the municipality reasonably expects to pay the lease rentals from funds other than property taxes that are exempt from the levy limitations of IC 6-1.1-18.5 (even if the municipality has pledged to levy property taxes to pay the lease rentals if those other funds are insufficient);

(3) may provide for payments from revenues under this chapter, any other revenues available to the municipality, or any combination of these sources;

(4) may provide that payments by the municipality to the lessor are required only to the extent and only for the time that the lessor is able to provide the leased facilities in accordance with the lease;

(5) must be based upon the value of the facilities leased; and

(6) may not create a debt of the municipality for purposes of the Constitution of the State of Indiana.

(d) A lease may be entered into by the municipal executive after a public hearing of the municipal fiscal body at which all interested parties are provided the opportunity to be heard. After the public hearing, the municipal executive may approve the execution of the lease on behalf of the municipality only if:

(1) the municipal executive finds that the service to be provided throughout the life of the lease will serve the public purpose of the municipality and is in the best interests of its residents; and

(2) the lease is approved by an ordinance of the municipal fiscal body.

(e) An action to contest the validity of bonds issued or leases entered into under this section must be brought not later than thirty (30) days after the adoption of a bond ordinance or the municipal executive's action approving the execution of the lease.

(f) Notwithstanding the provisions of this chapter or any other law, instead of issuing bonds, entering into leases, or incurring

obligations in whole or in part under this chapter, the most populated municipality in the county may cause bonds to be issued, leases to be entered into, or obligations to be incurred under this subsection to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena. The bonds, leases, or obligations:

(1) must be issued, entered into, or incurred by any special taxing district, agency, department, or instrumentality of or in the municipality, under any other law by which bonds may be issued, leases may be entered into, or obligations incurred;

(2) must be payable from money provided under this chapter, from any other revenues available to the municipality or any special taxing district, agency, department, or instrumentality of or in the municipality, or any combination of these sources;

(3) must have a term ending not later than thirty (30) years after the first February 1 following the date on which construction of the arena and other facilities that serve or support the arena activities is estimated to be completed; and

(4) may be payable at any regular designated intervals and may be paid in unequal amounts if the municipality, special taxing district, agency, department, or instrumentality of or in the municipality reasonably expects to pay the debt service or lease rentals from funds other than property taxes that are exempt from the levy limitations of IC 6-1.1-18.5 (even if the municipality or any special taxing district, agency, department, or instrumentality of or in the municipality has pledged to levy property taxes to pay the debt service or lease rentals if those other funds are insufficient).

SECTION 13. IC 6-9-20-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. With respect to

~~(1) bonds for which a pledge of airport authority revenues has been made by the airport authority, the Indiana general assembly covenants with the airport authority and the purchasers of those bonds that:~~

~~(A) this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of the tax imposed by this chapter; and~~

~~(B) this chapter will not be amended in any manner that will change the purpose for which revenues from the tax imposed by this chapter may be used;~~

~~as long as the principal of or interest on any of those bonds is unpaid; and~~

~~(2)~~ bonds, leases, or other obligations for which a pledge of revenues of the food and beverage tax imposed under this chapter has been made by the county as set forth in section 8.7 **or 8.9** of this chapter, and bonds issued by a lessor that are payable from lease rentals, the general assembly covenants with the county, **the most populated municipality in the county,** and the purchasers or owners of the bonds or other obligations described in this subdivision that this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of the food and beverage tax imposed by this chapter as long as the principal of any bonds, the interest on any bonds, or the lease rentals due under any lease are unpaid.

SECTION 14. IC 6-9-20-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 9.5. If:**

(1) the county treasurer has certified to the treasurer of state that:

(A) the last of the bonds issued to finance the improvements to a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities; and

(B) the last of any bonds issued to refund the bonds referred to in clause (A);

have been completely paid or defeased as to both principal and interest; and

(2) the county fiscal body has made a determination to continue the tax to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities;

the amounts received from the taxes imposed under this chapter shall be paid monthly by the treasurer of state to the fiscal officer of the most populated municipality in the county upon warrants issued by the auditor of state. The fiscal officer shall deposit any amounts received under this section in the municipal arena fund.

SECTION 15. IC 6-9-20-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. The financing of:

(1) improvements to a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities; **and**

(2) the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities;

serves a public purpose and is of benefit to the general welfare of the county by enhancing cultural activities and improving the quality of life in the county and encouraging investment, economic growth, and diversity.

SECTION 16. IC 6-9-27-9.5, AS AMENDED BY P.L.184-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 9.5. (a) A city shall use money in the fund established under section 8.5 of this chapter for only the following:

(1) Renovating the city hall.

(2) Constructing new police or fire stations, or both.

(3) Improving the city's sanitary sewers or wastewater treatment facilities, or both.

(4) Improving the city's storm water drainage systems.

(5) Other projects involving the city's water system **or sanitary sewer system** or protecting the city's well fields, as determined by the city fiscal body.

~~Money in the fund may not be used for the operating costs of a project. In addition, the city may not initiate a project under this chapter after December 31, 2015.~~

(b) The fiscal body of the city may pledge money in the fund to pay bonds issued, loans obtained, and lease payments or other obligations incurred by or on behalf of the city or a special taxing district in the city to provide the projects described in subsection (a).

(c) Subsection (b) applies only to bonds, loans, lease payments, or obligations that are issued, obtained, or incurred after the date on which the tax is imposed under section 3 of this chapter.

(d) A pledge under subsection (b) is enforceable under IC 5-1-14-4.

SECTION 17. IC 6-9-33-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. The county supplemental food and beverage tax imposed on a food or beverage transaction described in section 4 of this chapter may not exceed one

percent (1%) of the gross retail income received by the merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from such a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5. ~~or IC 6-9-23.~~

SECTION 18. IC 6-9-33-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. **(a)** If a tax is imposed under section 3 of this chapter, the county treasurer shall establish a supplemental coliseum improvement fund. The county treasurer shall deposit in this fund all amounts received from the tax imposed under this chapter. Money in this fund:

(1) may be appropriated only

~~(1) for acquisition, improvement, remodeling, or expansion of; or~~

~~(2)~~ to retire or advance refund bonds issued, loans obtained, or lease payments incurred under IC 36-1-10 (referred to in this chapter as "obligations") to remodel, expand, improve, or acquire an athletic and exhibition coliseum in existence before the effective date of an ordinance adopted under section 3 of this chapter; **and**

(2) shall be used to make transfers required by subsection (b).

(b) There is established a food and beverage tax reserve account to be administered by the capital improvement board of managers (IC 36-10-8). The money that is deposited in the supplemental coliseum improvement fund after December 31, 2009, and is not needed in a year to make payments on obligations for which a pledge of revenue under this chapter was made before January 1, 2009, shall be transferred to the capital improvement board. The county treasurer shall make the transfer before February 1 of the following year. The capital improvement board shall deposit the money it receives in the board's food and beverage tax reserve account. Money in the reserve account may not be withdrawn or transferred during the year it is received except to make transfers back to the county to make payments on obligations for which a pledge of revenue under this chapter was made before January 1, 2009. However, the capital improvement board may transfer:

(1) interest earned on money in the reserve account; and

(2) an amount equal to the balance that has been held in the reserve account for at least twelve (12) months;

to the board's capital improvement fund established by IC 36-10-8-12.

(c) Excess revenue transferred under subsection (b) to the capital improvement board of managers may not be used to:

(1) provide funding for improvements initiated before January 1, 2009, that are located in the area bounded on the north by Jefferson Boulevard, on the east by Harrison Street, on the south by Breckenridge Street, and on the west by Ewing Street as those public ways were located on January 1 2009, as part of the Harrison Square project; or

(2) pay operational expenses for any facilities of the municipality.

SECTION 19. IC 6-9-33-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. ~~(a) The county may enter into an agreement under which amounts deposited in, or to be deposited in, the supplemental coliseum expansion fund are pledged to payment of obligations issued to finance the remodeling, expansion, or maintenance of an athletic and exhibition coliseum under section 8 of this chapter.~~

~~(b)~~ **(a)** Obligations entered into **before January 1, 2009,** for the acquisition, expansion, remodeling, and improvement of an athletic and exhibition coliseum shall be retired by using money collected from a tax imposed under this chapter.

~~(c)~~ **(b)** With respect to obligations for which a pledge has been made under ~~subsection (a),~~ **this section before January 1, 2009,** the general assembly covenants with the holders of these obligations that:

(1) this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of the tax imposed under this chapter; and

(2) this chapter will not be amended in any manner that will change the purpose for which revenues from the tax imposed under this chapter may be used;

as long as the payment of any of those obligations is outstanding.

SECTION 20. IC 6-9-33-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 11. On or before March 31 each year, the executive director of the World War Memorial Coliseum shall submit to the**

capital improvement board of managers an annual report of the operations of the coliseum.

SECTION 21. IC 6-9-41 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 41. Monroe County Food and Beverage Tax

Sec. 1. This chapter applies to Monroe County.

Sec. 2. Except as provided in sections 3, 4, and 9(b) of this chapter, the definitions in IC 6-9-12-1 and IC 36-1-2 apply throughout this chapter.

Sec. 3. As used in this chapter, "city" means the city of Bloomington.

Sec. 4. As used in this chapter, "county" means Monroe County.

Sec. 5. (a) The fiscal body of the county may adopt an ordinance to impose an excise tax, known as the county food and beverage tax, on those transactions described in section 6 of this chapter. The effective date of an ordinance adopted under this subsection must be after December 31, 2009.

(b) If the fiscal body adopts an ordinance under subsection (a), the fiscal body shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(c) If the fiscal body adopts an ordinance under subsection (a), the county food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance is adopted. However, if an ordinance is adopted before December 1, 2009, and the ordinance takes effect January 1, 2010, the tax applies to transactions after December 31, 2009.

Sec. 6. (a) Except as provided in subsection (c), a tax imposed under section 5 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

(1) for consumption at a location, or on equipment, provided by a retail merchant;

(2) in the county in which the tax is imposed; and

(3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

(1) served by a retail merchant off the merchant's premises;

(2) food sold in a heated state or heated by a retail merchant;

(3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

(c) The county food and beverage tax does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 7. The county food and beverage tax imposed on a food or beverage transaction described in section 6 of this chapter equals one percent (1%) of the gross retail income received by the merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from the transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

Sec. 8. If an ordinance is not adopted under section 9 of this chapter, the tax that may be imposed under section 5 of this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the tax under this chapter may be made separately or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 9. (a) The county fiscal body may adopt an ordinance to require that the tax imposed under section 5 of this chapter be reported on forms approved by the county treasurer and that the tax be paid monthly to the county treasurer. If an ordinance is adopted under this subsection, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month in which the tax is collected. If an ordinance is not adopted

under this subsection, the tax shall be imposed, paid, and collected in exactly the same manner as the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

(b) If an ordinance is adopted under this section, all of the provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration apply to the imposition and administration of the tax imposed under section 5 of this chapter, except to the extent those provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer.

(c) For purposes of this chapter, the terms "person" and "gross retail income" have the same meaning in this section as set forth in IC 6-2.5, except that "person" does not include state supported educational institutions. If the tax is paid to the department of state revenue, the returns to be filed for the payment of the tax under this section may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax as the department of state revenue may by rule determine.

Sec. 10. If an ordinance is not adopted under section 9 of this chapter, the amounts received from the county food and beverage tax imposed under section 5 of this chapter shall be paid monthly by the treasurer of state to the county treasurer upon warrants issued by the auditor of state.

Sec. 11. (a) If an ordinance is adopted under section 5 of this chapter, the county treasurer shall establish a food and beverage tax receipts fund.

(b) The county treasurer shall deposit in the fund county food and beverage tax revenue that the county treasurer receives.

(c) Any money earned from the investment of money in the fund becomes part of the fund.

(d) Money in the fund at the end of the county fiscal year does not revert to the county general fund.

Sec. 12. (a) If an ordinance is adopted under section 5 of this chapter, the fiscal officer of the city shall establish a food and beverage tax receipts fund.

(b) The fiscal officer shall deposit in the fund county food and beverage tax revenue that the fiscal officer receives.

(c) Any money earned from the investment of money in the fund becomes part of the fund.

(d) Money in the fund at the end of the city fiscal year does not revert to the city general fund.

Sec. 13. (a) Each month, the county auditor shall distribute the county food and beverage tax revenue received by the county treasurer between the city and the county according to the location where the county food and beverage tax was collected. If the county food and beverage tax was collected in the city, the city must receive the revenue. If the county food and beverage tax was collected in the part of the county that is outside the city, the county must receive the revenue.

(b) Distribution of county food and beverage tax revenue to the city must be on warrants issued by the county auditor.

Sec. 14. The county's share of county food and beverage tax revenue deposited in the county food and beverage tax receipts fund may be used only to finance, refinance, construct, operate, or maintain a convention center, a conference center, or related tourism or economic development projects.

Sec. 15. Money deposited in the city food and beverage tax receipts fund may be used only to finance, refinance, construct, operate, or maintain a convention center, a conference center, or related tourism or economic development projects.

Sec. 16. (a) In order to coordinate and assist efforts of the county and city fiscal bodies regarding the utilization of food and beverage tax receipts, an advisory commission shall be established and composed of the following individuals:

(1) Three (3) members who are owners of retail facilities that sell food or beverages subject to the county food and beverage tax imposed under this chapter appointed by the city and county executive.

(2) The president of the county executive.

(3) A member of the county fiscal body appointed by the members of the county fiscal body.

(4) The city executive.

(5) A member of the city legislative body appointed by the members of the city legislative body.

(b) The county and city legislative bodies must request the advisory commission's recommendations concerning the

expenditure of any food and beverage tax funds collected under this chapter. The county or city legislative body may not adopt any ordinance or resolution requiring the expenditure of food and beverage tax collected under this chapter without the approval, in writing, of a majority of the members of the advisory commission.

SECTION 22. IC 34-25-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) At or after the time of filing a complaint, the plaintiff may have an attachment against the property of the defendant, in the cases described in subsection (b) and in the manner described in this chapter.

(b) The plaintiff may attach property when the action is for the recovery of money and the defendant:

(1) is, or one (1) of several defendants is, a foreign corporation or a nonresident of Indiana;

(2) is, or one (1) of several defendants is, secretly leaving or has left Indiana with intent to defraud:

(A) the defendant's creditors;

(B) the state;

(C) a municipal corporation;

(D) a political subdivision; or

(E) a school corporation (as defined in IC 20-18-2-16(c));

(3) is concealed so that a summons cannot be served upon the defendant;

(4) is removing or about to remove the defendant's property subject to execution, or a material part of the property, outside Indiana, not leaving enough behind to satisfy the plaintiff's claim;

(5) has sold, conveyed, or otherwise disposed of the defendant's property subject to execution, or permitted the property to be sold with the fraudulent intent to cheat, hinder, or delay:

(A) the defendant's creditors;

(B) the state;

(C) a municipal corporation;

(D) a political subdivision; or

(E) a school corporation (as defined in IC 20-18-2-16(c)); or

(6) is about to sell, convey, or otherwise dispose of the defendant's property subject to execution with the fraudulent intent to cheat, hinder, or delay:

(A) the defendant's creditors;

(B) the state;

(C) a municipal corporation;

(D) a political subdivision; or

(E) a school corporation (as defined in IC 20-18-2-16(c)).

(c) The plaintiff is entitled to an attachment for the causes mentioned in subsection (b)(2), (b)(4), (b)(5), and (b)(6) whether the cause of action is due or not.

SECTION 23. IC 34-25-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. **Except for actions filed by the attorney general under IC 5-11-5-1 or IC 5-11-6-1,** the plaintiff or a person representing the plaintiff shall execute a written undertaking, with sufficient surety, to be approved by the clerk, payable to the defendant, to the effect that the plaintiff will:

(1) duly prosecute the proceeding in attachment; and

(2) pay all damages that may be sustained by the defendant if the proceedings of the plaintiff are wrongful and oppressive.

SECTION 24. IC 36-1-12-4.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4.9. (a) This section applies to a public work for the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property if the cost of the public work is estimated to be less than one hundred fifty thousand dollars ($150,000).**

(b) The board may award a contract for public work described in subsection (a) in the manner provided in IC 5-22.

SECTION 25. IC 36-7-31.3-8, AS AMENDED BY P.L.1-2006, SECTION 570, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) A designating body may designate as part of a professional sports and convention development area any facility that is:

(1) owned by the city, the county, a school corporation, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11, and used by a professional sports franchise for practice or competitive sporting events; or

(2) owned by the city, the county, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11, and used as one (1) of the following:

(A) A facility used principally for convention or tourism related events serving national or regional markets.

(B) An airport.

(C) A museum.

(D) A zoo.

(E) A facility used for public attractions of national significance.

(F) A performing arts venue.

(G) A county courthouse registered on the National Register of Historic Places.

A facility may not include a private golf course or related improvements. The tax area may include only facilities described in this section and any parcel of land on which a facility is located. An area may contain noncontiguous tracts of land within the city, county, or school corporation.

(b) Except for a tax area that is located in a city having a population of:

(1) more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); or

(2) more than ninety thousand (90,000) but less than one hundred five thousand (105,000);

a tax area must include at least one (1) facility described in subsection (a)(1).

(c) A tax area may contain other facilities not owned by the designating body if:

(1) the facility is owned by a city, the county, a school corporation, or a board established under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11; and

(2) an agreement exists between the designating body and the owner of the facility specifying the distribution and uses of the covered taxes to be allocated under this chapter.

(d) This subsection applies to all tax areas located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000). The facilities located at an Indiana University-Purdue University regional campus are added to the tax area designated by the county. The maximum amount of covered taxes that may be captured in all tax areas located in the county is three million

dollars ($3,000,000) per year, regardless of the designating body that established the tax area. The county option income taxes imposed under IC 6-3.5 that are captured must be counted first toward this maximum.

SECTION 26. IC 36-7-31.3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) A tax area must be established by resolution. A resolution establishing a tax area must provide for the allocation of covered taxes attributable to a taxable event or covered taxes earned in the tax area to the professional sports and convention development area fund established for the city or county. The allocation provision must apply to the entire tax area. **However, for all tax areas located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000), the allocation each year must be as follows:**

(1) The first two million six hundred thousand dollars ($2,600,000) shall be transferred to the county treasurer for deposit in the supplemental coliseum improvement fund.

(2) The remaining amount shall be transferred to the treasurer of the joint county-city capital improvement board in the county.

The resolution must provide the tax area terminates not later than December 31, 2027.

(b) In addition to subsection (a), all of the salary, wages, bonuses, and other compensation that are:

(1) paid during a taxable year to a professional athlete for professional athletic services;

(2) taxable in Indiana; and

(3) earned in the tax area;

shall be allocated to the tax area if the professional athlete is a member of a team that plays the majority of the professional athletic events that the team plays in Indiana in the tax area.

(c) **For a tax area not located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000),** the total amount of state revenue captured by the tax area may not exceed five dollars ($5) per resident of the city or county per year for twenty (20) consecutive years**.**

(d) The resolution establishing the tax area must designate the facility or proposed facility and the facility site for which the tax area is established.

(e) The department may adopt rules under IC 4-22-2 and guidelines to govern the allocation of covered taxes to a tax area.

SECTION 27. IC 36-10-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The board is composed of seven (7) members.

(b) The county executive shall determine in the creating ordinance which units within the county shall make appointments to the board. In addition, the creating ordinance must provide that no more than four (4) of the members be affiliated with the same political party. The creating ordinance must also provide staggered terms for the appointments.

(c) Notwithstanding subsection (b), if a board was created under IC 18-7-18 (before its repeal on February 24, 1982), three (3) members shall be appointed by the executive of the second class city and three (3) members shall be appointed by the executive of the county. Those members shall select the seventh member, who serves as president. One (1) of the members appointed by the city executive must be engaged in the hotel or motel business in the city. ~~The members appointed by the county executive must be residents of the area of the county outside the corporate boundaries of the city.~~ No more than two (2) of the members appointed by the city executive may be affiliated with the same political party and no more than two (2) of the members appointed by the county executive may be affiliated with the same political party. In addition, each member must have been a resident of the county for at least one (1) year immediately preceding his appointment. Initial terms of the members are as follows:

(1) One (1) of the members appointed by each appointing authority for a term ending January 15 of the year following the appointment.

(2) Two (2) of the members appointed by each appointing authority for a term ending January 15 of the second year following the appointment.

(3) The seventh member serves for a term ending January 15 of the second year following the appointment.

(d) Subsequent terms of members are for two (2) years beginning on January 15 and until a successor is appointed and qualified. A member may be reappointed after his term has expired.

(e) If a vacancy occurs on the board, the appointing authority shall appoint a new member. That member serves for the remainder of the vacated term.

(f) A board member may be removed for cause by the appointing authority who appointed him.

(g) Each member, before entering upon his duties, shall take and subscribe an oath of office in the usual form. The oath shall be endorsed upon his certificate of appointment. The certificate shall be promptly filed with the records of the board. However, if the board was created under IC 18-7-18 (before its repeal on February 24, 1982), the certificate shall be filed with the clerk of the circuit court of the county in which the board is created.

(h) A member may not receive a salary, but is entitled to reimbursement for any expenses necessarily incurred in the performance of his duties.

SECTION 28. IC 36-10-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. The board may, acting under the name "(name of county) county capital improvement board of managers", or, if the board was created under IC 18-7-18 (before its repeal on February 24, 1982), ~~"(name of the city) and (name of the county) county convention and tourism authority",~~ **"(name of the county) and (name of the city) capital improvement board of managers",** do the following:

(1) Acquire by grant, purchase, gift, devise, lease, or otherwise, and hold, use, sell, lease, or dispose of, real and personal property and any rights and interests in it necessary or convenient for the exercise of its powers under this chapter.

(2) Construct, reconstruct, repair, remodel, enlarge, extend, or add to any capital improvement under this chapter and condemn, appropriate, lease, rent, purchase, and hold any real property, rights-of-way, materials, or personal property needed for the purposes of this chapter, even if it is already held for a governmental or public use.

(3) Control and operate a capital improvement, and receive and collect money due to the operation or otherwise relating to the

capital improvement, including employing an executive manager and other agents and employees that are necessary for the acquisition, construction, and proper operation of the improvements and fixing the compensation of all employees with a contract of employment or other arrangement terminable at the will of the board. However, a contract may be entered into with an executive manager and associate manager for a period not longer than four (4) years at one (1) time and may be extended from time to time for the same or shorter periods.

(4) Let concessions for the operation of restaurants, cafeterias, public telephones, news and cigar stands, vending machines, caterers, and all other services considered necessary or desirable for the operation of a capital improvement.

(5) Lease a capital improvement or a part of it to any association, corporation, or individual, with or without the right to sublet.

(6) Fix charges and establish rules and regulations governing the use of a capital improvement.

(7) Accept gifts or contributions from individuals, corporations, limited liability companies, partnerships, associations, trusts, or foundations and funds, loans, or advances on the terms that the board considers necessary or desirable from the United States, the state, or a political subdivision or department of either, including entering into and carrying out contracts and agreements in connection with this subdivision.

(8) Acquire the site for a capital improvement, or a part of a site by conveyance from the redevelopment commission of a city within the county in which the board is created or from any other source, on the terms that may be agreed upon.

(9) If the board was created under IC 18-7-18 (before its repeal on February 24, 1982), exercise within and in the name of the county the power of eminent domain under general statutes governing the exercise of the power for a public purpose.

(10) Receive and collect all money due for the use or leasing of a capital improvement and from concessions and other contracts, and expend the money for proper purposes, but any employees or members of the board authorized to receive, collect, and expend money must be covered by a fidelity bond, the amount of which shall be fixed by the board. Funds may not be disbursed by an

employee or member of the board without prior specific approval by the board.

(11) Provide coverage for its employees under IC 22-3 and IC 22-4.

(12) Purchase public liability and other insurance considered desirable.

(13) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including the enforcement of them.

(14) Maintain and repair a capital improvement and all equipment and facilities that are a part of it, including the employment of a building superintendent and other employees that are necessary to maintain the capital improvement.

(15) Sue and be sued in its own name, service of process being had upon the president or vice president of the board or by leaving a copy at the board's office.

(16) Prepare and publish descriptive material and literature relating to the facilities and advantages of a capital improvement and do all other acts that the board considers necessary to promote and publicize the capital improvement and serve the commercial, industrial, and cultural interests of Indiana and its citizens by the use of the capital improvement. It may assist and cooperate with public, governmental, and private agencies and groups for these purposes.

(17) Promote the development and growth of the convention and visitor industry in the county.

(18) Transfer money from the capital improvement fund established by this chapter to any Indiana not-for-profit corporation for the promotion and encouragement of conventions, trade shows, visitors, and special events in the county.

SECTION 29. IC 36-10-8-16, AS AMENDED BY P.L.146-2008, SECTION 796, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) A capital improvement may be financed in whole or in part by the issuance of general obligation bonds of the county or, if the ~~authority~~ **board** was created under IC 18-7-18 (before its repeal on February 24, 1982), also of the city, if the board determines that the estimated annual net income of the capital improvement, plus the estimated annual tax revenues to be

derived from any tax revenues made available for this purpose, will not be sufficient to satisfy and pay the principal of and interest on all bonds issued under this chapter, including the bonds then proposed to be issued.

(b) If the board desires to finance a capital improvement in whole or in part as provided in this section, it shall have prepared a resolution to be adopted by the county executive authorizing the issuance of general obligation bonds, or, if the ~~authority~~ **board** was created under IC 18-7-18 (before its repeal on February 24, 1982), by the fiscal body of the city authorizing the issuance of general obligation bonds. The resolution must set forth an itemization of the funds and assets received by the board, together with the board's valuation and certification of the cost. The resolution must state the date or dates on which the principal of the bonds is payable, the maximum interest rate to be paid, and the other terms upon which the bonds shall be issued. The board shall submit the proposed resolution to the proper officers, together with a certificate to the effect that the issuance of bonds in accordance with the resolution will be in compliance with this section. The certificate must also state the estimated annual net income of the capital improvement to be financed by the bonds, the estimated annual tax revenues, and the maximum amount payable in any year as principal and interest on the bonds issued under this chapter, including the bonds proposed to be issued, at the maximum interest rate set forth in the resolution. The bonds issued may mature over a period not exceeding forty (40) years from the date of issue.

(c) Upon receipt of the resolution and certificate, the proper officers may adopt them and take all action necessary to issue the bonds in accordance with the resolution. An action to contest the validity of bonds issued under this section may not be brought after the fifteenth day following the receipt of bids for the bonds.

(d) The provisions of all general statutes relating to:

(1) the filing of a petition requesting the issuance of bonds and giving notice;

(2) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);

(3) the giving of notice of the determination to issue bonds;

(4) the giving of notice of a hearing on the appropriation of the proceeds of bonds;

(5) the right of taxpayers to appear and be heard on the proposed appropriation;

(6) the approval of the appropriation by the department of local government finance; and

(7) the sale of bonds at public sale;

apply to the issuance of bonds under this section.

SECTION 30. IC 36-10-8-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 21. (a) This section applies only to a board that was created under IC 18-7-18 (before its repeal on February 24, 1982).**

(b) On or before March 31 each year, the executive manager shall submit to the board an annual report of the operations of the convention and visitor center.

SECTION 31. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 6-9-20-7; IC 6-9-20-8; IC 6-9-23; IC 6-9-33-10.

SECTION 32. [EFFECTIVE UPON PASSAGE] **A large percentage of the land in the city of Bloomington and in Monroe County is not taxable because the land is owned by the state or the federal government, which puts the city and the county at a disadvantage in their ability to fund projects. These special circumstances require legislation particular to the city and county.**

SECTION 33. **An emergency is declared for this act.**

P.L.177-2009
[H.1573. Approved May 13, 2009.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.90-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the executive board of the state department of health declares is necessary to meet an emergency.

(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.

(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by or other date provided by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(16) An emergency rule adopted by the Indiana gaming commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3, IC 4-33-4-14, or IC 4-35-4-2.

(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-17-10-9.

(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 (repealed).

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 (repealed).

(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) (repealed) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(30) A rule adopted by the Indiana finance authority:

(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;

(B) under IC 8-15-2-17.2(a)(10):

(i) establishing enforcement procedures; and

(ii) making assessments for failure to pay required tolls;

(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or

(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(31) An emergency rule adopted by the board of the Indiana health informatics corporation under IC 5-31-5-8.

(32) An emergency rule adopted by the Indiana real estate commission under IC 25-34.1-2-5(15).

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the publisher for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the publisher shall:

(1) accept the rule for filing; and

(2) electronically record the date and time that the rule is accepted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j), (k), and (l), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited

number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

(m) A rule described in subsection (a)(5) or (a)(6) expires on the date the department is next required to issue a rule under the statute authorizing or requiring the rule.

SECTION 2. IC 16-18-2-204.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 204.5. "Limited criminal history", for purposes of IC 16-27-2, has the meaning set forth in IC 16-27-2-1.5.**

SECTION 3. IC 16-27-2-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.5. As used in this chapter, "limited criminal history" means the limited criminal history from the Indiana central repository for criminal history information under IC 10-13-3.**

SECTION 4. IC 16-27-2-2.2, AS AMENDED BY P.L.212-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.2. As used in this chapter, "services" includes:

(1) home health services (as defined in IC 16-27-1-5);

(2) any services such as homemaker, companion, sitter, or handyman services provided by a home health agency in the temporary or permanent residence of a patient or client of the home health agency; and

(3) personal services **(as defined in IC 16-27-4-4).**

SECTION 5. IC 16-27-2-4, AS AMENDED BY P.L.197-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A person who operates a home health agency under IC 16-27-1 or a personal services agency under IC 16-27-4 shall apply, not more than three (3) business days after the date that an employee begins to provide services in a patient's temporary or permanent residence, for a ~~determination concerning~~ **copy of** the employee's: ~~national~~

(1) national criminal history; or

(2) until July 1, 2010, limited criminal history. ~~background check from the Indiana central repository for criminal history information under IC 10-13-3-39.~~

(b) If a person who operates a home health agency under IC 16-27-1 or a personal services agency under IC 16-27-4 determines an employee lived outside Indiana at any time during the two (2) years immediately before the date the individual was hired by the home health agency or personal services agency, the home health agency or personal services agency shall apply, not more than three (3) business days after the date that an employee begins to provide services in a patient's temporary or permanent residence, for a determination concerning the employee's national criminal history. This subsection expires June 30, 2010.

(c) If, more than three (3) days after an employee begins providing services in a patient's temporary or permanent residence, a person who operates a home health agency under IC 16-27-1 or a personal services agency under IC 16-27-4 discovers the employee lived outside Indiana during the two (2) years immediately before the date the individual was hired, the agency shall apply, not more than three (3) business days after the date the agency learns the employee lived outside Indiana, for a determination concerning the employee's national criminal history. This subsection expires June 30, 2010.

~~(b)~~ **(d)** A home health agency or personal services agency may not employ a person to provide services in a patient's or client's temporary

or permanent residence for more than three (3) business days without applying for:

(1) a:

(A) national criminal history under subsection (a)(1); or

(B) limited criminal history as required by subsection (a)(2) until June 30, 2010; or

(2) a determination concerning that person's national criminal history background check as required by:

(A) subsection (a)(1); or

(B) subsection ~~(a).~~ **(b) or (c) until June 30, 2010.**

SECTION 6. IC 16-27-2-5, AS AMENDED BY P.L.134-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Except as provided in subsection (b), a person who operates a home health agency under IC 16-27-1 or a personal services agency under IC 16-27-4 may not employ a person to provide services in a patient's or client's temporary or permanent residence if that person's limited criminal history ~~check~~ or national criminal history ~~background check~~ indicates that the person has been convicted of any of the following:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

(3) Exploitation of an endangered adult (IC 35-46-1-12).

(4) Failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13).

(5) Theft (IC 35-43-4), if the conviction for theft occurred less than ten (10) years before the person's employment application date.

(6) A felony that is substantially equivalent to a felony listed in:

(A) subdivisions (1) through ~~(2)~~ **(4); or**

(B) subdivision (5), if the conviction for theft occurred less than ten (10) years before the person's employment application date;

for which the conviction was entered in another state.

(b) A home health agency or personal services agency may not employ a person to provide services in a patient's or client's temporary or permanent residence for more than twenty-one (21) calendar days without receipt of that person's limited criminal history or national criminal history background check required by section 4 of this

chapter, unless either the state police department or the Federal Bureau of Investigation under IC 10-13-3-39 is responsible for failing to provide the person's limited criminal history or national criminal history background check to the home health agency or personal services agency within the time required under this subsection.

SECTION 7. IC 16-39-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) As used in this section, "provider" means the following:

(1) A physician.
(2) A dentist.
(3) A registered nurse.
(4) A licensed practical nurse.
(5) An optometrist.
(6) A podiatrist.
(7) A chiropractor.
(8) A physical therapist.
(9) A psychologist.
(10) An audiologist.
(11) A speech-language pathologist.
(12) A home health agency licensed under IC 16-27.
(13) A hospital or facility licensed under IC 16-21-2 or IC 12-25 or described in IC 12-24 or IC 12-29.

(b) A provider shall maintain the original health records or microfilms of the records for at least seven (7) years.

(c) A provider who violates subsection (b) commits an offense for which a board may impose disciplinary sanctions against the provider under the law that governs the provider's licensure, registration, or certification under this title or IC 25.

(d) A provider is immune from civil liability for destroying or failing to maintain a health record in violation of this section if the destruction or failure to maintain the health record occurred in connection with a disaster emergency as declared by the governor under IC 10-14-3-12 or other disaster, unless the destruction or failure to maintain the health record was due to negligence by the provider.

SECTION 8. IC 16-42-19-5, AS AMENDED BY P.L.90-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]: Sec. 5. As used in this chapter, "practitioner" means any of the following:

(1) A ~~licensed~~ physician **licensed under IC 25-22.5.**

(2) A veterinarian licensed to practice veterinary medicine in Indiana.

(3) A dentist licensed to practice dentistry in Indiana.

(4) A podiatrist licensed to practice podiatric medicine in Indiana.

(5) An optometrist who is:

(A) licensed to practice optometry in Indiana; and

(B) certified under IC 25-24-3.

(6) An advanced practice nurse who meets the requirements of IC 25-23-1-19.5.

(7) A physician assistant licensed under IC 25-27.5 who is delegated prescriptive authority under IC 25-27.5-5-6.

SECTION 9. IC 20-28-12-3, AS AMENDED BY P.L.2-2007, SECTION 219, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. An individual who applies for an endorsement as an independent practice school psychologist must meet the following requirements:

(1) Be licensed as a school psychologist by the department.

(2) Be employed by a:

(A) developmental center;

(B) state hospital;

(C) public or private hospital;

(D) mental health center;

(E) rehabilitation center;

(F) private school; or

(G) public school;

at least thirty (30) hours per week during the contract period unless the individual is retired from full-time or part-time employment as a school psychologist or the individual has a medical condition or physical disability that restricts the mobility required for employment in a school setting.

(3) Furnish satisfactory evidence to the department that the applicant has received at least a sixty (60) **graduate** semester hour **or ninety (90) quarter hour** master's or specialist degree in school psychology from:

(A) a recognized postsecondary educational institution; or

(B) an educational institution not located in the United States that has a program of study that meets the standards of the department.

(4) Furnish satisfactory evidence to the department that the applicant has demonstrated graduate level competency through the successful completion of course work and a ~~practicum in the areas of assessment and counseling.~~ **one thousand two hundred (1,200) hour supervised internship of school psychology, of which at least six hundred (600) hours must be in a school setting.**

(5) Furnish satisfactory evidence to the department that the applicant has **successfully completed** at least one thousand two hundred (1,200) hours of school psychology experience ~~beyond the master's degree level.~~ **after completion of graduate degree requirements and not including the supervised internship for degree or licensing requirements.** At least six hundred (600) hours must be in a school setting under the supervision of any of the following:

(A) A physician licensed under IC 25-22.5.

(B) A psychologist licensed under IC 25-33.

(C) A school psychologist endorsed under this chapter **or currently holding a national certification from the National Association of School Psychologists.**

(6) Furnish satisfactory evidence to the department that the applicant has completed, in addition to the requirements in subdivision (5), at least: ~~four hundred (400)~~

(A) twelve (12) hours of ~~supervised experience~~ **training provided by a health service professional in psychology licensed under IC 25-33-1 or a psychiatrist licensed as a physician under IC 25-22.5** in **the** identification and referral of mental and behavioral disorders; ~~including at least one (1) hour each week of direct personal supervision by a:~~

~~(A) physician licensed under IC 25-22.5;~~

~~(B) psychologist licensed under IC 25-33; or~~

~~(C) school psychologist endorsed under this chapter;~~

~~with at least ten (10) hours of direct personal supervision.~~ **and**

(B) ten (10) case studies or evaluations requiring the identification or referral of mental or behavioral disorders. Case studies or evaluations may include the following:

(i) Consultations with teachers and parents.

(ii) Intervention services, excluding psychotherapy.

(iii) Functional behavior assessments.

(iv) Behavior improvement plans.

(v) Progress monitoring.

(7) Furnish satisfactory evidence to the department that the applicant has completed, in addition to the requirements of subdivisions (5) and (6), ~~fifty-two (52)~~ **thirty (30)** hours of supervision with a physician licensed under IC 25-22.5, a psychologist licensed under IC 25-33, or a school psychologist endorsed under this chapter **or currently holding national certification from the National Association of School Psychologists** that meets the following requirements:

(A) The ~~fifty-two (52)~~ **thirty (30)** hours must be completed within at least twenty-four (24) consecutive months but not less than ~~twelve (12)~~ **six (6)** months.

(B) Not more than one (1) hour of supervision may be included in the total for each week.

~~(C) At least nine hundred (900) hours of direct client contact must take place during the total period under clause (A).~~

(8) Furnish satisfactory evidence to the department that the applicant does not have a conviction for a crime that has a direct bearing on the applicant's ability to practice competently.

(9) Furnish satisfactory evidence to the department that the applicant has not been the subject of a disciplinary action by a licensing or certification agency of any jurisdiction on the grounds that the applicant was not able to practice as a school psychologist without endangering the public.

(10) Pass the examination provided by the department.

SECTION 10. IC 25-1-2-2.1, AS AMENDED BY P.L.3-2008, SECTION 175, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.1. Rather than being issued annually, the following permits, licenses, certificates of registration, or evidences of authority granted by a state agency must be issued for a period of two (2) years or for the period specified in the article under

which the permit, license, certificate of registration, or evidence of authority is issued if the period specified in the article is longer than two (2) years:

(1) Certified public accountants, public accountants, and accounting practitioners.

(2) Architects and landscape architects.

(3) Dry cleaners.

(4) Professional engineers.

(5) Land surveyors.

(6) Real estate brokers.

(7) Real estate agents.

(8) Security dealers' licenses issued by the securities commissioner.

(9) Dental hygienists.

(10) Dentists.

(11) Veterinarians.

(12) Physicians.

(13) Chiropractors.

(14) Physical therapists.

(15) Optometrists.

(16) Pharmacists and assistants, drugstores or pharmacies.

(17) Motels and mobile home community licenses.

(18) Nurses.

(19) Podiatrists.

(20) Occupational therapists and occupational therapy assistants.

(21) Respiratory care practitioners.

(22) Social workers, marriage and family therapists, and mental health counselors.

(23) Real estate appraiser licenses and certificates issued by the real estate appraiser licensure and certification board.

(24) Wholesale legend drug distributors.

(25) Physician assistants.

(26) Dietitians.

(27) Hypnotists.

(28) Athlete agents.

(29) Manufactured home installers.

(30) Home inspectors.

(31) Massage therapists.

(32) Interior designers.

(33) Genetic counselors.

SECTION 11. IC 25-1-4-0.5, AS AMENDED BY P.L.57-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 0.5. As used in this chapter, "continuing education" means an orderly process of instruction:

(1) that is approved by:

(A) an approved organization or the board for a profession or occupation other than a real estate appraiser; or

(B) for a real estate appraiser:

(i) the Appraiser Qualifications Board, under the regulatory oversight of the Appraisal Subcommittee established under Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989; or

(ii) the real estate appraiser licensure and certification board established under IC 25-34.1-8 for specific courses and course subjects, as determined by the real estate appraiser licensure and certification board; and

(2) that is designed to directly enhance the practitioner's knowledge and skill in providing services relevant to the practitioner's profession or occupation.

The term includes an activity that is approved by the board for a profession or occupation, other than a real estate appraiser, and that augments the practitioner's knowledge and skill in providing services relevant to the practitioner's profession or occupation.

SECTION 12. IC 25-1-4-0.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.7. (a) In computing any period under this chapter, the day of the act, event, or default from which the designated period of time begins to run is not included. The last day of the computed period is to be included unless it is:**

(1) a Saturday;

(2) a Sunday;

(3) a legal holiday under a state statute; or

(4) a day that the office in which the act is to be done is closed during regular business hours.

(b) A period runs until the end of the next day after a day described in subsection (a)(1) through (a)(4). If the period allowed is less than seven (7) days, intermediate Saturdays, Sundays, state

holidays, and days on which the office in which the act is to be done is closed during regular business hours are excluded from the calculation.

(c) A period under this chapter that begins when a person is served with a paper begins with respect to a particular person on the earlier of the date that:

(1) the person is personally served with the notice; or

(2) a notice for the person is deposited in the United States mail.

(d) If a notice is served through the United States mail, three (3) days must be added to a period that begins upon service of that notice.

SECTION 13. IC 25-1-4-5, AS AMENDED BY P.L.197-2007, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Notwithstanding any other law, if the board determines that a practitioner has not complied with this chapter or IC 25-1-8-6 at the time that the practitioner applies for license renewal or reinstatement or after an audit conducted under section 3 of this chapter, the board shall do the following:

(1) Send the practitioner notice of noncompliance by certified mail **to the practitioner's last known address.**

(2) As a condition of license renewal or reinstatement, require the practitioner to comply with subsection (b).

(3) For license renewal, issue a conditional license to the practitioner that is effective until the practitioner complies with subsection (b).

(b) Upon ~~receipt~~ **service** of a notice of noncompliance under subsection (a), a practitioner shall do either of the following:

(1) If the practitioner believes that the practitioner has complied with this chapter or IC 25-1-8-6, if applicable, within twenty-one (21) days of ~~receipt~~ **service** of the notice, send written notice to the board requesting a review so that the practitioner may submit proof of compliance.

(2) If the practitioner does not disagree with the board's determination of noncompliance, do the following:

(A) Except as provided in subsection (d), pay to the board a civil penalty not to exceed one thousand dollars ($1,000) within twenty-one (21) days of ~~receipt~~ **service** of the notice.

(B) Acquire, within six (6) months after ~~receiving~~ **service of** the notice, the number of credit hours needed to achieve full compliance.

(C) Comply with all other provisions of this chapter.

(c) If a practitioner fails to comply with subsection (b), the board shall immediately suspend or refuse to reinstate the license of the practitioner and send notice of the suspension or refusal to the practitioner by certified mail.

(d) If the board determines that a practitioner has knowingly or intentionally made a false or misleading statement to the board concerning compliance with the continuing education requirements, in addition to the requirements under this section the board may impose a civil penalty of not more than five thousand dollars ($5,000) under subsection (b)(2)(A).

(e) The board shall:

(1) reinstate a practitioner's license; or

(2) renew the practitioner's license in place of the conditional license issued under subsection (a)(3);

if the practitioner supplies proof of compliance with this chapter under subsection (b)(1) or IC 25-1-8-6, if applicable.

SECTION 14. IC 25-1-5-4, AS AMENDED BY P.L.206-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The agency shall employ necessary staff, including specialists and professionals, to carry out the administrative duties and functions of the boards, including but not limited to:

(1) notice of board meetings and other communication services;

(2) recordkeeping of board meetings, proceedings, and actions;

(3) recordkeeping of all persons licensed, regulated, or certified by a board;

(4) administration of examinations; and

(5) administration of license or certificate issuance or renewal.

(b) In addition, the agency:

(1) shall prepare a consolidated statement of the budget requests of all the boards in section 3 of this chapter;

(2) may coordinate licensing or certification renewal cycles, examination schedules, or other routine activities to efficiently utilize agency staff, facilities, and transportation resources, and to improve accessibility of board functions to the public; ~~and~~

(3) may consolidate, where feasible, office space, recordkeeping, and data processing services; **and**

(4) shall operate and maintain the electronic registry of professions established under IC 25-1-5.5.

(c) In administering the renewal of licenses or certificates under this chapter, the agency shall send a notice of the upcoming expiration of a license or certificate to each holder of a license or certificate at least sixty (60) days before the expiration of the license or certificate. The notice must inform the holder of the license or certificate of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the agency, the holder of the license or certificate is not subject to a sanction for failure to renew if, once notice is received from the agency, the license or certificate is renewed within forty-five (45) days after receipt of the notice.

(d) In administering an examination for licensure or certification, the agency shall make the appropriate application forms available at least thirty (30) days before the deadline for submitting an application to all persons wishing to take the examination.

(e) The agency may require an applicant for license renewal to submit evidence proving that:

(1) the applicant continues to meet the minimum requirements for licensure; and

(2) the applicant is not in violation of:

(A) the statute regulating the applicant's profession; or

(B) rules adopted by the board regulating the applicant's profession.

(f) The agency shall process an application for renewal of a license or certificate:

(1) not later than ten (10) days after the agency receives all required forms and evidence; or

(2) within twenty-four (24) hours after the time that an applicant for renewal appears in person at the agency with all required forms and evidence.

This subsection does not require the agency to issue a renewal license or certificate to an applicant if subsection (g) applies.

(g) The agency may delay issuing a license renewal for up to ninety (90) days after the renewal date for the purpose of permitting the board to investigate information received by the agency that the applicant for

renewal may have committed an act for which the applicant may be disciplined. If the agency delays issuing a license renewal, the agency shall notify the applicant that the applicant is being investigated. Except as provided in subsection (h), before the end of the ninety (90) day period, the board shall do one (1) of the following:

(1) Deny the license renewal following a personal appearance by the applicant before the board.

(2) Issue the license renewal upon satisfaction of all other conditions for renewal.

(3) Issue the license renewal and file a complaint under IC 25-1-7.

(4) Request the office of the attorney general to conduct an investigation under subsection (i) if, following a personal appearance by the applicant before the board, the board has good cause to believe that there has been a violation of IC 25-1-9-4 by the applicant.

(5) Upon agreement of the applicant and the board and following a personal appearance by the applicant before the board, renew the license and place the applicant on probation status under IC 25-1-9-9.

(h) If an individual fails to appear before the board under subsection (g), the board may take action on the applicant's license allowed under subsection (g)(1), (g)(2), or (g)(3).

(i) If the board makes a request under subsection (g)(4), the office of the attorney general shall conduct an investigation. Upon completion of the investigation, the office of the attorney general may file a petition alleging that the applicant has engaged in activity described in IC 25-1-9-4. If the office of the attorney general files a petition, the board shall set the matter for a hearing. If, after the hearing, the board finds the practitioner violated IC 25-1-9-4, the board may impose sanctions under IC 25-1-9-9. The board may delay issuing the renewal beyond the ninety (90) days after the renewal date until a final determination is made by the board. The applicant's license remains valid until the final determination of the board is rendered unless the renewal is denied or the license is summarily suspended under IC 25-1-9-10.

(j) The license of the applicant for a license renewal remains valid during the ninety (90) day period unless the license renewal is denied following a personal appearance by the applicant before the board

before the end of the ninety (90) day period. If the ninety (90) day period expires without action by the board, the license shall be automatically renewed at the end of the ninety (90) day period.

(k) Notwithstanding any other statute, the agency may stagger license or certificate renewal cycles. However, if a renewal cycle for a specific board or committee is changed, the agency must obtain the approval of the affected board or committee.

(l) An application for a license, certificate, registration, or permit is abandoned without an action of the board, if the applicant does not complete the requirements to complete the application within one (1) year after the date on which the application was filed. However, the board may, for good cause shown, extend the validity of the application for additional thirty (30) day periods. An application submitted after the abandonment of an application is considered a new application.

SECTION 15. IC 25-1-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 5.5. Electronic Registry of Professions

Sec. 1. The electronic registry of professions is established. This chapter applies to any profession required to use the registry under this title.

Sec. 2. As used in the chapter:

(1) "Applicant" refers to a person who applies for a registration in the electronic registry of professions.

(2) "Executive director" refers to the executive director of the licensing agency appointed under IC 25-1-5-5.

(3) "Licensing agency" means the Indiana professional licensing agency created by IC 25-1-5-3.

(4) "Registrant" means an individual who is registered in the electronic registry of professions as an interior designer under IC 25-20.7.

(5) "Registry" refers to the electronic registry of professions established by section 1 of this chapter.

Sec. 3. (a) The registry shall be maintained by the licensing agency.

(b) The registry must:

(1) be maintained in an electronic format;

(2) allow an applicant to electronically input information to certify, under penalty of perjury, the successful completion of

any education, experience, and examination required for the applicant to become registered;

(3) allow for payment of registration fees through only electronic means;

(4) include each registrant's:

(A) name;

(B) city and state of residence;

(C) qualifications for registration;

(D) registration number;

(E) date the applicant was registered;

(F) place of business; and

(G) registration expiration date; and

(5) be made available to the public on the Internet through the computer gateway administered by the office of technology established by IC 4-13.1-2-1.

Sec. 4. The licensing agency is not:

(1) responsible for performing or required to perform any due diligence or review of the veracity of the information represented by an applicant under this chapter;

(2) liable to any party in any capacity for any misrepresentation, fraud, or omission or other such conduct committed or caused by an applicant who applies for registration under this chapter; or

(3) liable to any party in any capacity for any misrepresentation, fraud, or omission or other such conduct committed or caused by any individual who is registered under this chapter.

Sec. 5. The licensing agency may adopt rules under IC 4-22-2 to implement this chapter.

Sec. 6. (a) Beginning in July 2014, and each five (5) years thereafter, the agency shall review the use of the registry by each profession on the registry to determine whether there is sufficient use of the registry to justify continuing the registration of each profession under this chapter.

(b) If new professions are required by the general assembly to be registered by the agency, five (5) years after the addition of each profession, the agency shall review the use by the profession of the registry to determine whether there is sufficient use of the registry

to justify continuing the registration of the profession under this chapter.

(c) After a review required under subsection (a) or (b), the agency shall prepare a report with recommendations for the general assembly. A report under this subsection shall be submitted to the legislative council by October 1 of the year in which the report is required. A report submitted under this subsection must be in an electronic format under IC 5-14-6.

SECTION 16. IC 25-1-9-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 21. The board may adopt rules under IC 4-22-2 to establish requirements for the management and disposition of health records (as defined in IC 16-18-2-168) on the discontinuation of practice by:**

(1) sale;

(2) transfer;

(3) closure;

(4) disciplinary action;

(5) retirement; or

(6) death;

of the practitioner.

SECTION 17. IC 25-1-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) The board may impose any of the following sanctions, singly or in combination, if the board finds that a practitioner is subject to disciplinary sanctions under sections 5 through 9 of this chapter:

(1) Permanently revoke a practitioner's license.

(2) Suspend a practitioner's license.

(3) Censure a practitioner.

(4) Issue a letter of reprimand.

(5) Place a practitioner on probation status and require the practitioner to:

(A) report regularly to the board upon the matters that are the basis of probation;

(B) limit practice to those areas prescribed by the board;

(C) continue or renew professional education approved by the board until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or

(D) perform or refrain from performing any acts, including community restitution or service without compensation, that the board considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.

(6) Assess a civil penalty against the practitioner for not more than one thousand dollars ($1,000) for each violation listed in sections 5 through 9 of this chapter except for a finding of incompetency due to a physical or mental disability.

(7) Order a practitioner to pay consumer restitution to a person who suffered damages as a result of the conduct or omission that was the basis for the disciplinary sanctions under this chapter.

(b) When imposing a civil penalty under subsection (a)(6), the board shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the civil penalty within the time specified by the board, the board may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a civil penalty.

(c) The board may withdraw or modify the probation under subsection (a)(5) if the board finds after a hearing that the deficiency that required disciplinary action has been remedied or that changed circumstances warrant a modification of the order.

SECTION 18. IC 25-1-15 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 15. Exemptions for Athletic Organization Practitioners Licensed in Other Jurisdictions

Sec. 1. As used in this chapter, "license" includes a license, certificate, or registration.

Sec. 2. As used in this chapter, "practitioner" refers to any of the following:

(1) Athletic trainer.

(2) Chiropractor.

(3) Dentist.

(4) Dietitian.

(5) Marriage and family therapist.

(6) Massage therapist.

(7) Mental health counselor.

(8) Nurse.

(9) Occupational therapist.

(10) Optometrist.

(11) Physical therapist.

(12) Physician.

(13) Physician assistant.

(14) Podiatrist.

(15) Psychologist.

(16) Respiratory care practitioner.

(17) Social worker.

Sec. 3. (a) A practitioner licensed in another state, territory, or jurisdiction of the United States or of any nation or foreign jurisdiction is exempt from the requirements of licensure under this title, if the practitioner:

(1) holds an active license to practice the profession in question in the other jurisdiction;

(2) engages in the active practice of the profession in which the practitioner is licensed in the other jurisdiction; and

(3) is employed or designated as the athletic or sports organization's practitioner by an athletic or sports organization visiting Indiana for a specific sporting event.

(b) A practitioner's practice under this section is limited to the members, coaches, and staff of the athletic or sports organization that employs or designates the practitioner.

(c) A practitioner practicing in Indiana under the authority of this section:

(1) does not have practice privileges in any licensed hospital or health care facility; and

(2) is not authorized to issue orders or prescriptions or to order testing at a medical facility;

in Indiana.

(d) A practitioner's practice under this section may not exceed thirty (30) consecutive days for a specific event.

SECTION 19. IC 25-7-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. The board shall adopt rules under IC 4-22-2 to:

(1) prescribe sanitary requirements for:

(A) barber shops; and

(B) barber schools;

(2) establish standards for the **competent** practice of barbering and the operation of:

(A) barber shops; and

(B) barber schools. ~~and~~

~~(3) implement the licensing system under this article and provide for a staggered renewal system for licenses.~~

SECTION 20. IC 25-7-5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. **(a)** A:

(1) member of the board;

(2) state inspector; or

(3) state investigator;

may inspect a barber shop or barber school during the shop's or school's regular business hours.

(b) A member of the board, state inspector, or state investigator may inspect:

(1) a barber shop; or

(2) a barber school;

before an initial license is issued.

SECTION 21. IC 25-7-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) ~~All licenses~~ **Except for an instructor license issued under subsection (c) or IC 25-7-8-1, a license** issued ~~or renewed~~ under this article ~~other than those described in subsection (b) are~~ **is** valid for four (4) years.

~~(b) Barber school licenses are valid for two (2) years.~~

(b) A license issued to an instructor under IC 25-8-6-1 expires at the time that the instructor's barber license expires. The board shall renew an instructor's license under this subsection concurrently with the instructor's barber license.

(c) Initial provisional licenses are valid for a length of time determined by the board, but not to exceed two (2) years.

SECTION 22. IC 25-7-6-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 17. (a) This section applies only to applications for a barber license under IC 25-7-10.**

(b) If an applicant comes from a jurisdiction that does not issue a barber license, the board may issue an initial provisional license to an applicant who meets the following requirements:

(1) The board finds that the applicant has sufficient training or experience as a barber.

(2) The applicant has not committed an act that would constitute a violation of the standards of practice under IC 25-1-11.

(3) The applicant pays a fee established by the board under IC 25-1-8.

(c) An applicant who has been granted an initial provisional license must work under the supervision of a licensed barber.

(d) A person who holds an initial provisional license may apply for renewal of a barber license under section 12 of this chapter.

(e) The holder of a provisional license may petition the board for the issuance of a barber license to practice without supervision. The holder of a provisional license who demonstrates to the board that the holder may satisfactorily practice without supervision shall be released from terms of the provisional license and is entitled to hold a license under IC 25-7-10-1.

SECTION 23. IC 25-7-10-4, AS AMENDED BY P.L.157-2006, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) If a person does not receive a satisfactory grade on the written examination described in IC 25-7-6-5, the person may repeat the examination ~~within ninety (90) days after the date of the examination~~ **not more than four (4) times** without completing any additional study in barbering.

(b) If, **after five (5) attempts,** a person does not receive a satisfactory grade on the ~~repeat~~ examination described in ~~subsection (a),~~ **IC 25-7-6-5,** the person will be permitted to repeat the examination only upon proof of completion of ~~two~~ **one** hundred ~~fifty (250)~~ **(100)** additional hours of training at an approved barber school.

SECTION 24. IC 25-8-3-28, AS AMENDED BY P.L.157-2006, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 28. **(a)** A member of the board or any inspector or investigator may inspect:

(1) a cosmetology salon;

(2) an electrology salon;

(3) an esthetic salon;

(4) a manicuring salon; ~~or~~

(5) a cosmetology school; **or**

(6) a mobile salon;

during its regular business hours.

(b) A member of the board or any inspector or investigator may inspect:

(1) a cosmetology salon;

(2) an electrology salon;

(3) an esthetic salon;

(4) a manicuring salon;

(5) a cosmetology school; or

(6) a mobile salon;

before an initial license is issued.

SECTION 25. IC 25-8-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) If the board determines that:

(1) a person possesses a valid license from another jurisdiction to perform acts that require a license under this article; and

(2) the jurisdiction issuing the license imposes substantially equal requirements on applicants for the license as are imposed on applicants for an Indiana license;

the board may issue a license to perform those acts in Indiana to that person upon payment of the fee required under IC 25-8-13.

(b) This subsection applies only to applications for a cosmetologist license under IC 25-8-9. If the jurisdiction issuing the license does not impose substantially equal requirements **for education hours** as required under subsection (a)(2), the board may approve the combination of education hours plus actual licensed practice in the other jurisdiction when issuing a license to a person from that jurisdiction. One (1) year of licensed practice is equal to one hundred (100) hours of education to an applicant who has completed a minimum of one thousand (1,000) hours of education.

(c) This subsection applies only to applications for a manicurist license under IC 25-8-11. ~~Applicants for a manicurist license under this section must take the written examination described by section 8(2) of this chapter and score at least seventy-five percent (75%) on the examination.~~ **If the jurisdiction issuing a license does not impose substantially equal requirements for education hours as required under subsection (a)(2), the board may approve the combination of education hours plus actual licensed practice in the other jurisdiction when issuing a license to a person from that jurisdiction, as follows:**

(1) For an applicant with less than twenty (20) years of actual licensed practice as a manicurist, one (1) year of licensed practice is equal to one hundred (100) hours of education to an applicant who has completed at least three hundred (300) hours of education.

(2) For an applicant with twenty (20) or more years of actual licensed practice as a manicurist, one (1) year of licensed practice is equal to one hundred (100) hours of education to an applicant who has completed at least one hundred (100) hours of education.

(d) This subsection applies only to applications for an electrologist license under IC 25-8-10. If the jurisdiction issuing a license does not impose substantially equal requirements for education hours as required under subsection (a)(2), the board may approve the combination of education hours plus actual licensed practice in the other jurisdiction when issuing a license to a person from that jurisdiction. One (1) year of licensed practice as an electrologist is equal to one hundred (100) hours of education to an applicant who has completed at least two hundred (200) hours of education.

(e) This subsection applies only to applications for an esthetician license under IC 25-8-12.5. If the jurisdiction issuing a license does not impose substantially equal requirements for education hours as required under subsection (a)(2), the board may approve the combination of education hours plus actual licensed practice in the other jurisdiction when issuing a license to a person from that jurisdiction. One (1) year of licensed practice as an esthetician is equal to one hundred (100) hours of education to an applicant who has completed at least four hundred (400) hours of education.

(f) This subsection applies only to applications for a beauty culture instructor license under IC 25-8-6. If the jurisdiction issuing a license does not impose substantially equal requirements for education hours as required under subsection (a)(2), the board may approve the combination of education hours plus actual licensed practice in the other jurisdiction when issuing a license to a person from that jurisdiction. One (1) year of licensed practice as a beauty culture instructor is equal to one hundred (100) hours of education to an applicant who has completed at least seven hundred (700) hours of education.

SECTION 26. IC 25-8-4-2.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.9. (a) This section applies only to applications for a cosmetologist license under this article.**

(b) If an applicant comes from a jurisdiction that does not issue a cosmetologist license, the board may issue an initial provisional license to an applicant who meets the following requirements:

(1) The board finds that the applicant has sufficient training or experience as a cosmetologist.

(2) The applicant has not committed an act that would constitute a violation of the standards of practice under IC 25-1-11.

(3) The applicant pays a fee established by the board under IC 25-1-8.

(c) An applicant who has been granted an initial provisional license must work under the supervision of a licensed cosmetologist.

(d) A person who holds an initial provisional license may apply for renewal of a cosmetologist license under section 19 of this chapter.

(e) The holder of a provisional license may petition the board for the issuance of a cosmetologist license to practice without supervision. The holder of a provisional license who demonstrates to the board that the holder may satisfactorily practice without supervision shall be released from the terms of the provisional license and is entitled to hold a license under IC 25-8-4.

SECTION 27. IC 25-8-4-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. **(a) Except for an instructor license issued under subsection (d) or IC 25-8-6-1,** a license issued ~~or renewed~~ under this article ~~is valid for~~ **expires on a date specified by the licensing agency under IC 25-1-6-4 and expires** four (4) years **after the initial expiration date.**

(b) A license issued to an instructor under IC 25-8-6-1 expires at the time that the instructor's practitioner license expires. The board shall renew an instructor's license under this subsection concurrently with the instructor's practitioner license.

(c) Except as provided in IC 25-8-9-11, a person who holds a license under this article may apply for renewal.

(d) Initial provisional licenses are valid for a length of time determined by the board, but not to exceed two (2) years.

SECTION 28. IC 25-8-9-9, AS AMENDED BY P.L.197-2007, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The temporary cosmetologist work permit application described in section 8 of this chapter must state that the applicant:

(1) will practice cosmetology under the supervision of a cosmetologist; and

(2) has filed an application under:

(A) section 2 of this chapter, but has not taken the examination described by section 3(4) of this chapter; or

(B) IC 25-8-4-2 and is awaiting a board determination.

(b) The temporary electrologist work permit application described in section 8 of this chapter must state that the applicant:

(1) will practice electrology under the supervision of an electrologist; and

(2) has filed an application under:

(A) IC 25-8-10-2, but has not taken the examination described in IC 25-8-10-3(3); or

(B) IC 25-8-4-2 and is awaiting a board determination.

(c) The temporary esthetician work permit application described in section 8 of this chapter must state that the applicant:

(1) will practice esthetics under the supervision of an esthetician **or cosmetologist;** and

(2) has filed an application under:

(A) IC 25-8-12.5-3, but has not taken the examination described in IC 25-8-12.5-4(4); or

(B) IC 25-8-4-2 and is awaiting a board determination.

(d) The temporary manicurist work permit application described in section 8 of this chapter must state that the applicant:

(1) will practice manicuring under the supervision of a cosmetologist or manicurist; and

(2) has filed an application under:

(A) IC 25-8-11-3, but has not taken the examination described in IC 25-8-11-4(4); or

(B) IC 25-8-4-2 and is awaiting a board determination.

SECTION 29. IC 25-8-10-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4. (a) This section applies only to applications for an electrologist license under this article.**

(b) If an applicant comes from a jurisdiction that does not issue an electrologist license, the board may issue an initial provisional license to an applicant who meets the following requirements:

(1) The board finds that the applicant has sufficient training or experience as an electrologist.

(2) The applicant has not committed an act that would constitute a violation of the standards of practice under IC 25-1-11.

(3) The applicant pays a fee established by the board under IC 25-1-8.

(c) An applicant who has been granted an initial provisional license must work under the supervision of a licensed cosmetologist or a licensed electrologist.

(d) A person who holds an initial provisional license may apply for renewal of an electrologist license under this chapter.

(e) The holder of a provisional license may petition the board for the issuance of an electrologist license to practice without supervision. The holder of a provisional license who demonstrates to the board that the holder may satisfactorily practice without supervision shall be released from the terms of the provisional license and is entitled to hold a license under this chapter.

SECTION 30. IC 25-8-11-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8. (a) This section applies only to applications for a manicurist license under this article.**

(b) If an applicant comes from a jurisdiction that does not issue a manicurist license, the board may issue an initial provisional license to an applicant who meets the following requirements:

(1) The board finds that the applicant has sufficient training or experience as a manicurist.

(2) The applicant has not committed an act that would constitute a violation of the standards of practice under IC 25-1-11.

(3) The applicant pays a fee established by the board under IC 25-1-8.

(c) An applicant who has been granted an initial provisional license must work under the supervision of a licensed cosmetologist or licensed manicurist.

(d) A person who holds an initial provisional license may apply for renewal of a manicurist license under this chapter.

(e) The holder of a provisional license may petition the board for the issuance of a manicurist license to practice without supervision. The holder of a provisional license who demonstrates to the board that the holder may satisfactorily practice without supervision shall be released from the terms of the provisional license and is entitled to hold a license under this chapter.

SECTION 31. IC 25-8-12.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. ~~Except as provided in section 7 of this chapter,~~ To receive a license issued under this chapter, a person must:

(1) be at least eighteen (18) years of age;

(2) have successfully completed the tenth grade or received the equivalent of a tenth grade education;

(3) have graduated from an esthetics program in a cosmetology school;

(4) have received a satisfactory grade (as defined by IC 25-8-4-9) on an examination for esthetician license applicants prescribed by the board;

(5) not have committed an act for which the person could be disciplined under IC 25-8-14; and

(6) pay the fee set forth in IC 25-8-13-11 for the issuance of a license under this chapter.

SECTION 32. IC 25-8-12.5-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8. (a) This section applies only to applications for an esthetician license under this article.**

(b) If an applicant comes from a jurisdiction that does not issue an esthetician license, the board may issue an initial provisional license to an applicant who meets the following requirements:

(1) The board finds that the applicant has sufficient training or experience as an esthetician.

(2) The applicant has not committed an act that would constitute a violation of the standards of practice under IC 25-1-11.

(3) The applicant pays a fee established by the board under IC 25-1-8.

(c) An applicant who has been granted an initial provisional license must work under the supervision of a licensed cosmetologist or a licensed esthetician.

(d) A person who holds an initial provisional license may apply for renewal of an esthetician license under this chapter.

(e) The holder of a provisional license may petition the board for the issuance of an esthetician license to practice without supervision. The holder of a provisional license who demonstrates to the board that the holder may satisfactorily practice without supervision shall be released from the terms of the provisional license and is entitled to hold a license under this chapter.

SECTION 33. IC 25-8-15.4-6, AS AMENDED BY P.L.194-2005, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. To obtain a license to operate a tanning facility, a person: ~~must do the following:~~

(1) **must** submit an application to the board on a form prescribed by the board;

(2) **must** pay a fee established by the board under IC 25-1-8-2; **and**

(3) may be subject to an inspection of the facility by the board.

SECTION 34. IC 25-14-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 5. Dental Underserved Area and Minority Recruitment Program

Sec. 1. As used in this chapter, "committee" means the dental recruitment committee established by section 4 of this chapter.

Sec. 2. As used in this chapter, "fund" refers to the Indiana dental recruitment fund established by section 5 of this chapter.

Sec. 2.5. As used in this chapter, "minority" means an individual identified as any of the following:

(1) Black or African-American.

(2) Hispanic or Latino.

Sec. 3. As used in this chapter, "underserved area" means a county, city, town, census tract, or township designated by the state department of health under IC 16-46-5-7 or by the committee as

underserved by general dentists, pediatric dentists, oral surgeons, or dental hygienists.

Sec. 4. (a) The dental recruitment committee is established.

(b) The committee consists of four (4) members as follows:

(1) One (1) member of the board, who is selected by the board.

(2) The commissioner of the state department of health, or the commissioner's designee.

(3) The president of the Indiana Dental Association, or the president's designee.

(4) The dean of the Indiana University School of Dentistry, or the dean's designee.

(c) The member selected under subsection (b)(1) shall serve as chairperson of the committee.

Sec. 5. (a) The Indiana dental recruitment fund is established. The purpose of the fund is to provide grants to dentists and dental hygienists to encourage the full-time delivery of dental care in underserved areas and to increase the number of minority dentists and dental hygienists in Indiana. The board shall administer the fund.

(b) The fund consists of the following:

(1) Payments made under section 6(3) of this chapter.

(2) Gifts to the fund.

(3) Grants from public or private sources.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund.

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

(e) The fund shall be used to do the following:

(1) Provide grants under this chapter.

(2) Pay the costs incurred by the committee in administering this chapter.

Sec. 6. To be eligible for a grant, a dentist or dental hygienist must meet all the following conditions:

(1) Hold a license to practice as a dentist under this article or as a dental hygienist under IC 25-13-1.

(2) Has entered into an agreement with the committee to:

(A) either:

(i) commit to working five (5) years in a underserved area or as a minority dentist or dental hygienist in

Indiana for a yearly grant of thirty-five thousand dollars ($35,000); or

(ii) commit to working two (2) years in a underserved area or as a minority dentist or dental hygienist in Indiana for a yearly grant of thirty thousand dollars ($30,000) with the option by the dentist or dental hygienist to serve up to three (3) additional years for a yearly grant of thirty-five thousand dollars ($35,000);

(B) provide an average of at least forty (40) hours of dentistry per week in underserved areas or as a minority dentist or dental hygienist in Indiana;

(C) maintain a patient base that includes at least thirty percent (30%) as Medicaid patients; and

(D) provide a sliding fee scale, as approved by the committee, for low income patients.

(3) Has entered into an agreement with the committee that if the dentist or dental hygienist does not comply with the requirements in subdivision (2) that the dentist or dental hygienist will pay back to the committee seven thousand five hundred dollars ($7,500), plus interest, for each month that the dentist or dental hygienist did not serve or had left to serve under the terms of the agreement.

Sec. 7. A dentist or dental hygienist must apply for a grant on an application form supplied by the committee.

Sec. 8. The committee shall consider each application and determine the following:

(1) The eligibility of the applicant for the grant program.

(2) The availability of sufficient money in the fund.

Sec. 9. The committee may recommend rules for the board to adopt under IC 4-22-2 that are necessary to administer this chapter.

SECTION 35. IC 25-17.3 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

ARTICLE 17.3. GENETIC COUNSELORS

Chapter 1. Applicability

Sec. 1. This article applies after June 30, 2010.

Chapter 2. Definitions

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

Sec. 2. "Agency" refers to the Indiana professional licensing agency established by IC 25-1-5-3.

Sec. 3. "Board" refers to the medical licensing board of Indiana created by IC 25-22.5-2-1.

Sec. 4. "Genetic counseling" means the communication by an individual of any of the following:

(1) Estimating, through the following methods, the likelihood of the occurrence or recurrence of a birth defect or a potentially inherited or genetically influenced condition:

(A) Obtaining and analyzing the health history of an individual and the individual's family.

(B) Reviewing medical records.

(C) Evaluating the risks of exposure to possible mutagens or teratogens.

(D) Recommending genetic testing or other evaluation to detect fetal abnormalities or determine the carrier status of a family member.

(2) Explaining to an individual or a family the following:

(A) The medical, psychological, and social implications of a disorder and the usual course of evaluation, treatment, or management.

(B) The genetic factors that contribute to the disorder and how the genetic factors affect the chance for recurrence of the condition in other family members.

(C) The available options for coping with, preventing, or reducing the chance of occurrence or recurrence of the disorder.

(D) The genetic or other tests available for inherited disorders.

(E) How to interpret complex genetic test results.

Sec. 5. "Genetic counselor" means an individual who is licensed under this article to provide genetic counseling.

Sec. 6. "Genetic supervision" refers to the assessment by:

(1) an individual who is licensed under this article; or

(2) a physician licensed under IC 25-22.5;

of an individual who is issued a temporary genetic counselor license. The term includes regular meetings and chart review under a genetic supervision contract entered into by both parties.

Chapter 3. Powers and Duties of the Board

Sec. 1. The board shall enforce this article.

Sec. 2. The board may adopt rules under IC 4-22-2 that are consistent with this article and with IC 25-22.5 and that are necessary for the proper enforcement of this article and for the conduct of the practice of genetic counseling.

Chapter 4. Requirements for Licensure as a Genetic Counselor

Sec. 1. To qualify for licensure as a genetic counselor, an applicant must:

(1) submit an application on a form developed by the board;

(2) pay the licensure fee determined by the board;

(3) provide written evidence that the applicant has earned:

(A) a master's degree from a genetic counseling training program accredited by the American Board of Genetic Counseling or its successor; or

(B) a doctoral degree from a medical genetics training program that is accredited by the American Board of Medical Genetics or its successor; and

(4) meet the examination requirement for certification as:

(A) a genetic counselor by the American Board of Genetic Counseling or the American Board of Medical Genetics or the successor of these entities; or

(B) a medical geneticist by the American Board of Medical Genetics or its successor.

Sec. 2. (a) The board may issue a temporary license to an applicant who:

(1) meets all the requirements for licensure under section 1 of this chapter except the examination for certification requirement set forth in section 1(4) of this chapter; and

(2) has an active candidate status for the certification.

(b) An individual who is issused a temporary license under this section:

(1) must apply for and take the next available examination for certification; and

(2) may practice under the temporary license only if directly supervised by a licensed genetic counselor or a physician

licensed under IC 25-22.5 under a genetic supervision contract.

(c) An individual who holds a temporary license issued under this section and fails the examination for certification described in section 1(4) of this chapter for the first time may reapply for a second temporary license. The board may not issue a temporary license to an individual who has failed the examination for certification more than one (1) time.

(d) A temporary license issued under this section expires upon the earliest of the following:

(1) The date on which the individual meets the requirements of this chapter and is issued a license.

(2) The date that is thirty (30) days after the individual fails the examination for certification described in section 1(4) of this chapter.

(3) The date printed on the temporary license.

(e) An individual who is issued a temporary license under this section shall inform the board of the results of the individual's examination for certification described in section 1(4) of this chapter.

Sec. 3. The board may issue a license to an individual who:

(1) is licensed, certified, or registered in another state or territory of the United States that has requirements determined by the board to be substantially equivalent to the requirements specified in this article;

(2) is in good standing in the other state or territory;

(3) applies in the manner required by the board; and

(4) pays an application fee specified by the board.

Sec. 4. The following individuals are not required to be licensed under this article:

(1) An individual who is licensed as a physician under IC 25-22.5 or a nurse under IC 25-23. However, the individual may not use the title "genetic counselor" or any other title that indicates that the individual is a genetic counselor unless the individual is licensed under this article.

(2) A student or an intern from an accredited school who is participating in a supervised training program.

(3) An individual from another state who is certified by the American Board of Medical Genetics or the American Board

of Genetic Counseling and acting in Indiana on a consultant basis.

Sec. 5. (a) A license issued by the board expires on the date established by the agency under IC 25-1-5-4 in even-numbered years.

(b) To renew a license, a genetic counselor shall:

(1) pay a renewal fee not later than the expiration date of the license; and

(2) meet all other requirements for renewal under this chapter.

(c) If an individual fails to pay a renewal fee on or before the expiration date of a license, the license becomes invalid without further action by the board.

(d) If an individual holds a license that has been invalid for not more than three (3) years, the board shall reinstate the license if the individual meets the requirements of IC 25-1-8-6(c).

(e) If more than three (3) years have elapsed since the date a license has expired, the individual who holds the expired license may seek reinstatement of the license by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

Sec. 6. (a) To renew a license under this article, an applicant must complete continuing education. The continuing education must meet the requirements of IC 25-1-4 and consist of:

(1) the completion in each two (2) year license cycle of fifty (50) contact hours that have been approved by the National Society of Genetic Counselors; or

(2) the successful completion in each two (2) year license cycle of a reading assignment and proctored examination in medical genetics provided by the American Board of Medical Genetics.

(b) An applicant seeking renewal of a license shall certify that the applicant:

(1) has complied with the continuing education requirements; or

(2) has not complied with the continuing education requirements but is seeking a waiver from the board under section 7 of this chapter.

Sec. 7. The board may grant an applicant seeking renewal of a license a waiver from all or part of the continuing education

requirement for the renewal period if the applicant was not able to fulfill the requirement due to a hardship that resulted from any of the following conditions:

(1) Service in the armed forces of the United States during a substantial part of the renewal period.

(2) An incapacitating illness or injury.

(3) Other circumstances determined by the board.

Chapter 5. Unlawful Practices

Sec. 1. An individual who does not have a valid license or temporary license as a genetic counselor under this article may not use the title "genetic counselor", "licensed genetic counselor", or any word, letter, abbreviation, or insignia that indicates or implies that the individual has been issued a license or has met the qualifications for licensure under this article.

Sec. 2. (a) If the board believes that a person has engaged in or is about to engage in an act or practice that constitutes or will constitute a violation of section 1 of this chapter, the board may apply to a circuit or superior court for an order enjoining the act or practice.

(b) If the board determines that a person has engaged in or is about to engage in an act or practice that constitutes or will constitute a violation of section 1 of this chapter, an injunction, a restraining order, or another appropriate order may be granted by the court.

Sec. 3. A person who violates this chapter commits a Class A misdemeanor. In addition to any other penalty imposed for a violation of this chapter, the board may, in the name of the state of Indiana through the attorney general, petition a circuit or superior court to enjoin the person who is violating this chapter from practicing genetic counseling in violation of this chapter.

SECTION 36. IC 25-20-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. **(a)** Standards for licensing shall be determined by the board. ~~who~~ **The board** may require **that an applicant pass an** examination ~~by written and practical tests~~ in order to demonstrate that the applicant is qualified to fit and dispense hearing aids. ~~provided that it not~~ **An examination required under this section may not** be conducted in such a manner that college training ~~be~~ **is** required in order to pass the examination.

(b) Nothing in this section shall imply that the applicant shall possess the degree of medical competence normally expected by physicians. ~~The examinations shall be given at three (3) month intervals.~~

(c) The committee shall propose rules to the board concerning the competent practice of hearing aid dealing.

(d) The board shall adopt rules, based on the committee's proposed rules, under IC 4-22-2 establishing standards for competent practice as a hearing aid dealer.

SECTION 37. IC 25-20.7 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

ARTICLE 20.7. INTERIOR DESIGNERS

Chapter 1. Definitions

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

Sec. 2. "Agency" means the Indiana professional licensing agency established by IC 25-1-5-3.

Sec. 3. "Applicant" means an interior designer who applies for a registration under this article.

Sec. 4. "ARE" refers to the Architectural Registration Exam.

Sec. 5. (a) "Interior design" means client consultation and preparation and administration of design documents that include:

(1) design studies;

(2) drawings;

(3) schedules;

(4) specifications; and

(5) contracts;

relating to nonstructural and nonseismic interior elements of a building or structure.

(b) The term includes design documents for space plans, reflected ceiling plans, egress, ergonomics, and the design or specification of fixtures, furnishings, equipment, cabinetry, lighting, materials, finishes, and interior design that does not materially affect the building system.

(c) The term does not include construction documents for construction (as defined in 675 IAC 12-6-2(c)) that are prepared only by architects and engineers and filed for state design release.

Sec. 6. "Interior designer" means a person who practices interior design.

Sec. 7. "NCIDQ" refers to the National Council for Interior Design Qualification.

Sec. 8. "Nonstructural or nonseismic" means interior elements or components that:

(1) are not load bearing or do not assist in the seismic design of a building;

(2) do not require design computations for the structure of a building; and

(3) do not include the structural frame system supporting a building.

The term includes ceiling and partition systems that employ normal and typical bracing conventions and are not part of the structural integrity of the building.

Sec. 9. "Reflected ceiling plan" means a ceiling design that illustrates a ceiling as if the ceiling were projected downward and may include lighting elements.

Sec. 10. "Registered interior designer" means a person registered under this article.

Sec. 11. "Space planning" means the analysis of design or spatial and occupancy requirements, including space layouts and final planning.

Chapter 2. Registration Requirements

Sec. 1. This article applies to a person who practices interior design after December 31, 2009.

Sec. 2. This article does not apply to an owner or employee of a manufacturing, wholesale, or retail establishment who provides consultation regarding interior decoration or furnishing:

(1) on the premises of the establishment;

(2) for purposes of an actual or prospective retail sale; or

(3) in the design, construction, ordering, or sale of:

(A) recreational vehicles;

(B) manufactured homes certified through the United States Department of Housing and Urban Development; or

(C) industrialized building systems certified through the department of homeland security.

Sec. 3. This article does not apply to a person who:

(1) does not profess to be a registered interior designer; and

(2) is:

(A) an architect registered under IC 25-4; or

(B) a professional engineer registered under IC 25-31.

Sec. 4. Under IC 25-1-5.5, the agency shall maintain an electronic registry of all interior designers who:

(1) electronically apply for and meet the registration requirements under this article;

(2) swear or affirm under penalty of perjury that the interior designer's representations and information provided to the agency are true; and

(3) pay the fees under IC 25-20.7-3.

Sec. 5. Except as provided in section 8 of this chapter, the agency shall electronically register only an applicant who does the following:

(1) Electronically applies for the registration on a form prescribed by the agency.

(2) Meets the requirements of this article.

(3) Except as provided in section 6 or 8 of this chapter, passes:

(A) the examination administered by the NCIDQ; or

(B) the ARE.

(4) Pays the registration fee under IC 25-20.7-3.

Sec. 6. The examination requirement under section 5(3) of this chapter is waived if the applicant holds a current certificate issued by the NCIDQ or documentation of the successful completion of the ARE.

Sec. 7. To qualify for registration under this article, an applicant must not have a conviction for:

(1) an act that would constitute a ground for disciplinary sanction under IC 25-1-11; or

(2) a felony that has a direct bearing on the applicant's ability to practice competently.

Sec. 8. The agency shall register an applicant who:

(1) applies for registration under this article before December 31, 2011;

(2) meets all the registration requirements under this article other than the requirement under section 5(3) of this chapter; and

(3) meets one (1) or more of the following:

(A) Has:

(i) received at least two (2) years of interior design education; and

(ii) practiced in the field of interior design for at least ten (10) years.

(B) Has practiced interior design for at least fifteen (15) years.

Sec. 9. The agency shall renew a registration of a registered interior designer only if the registered interior designer meets the following conditions:

(1) The applicant successfully completes the continuing education requirements under this chapter.

(2) The applicant pays the renewal fee under IC 25-20.7-3.

(3) Except for an applicant who is registered under section 8 of this chapter, the applicant:

(A) has documentation of successful completion of the examination administered by the ARE; or

(B) holds a current certificate issued by the NCIDQ.

Sec. 10. A registered interior designer must complete at least twelve (12) hours of continuing education in interior design or a discipline related to the practice of interior design for the renewal of a certificate of registration under this chapter.

Sec. 11. A registered interior designer who continues to actively practice interior design shall:

(1) renew the registration not more than ninety (90) days before the expiration of the registration; and

(2) pay the renewal fee under IC 25-20.7-3.

Sec. 12. This article is not intended to relieve a registered interior designer from complying with any rule adopted under IC 22-13-2-13.

Chapter 3. Fees

Sec. 1. (a) The agency shall collect the following fees under this article:

(1) An initial registration fee of one hundred dollars ($100).

(2) A biennial renewal fee of one hundred dollars ($100).

(3) A restoration fee of one hundred dollars ($100).

(b) The fees collected by the agency under this article shall be deposited by the agency in the same manner as other fees collected by the agency are deposited.

Chapter 4. Expiration of Registration

Sec. 1. A registered interior designer who fails to renew the interior designer's certificate of registration for a period of not more than five (5) years after the date the registration expires may renew the registration at any time within the five (5) year period after the registration expires by:

(1) electronically applying to the agency for renewal of the registration;

(2) completing twelve (12) hours of continuing education in interior design or a discipline related to the practice of interior design within the two (2) years immediately preceding the interior designer's application for renewal of registration under this section; and

(3) paying the biennial renewal fee and the restoration fee under IC 25-20.7-3-1.

Sec. 2. After the five (5) year period referred to in section 1 of this chapter, the following apply:

(1) The agency may not restore the expired registration of an interior designer.

(2) To again be registered under this chapter, an interior designer must:

(A) make the same application to the agency as an applicant who has not been previously registered; and

(B) meet all the requirements set forth in this article for an initial registration.

Chapter 5. Unlawful Practice

Sec. 1. (a) A person may not use the title "registered interior designer" or any title designation sign, card, or device indicating that the person is a registered interior designer unless the person is registered with the agency under this article.

(b) A person may not:

(1) present as the person's own registration under this article the registration of another person;

(2) make any false statement or representation or make a material omission of fact of any kind in obtaining a registration;

(3) impersonate any other registered interior designer; or

(4) use an expired, suspended, or revoked registration.

(c) A person who recklessly, knowingly, or intentionally violates this section commits a Class B misdemeanor.

Sec. 2. This article does not prevent a person from practicing interior design if the person does not use a title or designation under this chapter.

Sec. 3. (a) If a civil judgment is entered against an interior designer by a court with jurisdiction in a civil judicial proceeding for negligence, recklessness, willful misconduct, or other breach of a standard of care in the practice of interior design, the interior designer must, within a reasonable time, remove the designer's name from the electronic registry maintained by the agency under IC 25-1-5.5.

(b) An interior designer against whom a civil judgment described in subsection (a) has been entered may not be registered under this article.

SECTION 38. IC 25-21.8-4-2, AS AMENDED BY P.L.3-2008, SECTION 186, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. An individual who applies for certification as a massage therapist must do the following:

(1) Furnish evidence satisfactory to the board showing that the individual:

(A) is at least eighteen (18) years of age;

(B) has a high school diploma or the equivalent of a high school diploma;

(C) has successfully completed a massage therapy school or program that:

(i) requires at least five hundred (500) hours of supervised classroom and hands on instruction on massage therapy;

(ii) is in good standing with a state, regional, or national agency of government charged with regulating massage therapy schools or programs; and

(iii) is accredited by the Indiana commission on proprietary education established by IC 21-17-2-1 or accredited by another state where the standards for massage therapy education are substantially the same as the standards in Indiana, or is a program at an institution of higher learning that is approved by the board; and

(D) has taken and passed a certification examination approved by the board.

(2) Provide a history of any criminal convictions the individual has, including any convictions related to the practice of the

profession. The board shall deny an application for certification if the applicant:

(A) has been convicted of:

(i) prostitution;

(ii) rape; or

(iii) sexual misconduct; or

(B) is a registered sex offender.

(3) Provide proof that the applicant has professional liability insurance in force that lists the state as an additional insured.

~~(3)~~ **(4)** Verify the information submitted on the application form.

~~(4)~~ **(5)** Pay fees established by the board.

SECTION 39. IC 25-21.8-4-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4. A massage therapist who is certified under this article shall provide proof of certification when practicing massage therapy.**

SECTION 40. IC 25-22.5-1-2, AS AMENDED BY P.L.90-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) This article, as it relates to the unlawful or unauthorized practice of medicine or osteopathic medicine, does not apply to any of the following:

(1) A student in training in a medical school approved by the board, or while performing duties as an intern or a resident in a hospital under the supervision of the hospital's staff or in a program approved by the medical school.

(2) A person who renders service in case of emergency where no fee or other consideration is contemplated, charged, or received.

(3) A paramedic (as defined in IC 16-18-2-266), an emergency medical technician-basic advanced (as defined in IC 16-18-2-112.5), an emergency medical technician-intermediate (as defined in IC 16-18-2-112.7), an emergency medical technician (as defined in IC 16-18-2-112), or a person with equivalent certification from another state who renders advanced life support (as defined in IC 16-18-2-7) or basic life support (as defined in IC 16-18-2-33.5):

(A) during a disaster emergency declared by the governor under IC 10-14-3-12 in response to an act that the governor in

good faith believes to be an act of terrorism (as defined in IC 35-41-1-26.5); and

(B) in accordance with the rules adopted by the Indiana emergency medical services commission or the disaster emergency declaration of the governor.

(4) Commissioned medical officers or medical service officers of the armed forces of the United States, the United States Public Health Service, and medical officers of the United States Department of Veterans Affairs in the discharge of their official duties in Indiana.

(5) An individual who is not a licensee who resides in another state or country and is authorized to practice medicine or osteopathic medicine there, who is called in for consultation by an individual licensed to practice medicine or osteopathic medicine in Indiana.

(6) A person administering a domestic or family remedy to a member of the person's family.

(7) A member of a church practicing the religious tenets of the church if the member does not make a medical diagnosis, prescribe or administer drugs or medicines, perform surgical or physical operations, or assume the title of or profess to be a physician.

(8) A school corporation and a school employee who acts under IC 34-30-14 (or IC 34-4-16.5-3.5 before its repeal).

(9) A chiropractor practicing the chiropractor's profession under IC 25-10 or to an employee of a chiropractor acting under the direction and supervision of the chiropractor under IC 25-10-1-13.

(10) A dental hygienist practicing the dental hygienist's profession under IC 25-13.

(11) A dentist practicing the dentist's profession under IC 25-14.

(12) A hearing aid dealer practicing the hearing aid dealer's profession under IC 25-20.

(13) A nurse practicing the nurse's profession under IC 25-23. However, a **certified** registered nurse **anesthetist (as defined in IC 25-23-1-1.4)** may administer anesthesia if the **certified** registered nurse **anesthetist** acts under the direction of and in the immediate presence of a physician. ~~and holds a certificate of completion of a course in anesthesia approved by the American~~

~~Association of Nurse Anesthetists or a course approved by the board.~~

(14) An optometrist practicing the optometrist's profession under IC 25-24.

(15) A pharmacist practicing the pharmacist's profession under IC 25-26.

(16) A physical therapist practicing the physical therapist's profession under IC 25-27.

(17) A podiatrist practicing the podiatrist's profession under IC 25-29.

(18) A psychologist practicing the psychologist's profession under IC 25-33.

(19) A speech-language pathologist or audiologist practicing the pathologist's or audiologist's profession under IC 25-35.6.

(20) An employee of a physician or group of physicians who performs an act, a duty, or a function that is customarily within the specific area of practice of the employing physician or group of physicians, if the act, duty, or function is performed under the direction and supervision of the employing physician or a physician of the employing group within whose area of practice the act, duty, or function falls. An employee may not make a diagnosis or prescribe a treatment and must report the results of an examination of a patient conducted by the employee to the employing physician or the physician of the employing group under whose supervision the employee is working. An employee may not administer medication without the specific order of the employing physician or a physician of the employing group. Unless an employee is licensed or registered to independently practice in a profession described in subdivisions (9) through (18), nothing in this subsection grants the employee independent practitioner status or the authority to perform patient services in an independent practice in a profession.

(21) A hospital licensed under IC 16-21 or IC 12-25.

(22) A health care organization whose members, shareholders, or partners are individuals, partnerships, corporations, facilities, or institutions licensed or legally authorized by this state to provide health care or professional services as:

(A) a physician;

(B) a psychiatric hospital;

(C) a hospital;

(D) a health maintenance organization or limited service health maintenance organization;

(E) a health facility;

(F) a dentist;

(G) a registered or licensed practical nurse;

(H) a midwife;

(I) an optometrist;

(J) a podiatrist;

(K) a chiropractor;

(L) a physical therapist; or

(M) a psychologist.

(23) A physician assistant practicing the physician assistant profession under IC 25-27.5.

(24) A physician providing medical treatment under IC 25-22.5-1-2.1.

(25) An attendant who provides attendant care services (as defined in IC 16-18-2-28.5).

(26) A personal services attendant providing authorized attendant care services under IC 12-10-17.1.

(b) A person described in subsection (a)(9) through (a)(18) is not excluded from the application of this article if:

(1) the person performs an act that an Indiana statute does not authorize the person to perform; and

(2) the act qualifies in whole or in part as the practice of medicine or osteopathic medicine.

(c) An employment or other contractual relationship between an entity described in subsection (a)(21) through (a)(22) and a licensed physician does not constitute the unlawful practice of medicine under this article if the entity does not direct or control independent medical acts, decisions, or judgment of the licensed physician. However, if the direction or control is done by the entity under IC 34-30-15 (or IC 34-4-12.6 before its repeal), the entity is excluded from the application of this article as it relates to the unlawful practice of medicine or osteopathic medicine.

(d) This subsection does not apply to a prescription or drug order for a legend drug that is filled or refilled in a pharmacy owned or operated

by a hospital licensed under IC 16-21. A physician licensed in Indiana who permits or authorizes a person to fill or refill a prescription or drug order for a legend drug except as authorized in IC 16-42-19-11 through IC 16-42-19-19 is subject to disciplinary action under IC 25-1-9. A person who violates this subsection commits the unlawful practice of medicine under this chapter.

(e) A person described in subsection (a)(8) shall not be authorized to dispense contraceptives or birth control devices.

SECTION 41. IC 25-22.5-5-4.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.6. (a) The board may authorize the agency to issue temporary fellowship permits for the practice of medicine. A temporary fellowship permit is subject to any termination date specified by the board.**

(b) The board may issue a temporary fellowship permit to a graduate of a school located outside the United States, its possessions, or Canada if the graduate:

(1) applies in the form and manner required by the board;

(2) pays a fee set by the board;

(3) has completed the academic requirements for the degree of doctor of medicine from a medical school approved by the board;

(4) has been issued a valid permit by another state for participation in a postgraduate medical education or training program located in a state that has standards for postgraduate medical education and training satisfactory to the board;

(5) has been accepted into a postgraduate medical fellowship training program that:

(A) is affiliated with a medical school located in a state that issued a permit under subdivision (4);

(B) has a training site located in Indiana; and

(C) has standards for postgraduate medical education and training satisfactory to the board;

(6) provides the board with documentation of the areas of medical practice for which the training is sought;

(7) provides the board with at least two (2) letters of reference documenting the individual's character; and

(8) demonstrates to the board that the individual is a physician of good character who is in good standing outside the United States, its possessions, or Canada where the person normally would practice.

(c) Applications for a temporary fellowship permit for graduates of foreign medical schools must be made to the board subject to this section.

(d) A permit issued under this section expires one (1) year after the date it is issued and, at the discretion of the board, may be renewed for additional one (1) year periods upon the payment of a renewal fee set by the board by rule.

(e) An individual who applies for a temporary fellowship permit under this section is not required to take any step of the United States Medical Licensure Examination.

(f) A temporary fellowship permit must be kept in the possession of the fellowship training institution and surrendered by the institution to the board within thirty (30) days after the person ceases training in Indiana.

(g) A temporary fellowship permit authorizes a person to practice in the training institution only and, in the course of training, to practice only those medical acts approved by the board but does not authorize the person to practice medicine otherwise.

(h) The board may deny an application for a temporary fellowship permit if the training program that has accepted the applicant has:

(1) violated; or

(2) authorized or permitted a physician to violate;

this section.

(i) A person issued a temporary fellowship permit under this section must file an affidavit that:

(1) is signed by a physician licensed in Indiana;

(2) includes the license number of the signing physician;

(3) attests that the physician will monitor the work of the physician holding the temporary fellowship permit; and

(4) is notarized.

The affidavit must be filed with the agency before the person holding the temporary fellowship permit may provide medical services.

SECTION 42. IC 25-23-1-1.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.4. As used in this chapter, "certified registered nurse anesthetist" means a registered nurse who:

(1) is a graduate of a nurse anesthesia educational program accredited by the ~~American Association of Nurse Anesthetists (referred to as the "AANA" in this chapter)~~ Council on Accreditation of Nurse Anesthesia Educational Programs or its predecessor;

(2) is properly certified by successfully completing the certification examination administered by the ~~AANA's~~ Council on Certification of Nurse Anesthetists or its predecessor; and

(3) is properly certified and in compliance with criteria for biennial recertification, as defined by the ~~AANA~~ Council on Recertification of Nurse Anesthetists.

SECTION 43. IC 25-23-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20. **(a)** Any institution which desires to conduct a nursing education program shall apply to the board and submit evidence that:

(1) it is prepared to give a minimum curriculum of organized instruction and clinical experience in nursing in conformity to the provisions of this chapter and the rules of the board. Such instruction and experience may be secured in one (1) or more institutions or agencies approved by the board; and

(2) it is prepared to meet other standards established by this chapter and by the board.

(b) An institution that conducts a nursing education program may employ a person who:

(1) is a registered nurse with a bachelor's degree in nursing; and

(2) has at least three (3) years of experience in nursing in the previous six (6) years;

to instruct nursing students on a part-time basis for the purpose of clinical instruction.

SECTION 44. IC 25-23-1-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 30. **(a) A certified registered nurse anesthetist may administer anesthesia if the**

certified registered nurse anesthetist acts under the direction of and in the immediate presence of a physician.

(b) Nothing in this chapter shall be construed as requiring a certified registered nurse anesthetist to obtain prescriptive authority to administer anesthesia under ~~IC 25-22.5-1-2(12).~~ **subsection (a).**

SECTION 45. IC 25-23.6-5-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3.5. (a) The applicant for a license as a clinical social worker must have at least ~~three (3) years of clinical social work experience.~~ two (2) years of ~~the~~ clinical social work experience ~~must take place~~ after receiving ~~the~~ **a** graduate degree in social work **and** under the supervision of a ~~licensed clinical social worker or an equivalent~~ **qualified** supervisor as determined by the board.

(b) ~~If the applicant's graduate program did not emphasize direct clinical patient care or client health care services, the supervised clinical social work experience requirement must take place after the applicant has completed at least fifteen (15) semester hours or twenty-two (22) quarter hours of the required coursework.~~ **If an individual is obtaining the clinical social work experience described in subsection (a) in Indiana, the individual must be licensed as a social worker under section 1 of this chapter.**

(c) A doctoral internship may be applied toward the supervised clinical social work experience requirement.

(d) Except as provided in subsection (e), the clinical social work experience requirement may be met by work performed at or away from the premises of the ~~supervising clinical social worker.~~ **qualified supervisor.**

(e) The clinical social work requirement may not be performed away from the ~~supervising clinical social worker's~~ **qualified supervisor's** premises if:

(1) the work is the independent private practice of clinical social work; and

(2) the work is not performed at a place with the supervision of a ~~licensed clinical social worker or an equivalent~~ **qualified** supervisor available. ~~as determined by the board.~~

SECTION 46. IC 25-23.6-8-1, AS AMENDED BY P.L.134-2008, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]: Sec. 1. An individual who applies

for a license as a marriage and family therapist must meet the following requirements:

(1) Furnish satisfactory evidence to the board that the individual has:

(A) received a master's or doctor's degree in marriage and family therapy, or in a related area as determined by the board from an eligible postsecondary educational institution that meets the requirements under section 2.1(a)(1) of this chapter or from a foreign school that has a program of study that meets the requirements under section 2.1(a)(2) or (2.1)(a)(3) of this chapter; and

(B) completed the educational requirements under section 2.5 of this chapter.

(2) Furnish satisfactory evidence to the board that the individual has met the clinical experience requirements under section 2.7 of this chapter.

(3) Furnish satisfactory evidence to the board that the individual:

(A) **except as provided in section 1.7 of this chapter,** holds a marriage and family therapist associate license, in good standing, issued under section 5 of this chapter; or

(B) is licensed or certified to practice as a marriage and family therapist in another state and is otherwise qualified under this chapter.

(4) Furnish satisfactory evidence to the board that the individual does not have a conviction for a crime that has a direct bearing on the individual's ability to practice competently.

(5) Furnish satisfactory evidence to the board that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice as a marriage and family therapist without endangering the public.

(6) Pay the fee established by the board.

SECTION 47. IC 25-23.6-8-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]: **Sec. 1.7. An individual who receives a master's degree and enters a doctoral program may do either of the following:**

(1) Apply for a marriage and family therapist associate license under section 1.5 of this chapter by meeting the requirements of this chapter.

(2) Elect not to apply for a marriage and family therapist associate license under section 1.5 of this chapter, accrue the clinical experience required under section 2.7(b) of this chapter, and apply for a marriage and family therapist license at the conclusion of the doctoral program.

SECTION 48. IC 25-23.6-8-2.7, AS AMENDED BY P.L.134-2008, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]: Sec. 2.7. **(a) As used in this section, "first available examination" means the first examination after the date of:**

(1) graduation; or

(2) moving into Indiana;

that has an application deadline that is at least thirty (30) days after the date of graduation or the date of moving into Indiana, unless the individual chooses to meet a deadline that is less than thirty (30) days after either of those events.

~~(a)~~ **(b)** An applicant for a license as a marriage and family therapist under section 1 of this chapter must have at least two (2) years of clinical experience, during which at least fifty percent (50%) of the applicant's clients were receiving marriage and family therapy services. The applicant's clinical experience must include one thousand (1,000) hours of postdegree clinical experience and two hundred (200) hours of postdegree clinical supervision, of which one hundred (100) hours must be individual supervision, under the supervision of a licensed marriage and family therapist who has at least five (5) years of experience or an equivalent supervisor, as determined by the board.

~~(b) Before an individual obtains any post degree clinical experience, the individual must be licensed as a marriage and family therapist associate under this chapter.~~

(c) If an individual applies for, takes, and passes the first available examination, the individual may not count more than five hundred (500) hours of the postdegree clinical experience that is:

(1) required under subsection (b); and

(2) accumulated before taking the examination toward licensure as a marriage and family therapist.

(d) If an individual does not pass the first available examination, the individual may:

(1) retain the hours accumulated before taking the examination;

(2) continue working; and

(3) not accumulate any additional hours toward licensure as a marriage and family therapist until passing the examination.

(e) If an individual does not take the first available examination, the individual may not begin accumulating any postdegree clinical experience hours toward licensure as a marriage and family therapist until the individual passes the examination.

(f) When obtaining the clinical experience required under subsection ~~(a),~~ **(b),** the applicant must provide direct individual, group, and family therapy and counseling to the following categories of cases:

(1) Unmarried couples.

(2) Married couples.

(3) Separating or divorcing couples.

(4) Family groups, including children.

~~(c)~~ **(g)** A doctoral internship may be applied toward the supervised work experience requirement.

~~(d)~~ **(h)** Except as provided in subsection ~~(c),~~ **(i),** the experience requirement may be met by work performed at or away from the premises of the supervising marriage and family therapist.

~~(e)~~ **(i)** The work requirement may not be performed away from the supervising marriage and family therapist's premises if:

(1) the work is the independent private practice of marriage and family therapy; and

(2) the work is not performed at a place that has the supervision of a licensed marriage and family therapist or an equivalent supervisor, as determined by the board.

SECTION 49. IC 25-27.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. "Approved program" means ~~a physician assistant or a surgeon assistant program accredited by an accrediting agency.~~ **an educational program for physician assistants accredited:**

(1) by the Accreditation Review Commission on Education for the Physician Assistant; or

(2) before January 1, 2001, by:

(A) the Committee on Allied Health Education and Accreditation or its successor organization; or

(B) the Commission on Accreditation of Allied Health Education Programs or its successor organization.

SECTION 50. IC 25-27.5-2-10, AS AMENDED BY P.L.90-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. "Physician assistant" means an individual who: ~~has:~~

~~(1) graduated from a physician assistant or surgeon assistant program accredited by an accrediting agency;~~

~~(2) passed the certifying examination administered by the NCCPA and maintains certification by the NCCPA; and~~

~~(3) been licensed by the committee.~~

(1) meets the qualifications under this article; and

(2) is licensed under this article.

SECTION 51. IC 25-27.5-3-5, AS AMENDED BY P.L.90-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) The committee shall have regular meetings, called upon the request of the president or by a majority of the members appointed to the committee, and upon the advice and consent of the executive director of the Indiana professional licensing agency, for the transaction of business that comes before the committee under this article. At the first committee meeting of each calendar year, the committee shall elect a president and any other officer considered necessary by the committee by an affirmative vote of a majority of the members appointed to the committee.

(b) Three (3) members of the committee constitute a quorum. An affirmative vote of a majority of the members appointed to the committee is required for the committee to take action on any business.

(c) The committee shall do the following:

(1) Consider the qualifications of individuals who apply for an initial license under this article.

~~(2) Provide for examinations required under this article.~~

~~(3)~~ **(2)** Approve or reject license applications.

~~(4)~~ **(3)** Approve or reject renewal applications.

~~(5)~~ **(4)** Approve or reject applications for a change or addition of a supervising physician.

~~(6)~~ **(5)** Propose rules to the board concerning the competent practice of physician assistants and the administration of this article.

~~(7)~~ **(6)** Recommend to the board the amounts of fees required under this article.

SECTION 52. IC 25-27.5-4-1, AS AMENDED BY P.L.90-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. An individual must be licensed by the committee before the individual may practice as a physician assistant. The committee may grant a license as a physician assistant to an applicant who does the following:

(1) Submits an application on forms approved by the committee.

(2) Pays the fee established by the board.

(3) Has **either:**

(A) successfully:

(i) completed an educational program for physician assistants ~~or surgeon assistants~~ accredited by an ~~accrediting agency;~~ **approved program;** and

~~(B)~~ **(ii)** passed the Physician Assistant National Certifying Examination administered by the NCCPA and maintains current NCCPA certification; **or**

(B) passed the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants before 1986.

(4) Submits to the committee any other information the committee considers necessary to evaluate the applicant's qualifications.

(5) Presents satisfactory evidence to the committee that the individual has not been:

(A) engaged in an act that would constitute grounds for a disciplinary sanction under IC 25-1-9; or

(B) the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice as a physician assistant without endangering the public.

(6) Is of good moral character.

(7) Has been approved by the board.

SECTION 53. IC 25-27.5-4-4, AS AMENDED BY P.L.90-2007, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]: Sec. 4. (a) The committee may grant a temporary license to an applicant who

~~(1) meets the qualifications for licensure under section 1 of this chapter except:~~

~~(A) for the taking of the next scheduled NCCPA examination; or~~

~~(B) if the applicant has taken the NCCPA examination and is awaiting the results; or~~

~~(2)~~ meets the qualifications for licensure under section 1 of this chapter but is awaiting the next scheduled meeting of the committee.

(b) A temporary license is valid until

~~(1) the results of an applicant's examination are available; and~~

~~(2)~~ the committee makes a final decision on the applicant's request for a license.

~~(c) The Indiana professional licensing agency shall immediately revoke a temporary license granted under this section upon notice to the Indiana professional licensing agency that the temporary license holder has failed the NCCPA examination. The committee or the committee's designee may extend the term of a temporary license if the committee or the committee's designee determines that there is good cause for the extension.~~

~~(d) A physician assistant practicing under a temporary license must practice with onsite physician supervision.~~

~~(e) A physician assistant who notifies the committee in writing may elect to place the physician assistant's license on an inactive status. The renewal fee for an inactive license is one-half (1/2) of the renewal fee to maintain an active license. If a physician assistant with an inactive license determines to activate the license, the physician assistant shall pay the renewal fee less any the amount paid for the inactive license.~~

~~(f) An individual who holds a license under this article and who practices as a physician assistant while:~~

~~(1) the individual's license has lapsed; or~~

~~(2) the individual is on inactive status under this section;~~

~~is considered to be practicing without a license and is subject to discipline under IC 25-1-9.~~

SECTION 54. IC 25-27.5-4-9, AS ADDED BY P.L.90-2007, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) ~~An individual who:~~

~~(1) is licensed under this chapter; and~~

~~(2) does not practice as~~ A physician assistant ~~under a supervising physician;~~

~~shall notify~~ **who notifies** the committee in writing ~~that the individual does not have a supervising physician.~~

~~(b) If an individual who is licensed under this chapter does not practice as a physician assistant under a supervising physician, the board shall place the individual's~~ **may elect to place the physician assistant's** license on inactive status.

(b) The renewal fee for an inactive license is one-half (1/2) of the renewal fee to maintain an active license.

~~(c) An individual may reinstate a license that is placed on inactive status under this section if the individual:~~

~~(1) submits a written application to the committee requesting that the license be placed on active status; and~~

~~(2) provides information as required by the committee concerning the physician who will be supervising the individual.~~

(c) If a physician assistant with an inactive license elects to activate the license, the physician assistant shall pay the renewal fee less any of the amount paid for the inactive license.

(d) An individual who holds a license under this article and who practices as a physician assistant while:

(1) the individual's license has lapsed; or

(2) the individual is on inactive status under this section;

is considered to be practicing without a license and is subject to discipline under IC 25-1-9.

SECTION 55. IC 25-27.5-5-2, AS AMENDED BY P.L.90-2007, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A physician assistant must engage in a dependent practice with physician supervision. A physician assistant may perform, under the supervision of the supervising physician, the duties and responsibilities that are delegated by the supervising physician and that are within the supervising physician's scope of practice, including prescribing and dispensing drugs and medical

devices. A patient may elect to be seen, examined, and treated by the supervising physician.

(b) If a physician assistant determines that a patient needs to be examined by a physician, the physician assistant shall immediately notify the supervising physician or physician designee.

(c) If a physician assistant notifies the supervising physician that the physician should examine a patient, the supervising physician shall:

(1) schedule an examination of the patient in a timely manner unless the patient declines; or

(2) arrange for another physician to examine the patient.

(d) If a patient is subsequently examined by the supervising physician or another physician because of circumstances described in subsection (b) or (c), the visit must be considered as part of the same encounter except for in the instance of a medically appropriate referral.

(e) A supervising physician or physician assistant who does not comply with subsections (b) through (d) is subject to discipline ~~by the medical licensing board~~ under IC 25-1-9.

(f) A physician assistant's supervisory agreement with a supervising physician must:

(1) be in writing;

(2) include all the tasks delegated to the physician assistant by the supervising physician;

(3) set forth the supervisory plans for the physician assistant, including the emergency procedures that the physician assistant must follow; and

(4) specify the name of the drug or drug classification being delegated to the physician assistant and the protocol the physician assistant shall follow in prescribing a drug.

(g) The physician shall submit the supervisory agreement to the board for approval. The physician assistant may not prescribe a drug under the supervisory agreement until the board approves the supervisory agreement. Any amendment to the supervisory agreement must be resubmitted to the board for approval, and the physician assistant may not operate under any new prescriptive authority under the amended supervisory agreement until the agreement has been approved by the board.

(h) A physician or a physician assistant who violates the supervisory agreement described in this section may be disciplined under IC 25-1-9.

SECTION 56. IC 25-27.5-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. **(a)** A physician supervising a physician assistant must do the following:

(1) Be licensed under IC 25-22.5.

(2) Register with the board the physician's intent to supervise a physician assistant.

(3) Submit a statement to the board that the physician will exercise supervision over the physician assistant in accordance with rules adopted by the board and retain professional and legal responsibility for the care rendered by the physician assistant.

(4) Not have a disciplinary action restriction that limits the physician's ability to supervise a physician assistant.

(b) Except as provided in this section, this chapter may not be construed to limit the employment arrangement with a supervising physician under this chapter.

SECTION 57. IC 25-33-1-5.1, AS AMENDED BY P.L.2-2007, SECTION 345, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5.1. (a) Except as provided in section 5.3 of this chapter, the board shall issue a license to an individual who meets the following requirements:

(1) Applies to the board in the form and manner prescribed by the board under section 3 of this chapter.

(2) Is at least eighteen (18) years of age.

(3) Has not been convicted of a crime that has a direct bearing upon the applicant's ability to practice competently.

(4) Possesses a doctoral degree in psychology:

(A) granted from a recognized postsecondary educational institution; and

(B) from a degree program approved by the board as a psychology program at the time the degree was conferred.

(5) Is not in violation of this chapter or rules adopted by the board under section 3 of this chapter.

(6) Has paid the fee set by the board under section 3 of this chapter.

(7) Has passed the examination required and administered by the board.

(b) If an applicant has been disciplined by a licensing agency in another state or jurisdiction on the ground that the applicant was unable to competently practice psychology, the applicant must submit proof, satisfactory to the board, that the reasons for disciplinary sanction by the other licensing agency are no longer valid.

(c) The board shall endorse as a health service provider in psychology an individual who:

(1) has a doctoral degree in clinical psychology, counseling psychology, school psychology, or another applied health service area of psychology;

(2) is licensed under this section, section 5.3, or section 9 of this chapter;

(3) has at least two (2) years of experience in a ~~supervised~~ health service setting ~~in which~~ **that includes:**

(A) one (1) year of experience **that** was obtained in an organized health service training program and ~~in which~~ at least one (1) year of experience **that** was obtained after the individual received the individual's doctoral degree in psychology; ~~and~~ **or**

(B) upon the adoption by the board of a rule defining "sequential and organized", sequential and organized supervised professional experience in a health service setting in which one (1) year of experience was obtained in an organized health service training program; and

(4) complies with the continuing education requirements under IC 25-33-2.

(d) An individual who received a doctoral degree in clinical psychology, counseling psychology, school psychology, or other applied health service area in psychology before September 1, 1983, may satisfy one (1) year of the two (2) year supervised health setting experience requirement under subsection (c) by successfully completing a preceptorship program. The individual must apply in writing to the board and the board must approve the program. The preceptorship program must:

(1) consist of at least one thousand eight hundred (1,800) hours of clinical, counseling, or school psychology work experience;

(2) consist of at least one hundred (100) hours of direct supervision of the individual by a psychologist, at least fifty (50)

hours of which must involve the diagnosis of mental and behavioral disorders and at least fifty (50) hours of which must involve the treatment of mental and behavioral disorders;

(3) be completed in a health service setting that provides services in the diagnosis and treatment of mental and behavioral disorders;

(4) be under the supervision of a psychologist who meets the requirements for endorsement under this section; and

(5) be completed within two (2) years after the date the program is started.

(e) If an individual applies to the board under subsection (d), the board shall apply each hour of work experience the individual completes after applying to the board and before the board approves the preceptorship program to the one thousand eight hundred (1,800) hour work experience requirement under subsection (d)(1).

SECTION 58. IC 25-34.1-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. The commission may:

(1) administer and enforce the provisions of this article;

(2) adopt rules in accordance with IC 4-22-2 and prescribe forms for licenses, applications, principal broker certifications, and other documents which are necessary or appropriate for the administration and enforcement of this article;

(3) issue, deny, suspend, and revoke licenses in accordance with this article, which licenses shall remain the property of the commission;

(4) subject to IC 25-1-7, investigate complaints concerning licensees or persons the commission has reason to believe should be licensees, including complaints respecting failure to comply with this article or the rules, and, when appropriate, take action pursuant to IC 25-34.1-6;

(5) bring actions, in the name of the state of Indiana, in an appropriate circuit court in order to enforce compliance with this article or the rules;

(6) inspect the records of a licensee in accordance with rules and standards prescribed by the commission;

(7) conduct, or designate a member or other representative to conduct, public hearings on any matter for which a hearing is

required under this article and exercise all powers granted in IC 4-21.5;

(8) adopt a seal containing the words "Indiana Real Estate Commission" and, through its executive director, certify copies and authenticate all acts of the commission;

(9) utilize counsel, consultants, and other persons who are necessary or appropriate to administer and enforce this article and the rules;

(10) enter into contracts and authorize expenditures that are necessary or appropriate, subject to IC 25-1-6, to administer and enforce this article and the rules;

(11) maintain the commission's office, files, records, and property in the city of Indianapolis;

(12) grant, deny, suspend, and revoke approval of examinations and courses of study as provided in IC 25-34.1-5;

(13) provide for the filing and approval of surety bonds which are required by IC 25-34.1-5;

(14) adopt rules in accordance with IC 4-22-2 necessary for the administration of the investigative fund established under IC 25-34.1-8-7.5; ~~and~~

(15) annually adopt emergency rules under IC 4-22-2-37.1 to adopt any or all parts of Uniform Standards of Professional Appraisal Practice (USPAP), including the comments to the USPAP, as published by the Appraisal Standards Board of the Appraisal Foundation, under the authority of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (12 U.S.C. 3331-3351); and

~~(15)~~ **(16)** exercise other specific powers conferred upon the commission by this article.

SECTION 59. IC 25-38.1-3-1, AS ADDED BY P.L.58-2008, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A person may not practice veterinary medicine in Indiana unless the person:

(1) is licensed as a veterinarian in Indiana; or

(2) holds a special permit issued by the board.

(b) The following persons are exempt from the licensing or special permit requirements of this chapter:

(1) A veterinarian on the faculty of the School of Veterinary Medicine at Purdue University performing regular duties, or a

veterinarian employed by the animal disease diagnostic laboratory established by IC 21-46-3-1 performing regular duties.

(2) A veterinary medical officer serving in the United States armed forces or veterinarian employed by a federal, state, or local government agency performing veterinary medical services that are within the scope of official duties and are performed during the period of the person's service.

(3) An individual who is a regular student in an accredited college of veterinary medicine performing duties or actions assigned by the faculty of the School of Veterinary Medicine at Purdue University or working under the direct supervision of a licensed veterinarian.

(4) An extern.

(5) A veterinarian who is licensed and is a resident in another state or country and consults with a veterinarian licensed under this article.

(6) An owner or a contract operator of an animal or a regular employee of the owner or a contract operator caring for and treating an animal, except where the ownership of the animal was transferred for purposes of circumventing this chapter.

(7) A guest lecturing or giving instructions or demonstrations at the School of Veterinary Medicine at Purdue University, or elsewhere, in connection with a continuing education program.

(8) An individual while engaged in bona fide scientific research that:

(A) reasonably requires experimentation involving animals; and

(B) is conducted in a facility or with a company that complies with federal regulations regarding animal welfare.

(9) A graduate of a foreign college of veterinary medicine who is in the process of obtaining an ECFVG certificate and who is under the direct supervision of:

(A) the faculty of the School of Veterinary Medicine at Purdue University; **or**

(B) a veterinarian licensed under this article.

(10) A veterinarian who is enrolled in a postgraduate instructional program in an accredited college of veterinary medicine

performing duties or actions assigned by the faculty of the School of Veterinary Medicine at Purdue University.

(11) A member in good standing of another licensed or regulated profession within Indiana who:

(A) provides assistance requested by a veterinarian licensed under this article;

(B) acts with the consent of the client;

(C) acts within a veterinarian-client-patient relationship; and

(D) acts under the direct or indirect supervision of the licensed veterinarian.

SECTION 60. IC 30-2-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) If a seller:

(1) ceases to have a certificate of authority or loses a professional license required to provide services under this chapter;

(2) ceases to exist or operate;

(3) is incapable of performing the seller's obligations under an unperformed contract for any reason; or

(4) sells or leases the seller's business, facilities, or assets;

the seller shall give notice to the board and to each purchaser for whom funds are held in a trust or escrow under this chapter. The notice shall specify the reason for the issuance of the notice.

(b) The seller's written notice under subsection (a) must be:

(1) addressed to the purchaser's last known address; and

(2) mailed within fifteen (15) days after the seller becomes incapable of performing the obligations under the contract.

(c) A purchaser who receives a notice under subsection (a) has thirty (30) days after the date the notice was mailed by the seller to select and designate a new seller under section 13 of this chapter to become the beneficiary of the trust or the designated recipient of the escrow funds. The first seller shall send written notice of the designation of a new seller to the newly designated seller or to the trustee.

(d) A seller shall transfer all unperformed contracts and funds held in trust or escrow under this chapter to the seller who is the successor owner or lessee of the transferring seller. The successor seller shall perform all contracts transferred under this subsection.

(e) If:

(1) the seller fails to comply with subsection (a)(1), (a)(2), or (a)(3); or

(2) a purchaser fails to designate a new seller;

the designation shall be made by the board.

SECTION 61. IC 34-30-2-77.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 77.8. IC 16-39-7-1 (Concerning medical care providers for maintenance of health records in connection with a disaster).**

SECTION 62. IC 34-30-2-98.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 98.1. IC 25-1-5.5-4 (Concerning the registry maintained by the Indiana professional licensing agency concerning certain professions).**

SECTION 63. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 25-8-4-18; IC 25-8-12.5-7; IC 25-15-5-2; IC 25-22.5-5-4.5; IC 25-27.5-2-4.5; IC 25-27.5-3-7.

SECTION 64. [EFFECTIVE JULY 1, 2008 (RETROACTIVE)] **(a) An individual who, before July 1, 2008, receives a master's or doctoral degree described in IC 25-23.6-8-1(1)(A) and who seeks licensure under IC 25-23.6-8, as amended by P.L.134-2008, may do either of the following:**

(1) Seek a marriage and family therapist associate license by:

(A) applying for a marriage and family associate license under IC 25-23.6-8, as amended by P.L.134-2008, if the individual meets the requirements under IC 25-23.6-8, as amended by P.L.134-2008; and

(B) taking the required examination.

Notwithstanding IC 25-23.6-8-2.7(b), as amended by P.L.134-2008, SECTION 43, any postdegree clinical experience that the individual obtained before July 1, 2008, counts toward the requirements of IC 25-23.6-8, as amended by P.L.134-2008.

(2) Seek a marriage and family therapist license by applying for a marriage and family therapist license under IC 25-23.6-8, as amended by P.L.134-2008, if the individual meets the requirements under IC 25-23.6-8, as amended by P.L.134-2008.

(b) This SECTION expires June 30, 2013.

SECTION 65. [EFFECTIVE UPON PASSAGE] **Any action taken under IC 25-22.5-5-4.5 after June 30, 2008, but before the passage of this act is legalized and validated.**

SECTION 66. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "board" means a board, commission, or committee.**

(b) As used in this SECTION, "committee" refers to the professional licensing study committee established under this SECTION.

(c) The professional licensing study committee is established.

(d) The committee shall do the following:

(1) Study all of the boards that regulate occupations or professions under the Indiana professional licensing agency or the state department of health.

(2) Make recommendations concerning any changes that should be made to a board described under subdivision (1) or the regulation of a profession or occupation by a board described under subdivision (1), including the following recommendations:

(A) Eliminating the board.

(B) Having the board continue regulating the profession or occupation in the same manner that the profession or occupation is currently regulated by the board.

(C) Requiring registration of a profession or occupation through the electronic registry of professions under IC 25-1-5.5, as added by this act.

(D) Requiring national certification or registration of a profession or occupation.

(E) Restructuring the board.

(F) Merging two (2) or more boards.

(e) The committee shall operate under the policies governing study committees adopted by the legislative council.

(f) Before November 1, 2009, the committee shall issue a final report to the legislative council containing the findings and recommendations of the committee.

(g) This SECTION expires December 31, 2009.

SECTION 67. **An emergency is declared for this act.**

P.L.178-2009
[H.1589. Approved May 13, 2009.]

AN ACT to amend the Indiana Code concerning environmental law.

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

SECTION 1. IC 4-23-5.5-6, AS AMENDED BY P.L.204-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The board shall do the following:

(1) Adopt procedures for the regulation of its affairs and the conduct of its business.

(2) Meet at the offices of the division on call of:

(A) the lieutenant governor or the lieutenant governor's designee; or

(B) the commissioner of the department of environmental management or the commissioner's designee;

at least once each calendar quarter. The meetings shall be upon ten (10) days written notification, shall be open to the public, and shall have official minutes recorded for public scrutiny.

(3) Report annually in an electronic format under IC 5-14-6 to the legislative council the projects in which it has participated and is currently participating with a complete list of expenditures for those projects.

(4) Annually prepare an administrative budget for review by the budget agency and the budget committee.

(5) Keep proper records of accounts and make an annual report of its condition to the state board of accounts.

(6) Receive petitions and make determinations under IC 13-20.5-2-2.

(b) The board shall consider projects involving the creation of the following:

(1) Markets for products made from recycled materials.

(2) New products made from recycled materials.

(c) The board may promote, fund, and encourage programs facilitating the development and implementation of waste reduction, reuse, and recycling in Indiana.

SECTION 2. IC 4-23-5.5-14, AS AMENDED BY P.L.170-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) The Indiana recycling promotion and assistance fund is established. The purpose of the fund is to promote and assist recycling throughout Indiana by focusing economic development efforts on businesses and projects involving recycling. The fund shall be administered by the board.

(b) Sources of money for the fund consist of the following:

(1) Appropriations from the general assembly.

(2) Repayment proceeds of loans made from the fund.

(3) Gifts and donations.

(4) Money from the solid waste management fund.

(5) Variable recycling fee revenue deposited under IC 13-20.5-2-1.

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

(d) The board may use money in the fund to make loans to assist:

(1) persons in establishing new recycling businesses;

(2) in the expansion of existing recycling businesses; and

(3) manufacturers in retrofitting equipment necessary to reuse or recycle secondary materials.

(e) The board shall establish loan:

(1) amounts;

(2) terms; and

(3) interest rates.

(f) The board may use money in the fund to make grants for research and development projects involving recycling. The board shall establish amounts for grants.

(g) A person, business, or manufacturer that wants a grant or loan from the fund must file an application with the board.

(h) The board shall establish criteria for awarding grants and loans under this section.

(i) The board may transfer money in the fund to the state solid waste management fund established by IC 13-20-22-2 for use by the

department of environmental management to make payments under IC 13-20-17.7-6.

SECTION 3. IC 13-11-2-23.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 23.5. "Cathode ray tube", for purposes of this chapter, means a vacuum tube or picture tube designed to convert an electronic signal into a visual image.**

SECTION 4. IC 13-11-2-31.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 31.1. (a) "Collection", for purposes of IC 13-20.5, means the receipt of covered electronic devices from covered entities.**

(b) The term includes all collection activities up to the time the covered electronic devices are delivered to a recycler.

SECTION 5. IC 13-11-2-31.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 31.2. (a) "Collector", for purposes of this chapter and IC 13-20.5, means a public or private entity:**

(1) that:

(A) receives covered electronic devices from covered entities; and

(B) arranges for the delivery of the covered electronic devices to a recycler; or

(2) that collects covered electronic devices directly from covered entities, including curbside collection.

(b) The term does not include:

(1) the United States Postal Service; or

(2) any other parcel service;

that accepts packages and delivers them to collectors or recyclers under a manufacturer's mailback program.

SECTION 6. IC 13-11-2-38.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 38.1. (a) "Computer", for purposes of this chapter and IC 13-20.5, means an electronic, a magnetic, an optical, an electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions.**

(b) The term does not include the following:

(1) An automated typewriter or typesetter.

(2) A portable handheld calculator or device, or other similar device.

SECTION 7. IC 13-11-2-38.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 38.2. (a) "Computer monitor", for purposes of this chapter and IC 13-20.5, means an electronic device that is:**

(1) a cathode ray tube or flat panel display; and

(2) primarily intended to display information from a central processing unit or the Internet.

(b) The term includes a laptop computer.

SECTION 8. IC 13-11-2-47.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 47.5. "Covered electronic device", for purposes of this chapter and IC 13-20.5, means a computer, peripheral, facsimile machine, DVD player, video cassette recorder, or video display device that is sold to a covered entity by means of retail, wholesale, or electronic commerce.**

SECTION 9. IC 13-11-2-47.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 47.7. "Covered entity", for purposes of this chapter and IC 13-20.5, means the following:**

(1) A household.

(2) A public school.

(3) A small business.

SECTION 10. IC 13-11-2-61.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 61.3. "Dwelling", for purposes of this chapter, means a building, a structure, or another enclosed space that is:**

(1) permanent or temporary;

(2) movable or fixed; and

(3) an individual's home or place of lodging.

SECTION 11. IC 13-11-2-103.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 103.9. "Household", for purposes of section 47.7 of this chapter and IC 13-20.5, means the occupants of a dwelling located in Indiana who use a video display device at the dwelling primarily for personal use or home office use.**

SECTION 12. IC 13-11-2-116, AS AMENDED BY P.L.131-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 116. (a) "Landfill", for purposes of IC 13-20-2, ~~and~~ IC 13-20-24, **and IC 13-20.5,** means a solid waste disposal facility at which solid waste is deposited on or beneath the surface of the ground as an intended place of final location.

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

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

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

(A) Fill dirt.

(B) Vegetative matter subject to disposal as a result of:

(i) landscaping;

(ii) yard maintenance;

(iii) land clearing; or

(iv) any combination of activities referred to in this clause.

(2) A facility receiving waste that is regulated under the following:

(A) IC 13-22-1 through IC 13-22-8.

(B) IC 13-22-13 through IC 13-22-14.

SECTION 13. IC 13-11-2-126 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 126. (a) "Manufacturer", for purposes of IC 13-20-16, means a person who is engaged in the business of making lead acid batteries:

(1) in Indiana; or

(2) for sale in Indiana.

(b) "Manufacturer", for purposes of IC 13-27.5, means a manufacturer in Indiana operating under standard industrial classification codes twenty (20) through thirty-nine (39) in the Standard Industrial Classification Manual of the United States Office of Management and Budget.

~~(c) "Manufacturer", for purposes of IC 13-20-17.5, means any individual, corporation, limited liability company, partnership, trust, estate, or unincorporated association that:~~

~~(1) produces in the United States a mercury-added product that does not consist of multiple components produced by separate entities;~~

~~(2) is the last entity to produce or assemble in the United States a mercury-added product that consists of multiple components produced by separate entities; or~~

~~(3) domestically distributes a mercury-added product produced in a foreign country.~~

(c) "Manufacturer", for purposes of sections 179.9, 180.1, 195.7, and 245.4 of this chapter and IC 13-20.5, means a person that:

(1) manufactures video display devices to be sold under the person's own brand or a brand the person licenses as identified by the person's own brand label or the brand label the person licenses;

(2) sells video display devices manufactured by others under the person's own brand or a brand the person licenses as identified by the person's own brand label or the brand label the person licenses; or

(3) assumes the responsibilities and obligations of a manufacturer under IC 13-20.5.

SECTION 14. IC 13-11-2-133 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 133. (a) "Municipal waste", for purposes of:

(1) IC 13-20-4;

(2) IC 13-20-6;

(3) IC 13-20-21;

(4) IC 13-20-23;

(5) IC 13-20.5-10;

~~(5)~~ **(6)** IC 13-22-1 through IC 13-22-8; and

~~(6)~~ **(7)** IC 13-22-13 through IC 13-22-14;

means any garbage, refuse, industrial lunchroom or office waste, and other similar material resulting from the operation of residential, municipal, commercial, or institutional establishments and community activities.

(b) The term does not include the following:

(1) Hazardous waste regulated under:

(A) IC 13-22-1 through IC 13-22-8 and IC 13-22-13 through IC 13-22-14; or

(B) the federal Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), as in effect on January 1, 1990.

(2) Infectious waste (as defined in IC 16-41-16-4).

(3) Wastes that result from the combustion of coal and that are referred to in IC 13-19-3-3.

(4) Materials that are being transported to a facility for reprocessing or reuse.

(c) As used in subsection (b)(4), "reprocessing or reuse" does not include either of the following:

(1) Incineration.

(2) Placement in a landfill.

SECTION 15. IC 13-11-2-156.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 156.5. "Peripheral", for purposes of this chapter, means a keyboard, a printer, or any other device that:**

(1) is sold exclusively for external use with a computer; and

(2) provides input or output into or from a computer.

SECTION 16. IC 13-11-2-172.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 172.1. "Program year", for purposes of this chapter and IC 13-20.5, means the period:**

(1) beginning April 1 in a year; and

(2) ending March 31 of the following year.

SECTION 17. IC 13-11-2-176.5, AS AMENDED BY P.L.1-2005, SECTION 142, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 176.5. **(a)** "Public school", for purposes of IC 13-20-17.5, has the meaning set forth in IC 20-18-2-15.

(b) "Public school", for purposes of section 47.7 of this chapter means:

(1) a public school (as defined in IC 20-18-2-15); and

(2) a charter school (as defined in IC 20-24-1-4).

SECTION 18. IC 13-11-2-179.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 179.9. (a) "Recycler", for purposes of sections 31.1 and 31.2 of this chapter and IC 13-20.5,**

means an individual or public or private entity that accepts covered electronic devices from covered entities and collectors for the purpose of recycling.

(b) The term does not include a manufacturer that accepts products for refurbishment or repair.

SECTION 19. IC 13-11-2-180 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 180. **(a)** "Recycling", for purposes of IC 13-20-17.5 and IC 13-21, means a process by which materials that would otherwise become solid waste are:

(1) collected;

(2) separated or processed; and

(3) converted into materials or products for reuse or sale.

(b) "Recycling", for purposes of section 179.9 of this chapter and IC 13-20.5, means the process of collecting and preparing video display devices or covered electronic devices for use in manufacturing processes or for recovery of useable materials followed by delivery of the materials for use. The term does not include the following:

(1) Destruction of recyclable materials by incineration or another process.

(2) Land disposal of recyclable materials.

(3) Reuse, repair, or any other process through which video display devices or covered electronic devices are returned to use for covered entities in their original form.

SECTION 20. IC 13-11-2-180.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 180.1. "Recycling credits", for purposes of IC 13-20.5, means the product of:**

(1) the remainder for a manufacturer's program year of:

(A) the amount of covered electronic devices the manufacturer recycled, or for which the manufacturer arranged for recycling; minus

(B) the amount the manufacturer is required to recycle or arrange for recycling determined under IC 13-20.5-4-1; multiplied by

(2) twenty-five percent (25%).

SECTION 21. IC 13-11-2-194 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 194. (a) "Retailer", for

purposes of IC 13-20-14, means a person engaged in the business of selling new tires at retail in Indiana.

(b) "Retailer", for purposes of IC 13-20-16, means a person engaged in the business of selling lead acid batteries at retail in Indiana.

(c) "Retailer", for purposes of section 195.7 of this chapter and IC 13-20.5, means a person that sells, rents, or leases, through sales outlets, catalogs, or the Internet, a video display device to a covered entity and not for resale in any form.

SECTION 22. IC 13-11-2-195.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 195.7. (a) "Sale" or "sell", for purposes of sections 126(c) and 194(c) of this chapter and IC 13-20.5, means a transfer for consideration of title or of the right to use by a:**

(1) lease or sales contract, including transactions conducted through sales outlets, catalogs, or the Internet or any other similar electronic means either inside or outside Indiana; and

(2) person that conducts the transaction and controls the delivery of a video display device to a consumer in Indiana.

(b) The term does not include a manufacturer's or distributor's wholesale transaction with a distributor or retailer.

SECTION 23. IC 13-11-2-203.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 203.5. (a) Except as provided in subsection (b), "small business", for purposes of section 47.7 of this chapter, means a business that satisfies all the following:**

(1) The business is independently owned and operated.

(2) The principal office of the business is located in Indiana.

(3) The business satisfies either of the following:

(A) The business has not more than:

(i) one hundred (100) employees; and

(ii) average annual gross receipts of ten million dollars ($10,000,000).

(B) If the business is a manufacturing business, the business does not have more than one hundred (100) employees.

(b) "Small business" does not include a business subject to electronic waste regulation under 329 IAC 16-3-1.

SECTION 24. IC 13-11-2-230.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 230.1. "Television", for purposes of this chapter and IC 13-20.5, means an electronic device that is:**

(1) a cathode ray tube or flat panel display; and

(2) primarily intended to receive:

(A) video programming via broadcast, cable, or satellite transmission; or

(B) video from surveillance or other similar cameras.

SECTION 25. IC 13-11-2-245.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 245.4. (a) "Video display device", for purposes of this chapter and IC 13-20.5, means a television or computer monitor, including a laptop computer, that:**

(1) contains a cathode ray tube or flat panel screen with a screen size that is greater than four (4) inches measured diagonally; and

(2) is marketed by a manufacturer for use by covered entities.

(b) The term does not include the following:

(1) A video display device that is part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.

(2) A video display device, including a touch screen display, that is functionally or physically part of or connected to a system or equipment designed and intended for use in:

(A) an industrial;

(B) a commercial, including retail;

(C) a library checkout;

(D) a traffic control;

(E) a security, sensing, monitoring, or counterterrorism;

(F) a border control;

(G) a medical; or

(H) a governmental or research and development;

setting, including diagnostic, monitoring, or control equipment.

(3) A video display device that is contained within any of the following:

(A) Clothes washer or dryer.

(B) Refrigerator or refrigerator and freezer.

(C) Microwave oven or conventional oven or range.

(D) Dishwasher.

(E) Room air conditioner, dehumidifier, or air purifier.

(4) Either of the following that does not contain a video display area greater than nine (9) inches measured diagonally:

(A) A telephone.

(B) A device capable of using commercial mobile radio service (as defined in 47 CFR 20.3).

SECTION 26. IC 13-13-7-9, AS ADDED BY P.L.12-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. The council shall do the following:

(1) Study:

(A) issues designated by the legislative council; **and**

(B) the following in 2012:

(i) The effectiveness of the electronic waste provisions of IC 13-20.5.

(ii) Appropriate guidelines for the Indiana recycling market development board for determining under IC 13-20.5-2-2 whether a manufacturer has made good faith progress to achieve substantial compliance with IC 13-20.5.

(2) Advise the commissioner on policy issues decided on by the council.

(3) Review the mission and goals of the department and evaluate the implementation of the mission.

(4) Serve as a council of the general assembly to evaluate:

(A) resources and structural capabilities of the department to meet the department's priorities; and

(B) program requirements and resource requirements for the department.

(5) Serve as a forum for citizens, the regulated community, and legislators to discuss broad policy directions.

(6) Submit a final report to the legislative council, in an electronic format under IC 5-14-6, that contains at least the following:

(A) An outline of activities of the council.

(B) Recommendations for department action.

(C) Recommendations for legislative action.

SECTION 27. IC 13-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

ARTICLE 20.5. ELECTRONIC WASTE

Chapter 1. Registration Programs

Sec. 1. (a) A manufacturer of video display devices sold or offered for sale to households as of January 1, 2010, shall submit a registration to the department not later than:

(1) April 1, 2010, for the program year that begins on April 1, 2010; and

(2) each immediately succeeding April 1 on which the manufacturer continues as a manufacturer of video display devices sold or offered for sale to households for the program year that begins on that April 1.

(b) A manufacturer that begins to sell or offer for sale video display devices to households after 2009 and before April 1, 2010, shall submit a registration to the department not later than:

(1) April 20, 2010, for the program year that begins on April 1, 2010; and

(2) each immediately succeeding April 1 on which the manufacturer continues as a manufacturer of video display devices sold or offered for sale to households for the program year that begins on that April 1.

(c) A manufacturer that begins to sell or offer for sale video display devices to households after March 31, 2010, shall submit a registration to the department not later than:

(1) twenty (20) days after the date the manufacturer begins to sell or offer for sale the video display devices for the program year in which the manufacturer begins to sell or offer for sale the video display devices; and

(2) each immediately succeeding April 1 on which the manufacturer continues as a manufacturer of video display devices sold or offered for sale to households for the program year that begins on that April 1.

(d) A registration submitted under this section must include the following:

(1) A list of the brands of video display devices offered for sale in Indiana by the manufacturer, regardless of whether the manufacturer owns or licenses the brand.

(2) The name, address, and contact information of a person responsible for ensuring compliance with this article. The department shall post the contact information provided by each manufacturer on an Internet web site.

(3) A certification that the manufacturer or the manufacturer's agent has complied and will continue to comply with the requirements of this article.

(4) An estimate based on national sales data of the total weight in pounds of the manufacturer's video display devices sold to households during the most recent twelve (12) months:

(A) that precede the date of registration; and

(B) for which that data is available.

(5) A demonstration of how the manufacturer plans in the program year for which the registration is submitted to meet the recycling goal stated in IC 13-20.5-4-1.

(6) A statement that discloses whether:

(A) any video display devices sold by the manufacturer to households exceed the maximum concentration values established:

(i) for lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (pbbs), and polybrominated diphenyl ethers (pbdes); and

(ii) under the directive restricting the use of certain hazardous substances in electrical and electronic equipment (RoHS Directive) 2002/95/EC of the European Parliament and Council, as amended; or

(B) the manufacturer has received an exemption from any of the maximum concentration values under the RoHS Directive that has been approved and published by the European Commission.

(e) A manufacturer shall update the manufacturer's registration under this section not more than ten (10) days after the date the manufacturer changes the brand or brands of video display devices the manufacturer sells or offers for sale to households.

Sec. 2. After 2009, a manufacturer may not sell, offer for sale, or deliver to a retailer for subsequent sale a new video display device unless:

(1) the video display device is labeled with the manufacturer's brand that is permanently affixed and readily visible; and

(2) the manufacturer has submitted a registration to the department under section 1 of this chapter.

Sec. 3. (a) A registration received from a manufacturer by the department under this chapter is, except as provided in subsection (b), effective for the program year for which the registration is submitted under section 1 of this chapter.

(b) The department shall review each registration and notify a manufacturer of any information required by this chapter that is omitted from the manufacturer's registration. Not more than thirty (30) days after the date a manufacturer receives notification from the department concerning incomplete information in the manufacturer's registration, the manufacturer shall submit a revised registration that includes the information required by the department. A registration received from a manufacturer by the department under this subsection is, unless the manufacturer receives a second or subsequent notification from the department concerning incomplete information, effective for the program year for which the registration is submitted under section 1 of this chapter.

(c) The department shall maintain on an Internet web site the names of manufacturers and the manufacturers' brands listed in registrations submitted to the department. The department shall update the Internet web site information promptly upon receipt of a new or updated registration. The Internet web site must contain prominent language stating that:

(1) this article is directed at video display devices used by households; and

(2) the manufacturers' brands list is not a list of manufacturers qualified to sell to industrial, commercial, or other markets identified as exempt from the requirements of this article.

Sec. 4. (a) After 2009, a person may not operate as a collector of covered electronic devices from covered entities unless the person:

(1) has submitted to the department a completed registration form as required by 329 IAC 16-5-1; and

(2) otherwise complies with 329 IAC 16.

(b) A registration submitted under this section is:

(1) effective upon receipt by the department; and

(2) valid for one (1) year from the date the registration is submitted to the department.

Sec. 5. (a) After 2009, a person may not recycle covered electronic devices generated by covered entities unless the person:

(1) has submitted to the department a completed registration form as required by 329 IAC 16-5-1; and

(2) otherwise complies with 329 IAC 16.

(b) A registered recycler may conduct recycling activities that are consistent with this article.

(c) A registration submitted under this section is:

(1) effective upon receipt by the department; and

(2) valid for one (1) year from the date the registration is submitted to the department.

Sec. 6. The department may revoke the registration of a collector or recycler that violates either or both of the following:

(1) This article.

(2) 329 IAC 16.

Chapter 2. Manufacturer's Registration Fee; Electronic Waste Fund

Sec. 1. (a) Except as provided in subsection (g), a manufacturer that registers under IC 13-20.5-1 shall pay to the department at the time of registration an annual registration fee. The registration fee applies for the program year for which the registration is submitted to the department. The department shall deposit the fee in the electronic waste fund established by section 3 of this chapter.

(b) The registration fee for the initial program year to which the fee applies under subsection (a) is five thousand dollars ($5,000). For each program year thereafter, the registration fee is equal to two thousand five hundred dollars ($2,500).

(c) In addition to the registration fee under subsection (a), a manufacturer that registers under IC 13-20.5-1 and fails to meet the recycling goal under IC 13-20.5-4-1 is subject to a variable recycling fee for each program year that ends on March 31 of 2013 or of a later year. Not later than September 1, the department shall provide a statement to each manufacturer liable for the variable recycling fee that states at least the following:

(1) The amount of the fee determined under subsection (d).

(2) The method of calculation of the fee.

(3) The due date of the fee.

(4) The opportunity to petition under section 2 of this chapter. The department shall deposit the fee in the Indiana recycling promotion and assistance fund established by IC 4-23-5.5-14.

(d) The amount of the variable recycling fee, if applicable, is the amount determined in STEP FOUR of the following formula:

STEP ONE: Multiply the number of pounds of the manufacturer's video display devices sold to households during the immediately preceding program year, as reported in the manufacturer's registration for the program year under IC 13-20.5-1-1(d)(4), by the proportion of sales of video display devices required to be recycled under IC 13-20.5-4-1.

STEP TWO: Subject to subsection (e), add the number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year, as reported to the department under IC 13-20.5-3-1(b), to the number of recycling credits the manufacturer elects to use to calculate the variable recycling fee, as reported to the department under IC 13-20.5-3-1(c)(2).

STEP THREE: Subtract the number of pounds determined in STEP TWO from the number of pounds determined in STEP ONE.

STEP FOUR: Multiply the greater of zero (0) or the number of pounds determined in STEP THREE by the per pound cost of recycling established as follows:

(A) Forty cents ($0.40) per pound for manufacturers that recycle less than fifty percent (50%) of the number of pounds determined in STEP ONE.

(B) Thirty cents ($0.30) per pound for manufacturers that recycle at least fifty percent (50%) but less than ninety percent (90%) of the number of pounds determined in STEP ONE.

(C) Twenty cents ($0.20) per pound for manufacturers that recycle at least ninety percent (90%) of the number of pounds determined in STEP ONE.

(e) The following apply to the number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year for purposes of subsection (d), STEP TWO:

(1) Except as provided in subdivision (3), the number is multiplied by one and one-tenth (1.1) to the extent that the covered electronic devices were recycled in Indiana.

(2) Except as provided in subdivision (3), the number is multiplied by one and five-tenths (1.5) to the extent that the covered electronic devices were recycled from covered entities not located in a metropolitan statistical area, as defined by the federal Office of Management and Budget.

(3) The number is multiplied by one and six-tenths (1.6) to the extent that the covered electronic devices were:

(A) recycled from covered entities not located in a metropolitan statistical area, as defined by the federal Office of Management and Budget; and

(B) recycled in Indiana.

(f) A manufacturer may retain recycling credits to be added, in whole or in part, to the actual number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year, as reported to the department under IC 13-20.5-3-1(b), during any of the three (3) immediately succeeding program years. A manufacturer may sell all or any part of its recycling credits to another manufacturer, at a price negotiated by the parties, and the other manufacturer may use the credits in the same manner. For purposes of this subsection, the recycling credits for the program year that begins April 1, 2010, are determined taking into account covered electronic devices that the manufacturer recycled, or arranged to have collected and recycled, both:

(1) in that program year; and

(2) after June 30, 2009, and before April 1, 2010.

(g) A manufacturer may not be charged a registration fee or a variable recycling fee for any year in which the combined number of video display devices produced by the manufacturer for sale to households is less than one hundred (100).

Sec. 2. Not later than sixty (60) days after the date of the statement provided to a manufacturer under section 1(c) of this chapter, the manufacturer may petition the Indiana recycling market development board created by IC 4-23-5.5-2 for relief from the variable recycling fee imposed under section 1 of this chapter upon showing of good cause. In determining whether to grant a

petition for relief under this section, the Indiana recycling market development board shall determine whether the manufacturer has made good faith progress to achieve substantial compliance with this article. A determination by the Indiana recycling market development board under this subsection is not subject to appeal by the manufacturer.

Sec. 3. (a) The electronic waste fund is established to implement this article. The fund shall be administered by the department.

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

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

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

(e) Beginning in 2011 and continuing each year thereafter, as of the last day of the state fiscal year, the department shall determine the total amount of the variable recycling fees that were collected for that state fiscal year under section 1(c) of this chapter.

(f) Except as provided in subsection (g), if the total amount of registration fees collected by the department for a state fiscal year under section 1(a) of this chapter exceeds the amount the department determines necessary to administer this article for the next state fiscal year, the department shall refund on a pro rata basis, to all manufacturers that paid any fees for the state fiscal year that contributed to those collections, the amount of fees collected by the department that exceeds the amount necessary to administer this article for the next state fiscal year.

(g) The department is not required to refund amounts under subsection (f) if either or both of the following apply:

(1) The refund amount determined under subsection (f) is less than one hundred dollars ($100).

(2) The amount the manufacturer claiming the refund recycled for the manufacturer's most recent program year was less than fifty percent (50%) of the amount the manufacturer was required to recycle for that program year under IC 13-20.5-4-1.

Chapter 3. Reporting Requirements

Sec. 1. (a) Not later than June 1 of 2011 and of each immediately succeeding year, a manufacturer shall report to the department an estimate of the total weight in pounds of its video display devices sold to households during the program year that ends on the immediately preceding March 31 based on national sales data. A manufacturer shall submit with an estimate under this subsection a description of how the information or estimate was calculated.

(b) Not later than June 1 of 2011 and of each immediately succeeding year, a manufacturer shall report to the department the total weight in pounds of covered electronic devices the manufacturer:

(1) collected from eligible entities and recycled; or

(2) arranged to have collected from eligible entities and recycled;

during the program year that ends on the immediately preceding March 31.

(c) Not later than June 1 of 2011 and of each immediately succeeding year, a manufacturer shall report the following to the department:

(1) The number of recycling credits the manufacturer has purchased and sold during the program year that ends on the immediately preceding March 31.

(2) The number of recycling credits possessed by the manufacturer that the manufacturer intends to use in the calculation of its variable recycling fee under IC 13-20.5-2-1.

(3) The number of recycling credits the manufacturer retains at the beginning of the current program year.

(4) The amount in pounds of covered electronic devices the manufacturer arranged for a recycler to collect and recycle that were not converted to recycling credits.

Sec. 2. Before April 1, 2011, and before each April 1 thereafter, a recycler of covered electronic devices shall do the following:

(1) Report to the department separately the total weight in pounds of covered electronic devices:

(A) recycled by the recycler; and

(B) taken by the recycler for final disposal;

during the immediately preceding calendar year.

(2) Certify that the recycler has complied with IC 13-20.5-5 and 329 IAC 16.

Sec. 3. Before April 1, 2011, and before each April 1 thereafter, a collector shall submit to the department a report that contains for the immediately preceding calendar year:

(1) the total weight in pounds of covered electronic devices collected in Indiana by the collector; and

(2) a list of all recyclers to whom the collector delivered covered electronic devices.

Chapter 4. Manufacturer Responsibilities

Sec. 1. A manufacturer shall in each of the manufacturer's program years recycle or arrange for the collection and recycling from covered entities of an amount of covered electronic devices equal to at least sixty percent (60%) of the total weight of the manufacturer's video display devices sold to households as reported in the manufacturer's registration for the program year under IC 13-20.5-1-1(d)(4).

Sec. 2. (a) A manufacturer shall conduct and document due diligence assessments of collectors and recyclers with which the manufacturer contracts to allow the manufacturer to comply with this chapter.

(b) A manufacturer shall maintain for three (3) years documentation showing that all covered electronic devices recycled, partially recycled, or sent to downstream recycling operations by the manufacturer are recycled in compliance with this article.

Sec. 3. A manufacturer shall provide the department with contact information for an individual who can be contacted regarding the manufacturer's activities under this article.

Chapter 5. Recycler Responsibilities

Sec. 1. Except to the extent otherwise required by law, a recycler is not responsible for any data that may be contained in a covered electronic device recycled by the recycler if an information storage device is included in the covered electronic device.

Chapter 6. Retailer Responsibilities

Sec. 1. A retailer that sells new video display devices shall provide information to households that:

(1) describes where and how households may recycle video display devices; and

(2) advises households of opportunities and locations for the convenient collection of video display devices for recycling.

Sec. 2. The requirement in section 1 of this chapter may be met by retailers:

(1) by providing to households the department's contact information or Internet web site address; and

(2) if the retailer sells through catalogs or the Internet, by including the information in a prominent location in the retailer's catalog or on the retailer's Internet web site.

Chapter 7. Department Duties

Sec. 1. (a) The department shall:

(1) subject to subsection (b), adopt forms for use by manufacturers, collectors, and recyclers for all registration statements, certifications, and reports required by this article; and

(2) establish procedures for:

(A) receipt and maintenance of the registration statements and certifications filed with the department under IC 13-20.5-1; and

(B) making the statements and certifications easily available to manufacturers, retailers, and the public.

(b) The department is not required to adopt forms under subsection (a) by rule.

Sec. 2. Before June 1, 2010, and before June 1 of each year thereafter, the department shall calculate estimated sales of video display devices sold to households by each manufacturer during the immediately preceding calendar year, based on national sales data.

Sec. 3. If the revenues in the electronic waste fund established by IC 13-20.5-2-3 exceed the amount that the department determines is necessary for efficient and effective administration of this article, the department shall recommend to the general assembly in a report submitted in an electronic format under IC 5-14-6 that:

(1) the registration fee under IC 13-20.5-2-1(a); or

(2) the proportion of sales of video display devices required to be recycled under IC 13-20.5-4-1;

be lowered to reduce revenues collected in the subsequent state fiscal year by the estimated amount of the excess.

Sec. 4. (a) Before August 1, 2013, and before August 1 of each year thereafter, the department shall submit a report concerning the implementation of this article to:

(1) the general assembly in an electronic format under IC 5-14-6;

(2) the governor;

(3) the environmental quality service council established by IC 13-13-7-1; and

(4) the Indiana recycling market development board established by IC 4-23-5.5-2.

(b) For each state fiscal year, the report submitted under subsection (a):

(1) must discuss the total weight of covered electronic devices recycled in the state fiscal year and a summary of information in the reports submitted by manufacturers and recyclers under IC 13-20.5-3;

(2) must discuss the various collection programs used by manufacturers to collect covered electronic devices, information regarding covered electronic devices that are being collected by persons other than registered manufacturers, collectors, and recyclers, and information about covered electronic devices, if any, being disposed of in landfills in Indiana;

(3) must include a description of enforcement actions under this article during the state fiscal year; and

(4) may include other information received by the department regarding the implementation of this article.

Sec. 5. The department shall promote public participation in the activities implemented under this article through public education and outreach efforts.

Sec. 6. (a) The department shall collect the data submitted to it annually by each registered manufacturer on:

(1) the total weight in pounds of each specific model of video display device sold to households, if provided;

(2) the total weight in pounds of video display devices sold to households;

(3) the total weight in pounds of covered electronic devices collected from covered entities that are recycled; and

(4) data on recycling credits, as required under IC 13-20.5-3-1.

(b) The department shall use the data described in subsection (a) to determine the manufacturer's variable recycling fee under the formula in IC 13-20.5-2-1.

Sec. 7. The department shall estimate, for each registered manufacturer, the sales of video display devices to households during each calendar year, based on:

(1) data provided by a manufacturer on sales of video display devices to households, including documentation describing how that amount was calculated and certification that the amount is accurate; or

(2) if a manufacturer does not provide the data specified in subdivision (1), national data on sales of video display devices.

The department shall use the data specified in this section to review the determination of each manufacturer's variable recycling fee to ensure that the fee was calculated accurately according to the formula in IC 13-20.5-2-1.

Sec. 8. The department may participate in or join a regional multistate organization or compact to assist in implementing this article.

Sec. 9. If a national electronic waste program is implemented that is similar to the program established under this article, the department shall review, evaluate, and compare the national program, the program established under this article, and any regional agreement the department has entered into under section 8 of this chapter.

Chapter 8. Other Recycling Programs

Sec. 1. A city, a county, or any other governmental entity may not require a covered entity to use public facilities to recycle the covered entity's covered electronic devices to the exclusion of other lawful recycling programs available.

Sec. 2. This article does not prohibit or restrict:

(1) the operation of any program that recycles covered electronic devices in addition to programs provided by manufacturers;

(2) persons from receiving, collecting, transporting, or recycling covered electronic devices, if those persons are registered under IC 13-20.5-1; or

(3) a collector, recycler, or manufacturer from charging for directly collecting any covered electronic devices directly from covered entities, including charging for curbside collection from covered entities.

Chapter 9. Requirements for Purchases by State Agencies

Sec. 1. The Indiana department of administration shall ensure that acquisitions of video display devices by state agencies comply with or are not subject to this article.

Sec. 2. State agency solicitation documents must specify that the prospective responder is required to cooperate fully in providing reasonable access to the prospective responder's records and documents to demonstrate compliance with this article.

Sec. 3. A person awarded a contract by a state agency for purchase or lease of video display devices that is found to be in violation of this article is subject to the following sanctions:

(1) The contract is void if the Indiana department of administration determines that the potential adverse effect to the state from voiding the contract is exceeded by the benefit obtained from voiding the contract.

(2) If the attorney general establishes that any money, property, or benefit was obtained by a contractor as a result of violating this article, a court may, in addition to any other remedy, order the forfeiture of the unlawfully obtained money, property, or benefit.

Chapter 10. Disposal Prohibitions

Sec. 1. After 2010, a covered entity may not knowingly do any of the following:

(1) Mix or allow the mixing of a covered electronic device or any other computer, computer monitor, printer, or television with municipal waste that is intended for disposal at a landfill.

(2) Mix or allow the mixing of a covered electronic device or any other computer, computer monitor, printer, or television with any waste that is intended for disposal by burning or incineration.

Sec. 2. (a) A covered entity that violates this chapter is not subject to:

(1) a criminal or civil action or penalty; or

(2) any other sanction;

under this title or any other state law.

(b) A violation of this chapter does not create a cause of action.

P.L.179-2009
[H.1598. Approved May 12, 2009.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-18-26-18, AS AMENDED BY P.L.106-2008, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. **(a) As used in this section, "records" includes, but is not limited to, the following:**

(1) Bills of sale.

(2) Finance agreements.

(3) Titles.

(4) Inventory records.

(5) Sales receipts from auctions.

(6) Form ST-108 (department of state revenue certificate of gross retail or use tax paid on the purchase of a motor vehicle or watercraft).

(b) All records directly related to the use of interim plates by a dealer must be made available to an investigating employee of the secretary of state upon demand at the dealer's place of business.

P.L.180-2009
[H.1701. Approved May 13, 2009.]

AN ACT to amend the Indiana Code concerning labor and safety.

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

SECTION 1. IC 22-3-6-1, AS AMENDED BY P.L.1-2006, SECTION 339, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the context otherwise requires:

(a) "Employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. A parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the parent's, or the subsidiaries' employees for purposes of IC 22-3-2-6 and IC 22-3-3-31. Both a lessor and a lessee of employees shall each be considered joint employers of the employees provided by the lessor to the lessee for purposes of IC 22-3-2-6 and IC 22-3-3-31. If the employer is insured, the term includes the employer's insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer. The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in IC 22-3-2-2.5. The term does not include a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

(b) "Employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship, written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer.

(1) An executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation, other than a municipal corporation or governmental subdivision or a charitable, religious, educational, or other nonprofit corporation, is an employee of the corporation under IC 22-3-2 through IC 22-3-6. **An officer of a corporation who is the sole officer of the corporation is an employee of the corporation under IC 22-3-2 through IC 22-3-6, but may elect not to be an employee of the corporation under IC 22-3-2 through IC 22-3-6. If an officer makes this election, the officer must serve written notice of the election on the corporation's insurance carrier and the board. An officer of a corporation who is the sole officer of the corporation may not be considered to be excluded as an employee under IC 22-3-2 through IC 22-3-6 until the notice is received by the insurance carrier and the board.**

(2) An executive officer of a municipal corporation or other governmental subdivision or of a charitable, religious, educational, or other nonprofit corporation may, notwithstanding any other provision of IC 22-3-2 through IC 22-3-6, be brought within the coverage of its insurance contract by the corporation by specifically including the executive officer in the contract of insurance. The election to bring the executive officer within the coverage shall continue for the period the contract of insurance is in effect, and during this period, the executive officers thus brought within the coverage of the insurance contract are employees of the corporation under IC 22-3-2 through IC 22-3-6.

(3) Any reference to an employee who has been injured, when the employee is dead, also includes the employee's legal representatives, dependents, and other persons to whom compensation may be payable.

(4) An owner of a sole proprietorship may elect to include the owner as an employee under IC 22-3-2 through IC 22-3-6 if the

owner is actually engaged in the proprietorship business. If the owner makes this election, the owner must serve upon the owner's insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received. If the owner of a sole proprietorship is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain an affidavit of exemption under IC 22-3-2-14.5.

(5) A partner in a partnership may elect to include the partner as an employee under IC 22-3-2 through IC 22-3-6 if the partner is actually engaged in the partnership business. If a partner makes this election, the partner must serve upon the partner's insurance carrier and upon the board written notice of the election. No partner may be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received. If a partner in a partnership is an independent contractor in the construction trades and does not make the election provided under this subdivision, the partner must obtain an affidavit of exemption under IC 22-3-2-14.5.

(6) Real estate professionals are not employees under IC 22-3-2 through IC 22-3-6 if:

(A) they are licensed real estate agents;

(B) substantially all their remuneration is directly related to sales volume and not the number of hours worked; and

(C) they have written agreements with real estate brokers stating that they are not to be treated as employees for tax purposes.

(7) A person is an independent contractor in the construction trades and not an employee under IC 22-3-2 through IC 22-3-6 if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.

(8) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376 to a motor carrier is not an employee of the motor carrier for purposes of IC 22-3-2 through IC 22-3-6. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's

compensation insurance policy or authorized self-insurance that insures the motor carrier if the owner-operator pays the premiums as requested by the motor carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

(9) A member or manager in a limited liability company may elect to include the member or manager as an employee under IC 22-3-2 through IC 22-3-6 if the member or manager is actually engaged in the limited liability company business. If a member or manager makes this election, the member or manager must serve upon the member's or manager's insurance carrier and upon the board written notice of the election. A member or manager may not be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received.

(10) An unpaid participant under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the extent set forth in IC 22-3-2-2.5.

(11) A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis is not an employee for purposes of IC 22-3-2 through IC 22-3-6.

(c) "Minor" means an individual who has not reached seventeen (17) years of age.

(1) Unless otherwise provided in this subsection, a minor employee shall be considered as being of full age for all purposes of IC 22-3-2 through IC 22-3-6.

(2) If the employee is a minor who, at the time of the accident, is employed, required, suffered, or permitted to work in violation of IC 20-33-3-35, the amount of compensation and death benefits, as provided in IC 22-3-2 through IC 22-3-6, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the compensation or benefits that may be payable on account of the injury or death of the minor, and the employer shall be liable for the other one-half (1/2) of the compensation or benefits. If the

employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age and who at the time of the accident is employed, suffered, or permitted to work at any occupation which is not prohibited by law, this subdivision does not apply.

(3) A minor employee who, at the time of the accident, is a student performing services for an employer as part of an approved program under IC 20-37-2-7 shall be considered a full-time employee for the purpose of computing compensation for permanent impairment under IC 22-3-3-10. The average weekly wages for such a student shall be calculated as provided in subsection (d)(4).

(4) The rights and remedies granted in this subsection to a minor under IC 22-3-2 through IC 22-3-6 on account of personal injury or death by accident shall exclude all rights and remedies of the minor, the minor's parents, or the minor's personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of the injury or death. This subsection does not apply to minors who have reached seventeen (17) years of age.

(d) "Average weekly wages" means the earnings of the injured employee in the employment in which the employee was working at the time of the injury during the period of fifty-two (52) weeks immediately preceding the date of injury, divided by fifty-two (52), except as follows:

(1) If the injured employee lost seven (7) or more calendar days during this period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted.

(2) Where the employment prior to the injury extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employee's employer or of the casual nature or terms of the employment it is

impracticable to compute the average weekly wages, as defined in this subsection, regard shall be had to the average weekly amount which during the fifty-two (52) weeks previous to the injury was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in the same class of employment in the same district.

(3) Wherever allowances of any character made to an employee in lieu of wages are a specified part of the wage contract, they shall be deemed a part of the employee's earnings.

(4) In computing the average weekly wages to be used in calculating an award for permanent impairment under IC 22-3-3-10 for a student employee in an approved training program under IC 20-37-2-7, the following formula shall be used. Calculate the product of:

(A) the student employee's hourly wage rate; multiplied by

(B) forty (40) hours.

The result obtained is the amount of the average weekly wages for the student employee.

(e) "Injury" and "personal injury" mean only injury by accident arising out of and in the course of the employment and do not include a disease in any form except as it results from the injury.

(f) "Billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

(g) "Billing review standard" means the data used by a billing review service to determine pecuniary liability.

(h) "Community" means a geographic service area based on ZIP code districts defined by the United States Postal Service according to the following groupings:

(1) The geographic service area served by ZIP codes with the first three (3) digits 463 and 464.

(2) The geographic service area served by ZIP codes with the first three (3) digits 465 and 466.

(3) The geographic service area served by ZIP codes with the first three (3) digits 467 and 468.

(4) The geographic service area served by ZIP codes with the first three (3) digits 469 and 479.

(5) The geographic service area served by ZIP codes with the first three (3) digits 460, 461 (except 46107), and 473.

(6) The geographic service area served by the 46107 ZIP code and ZIP codes with the first three (3) digits 462.

(7) The geographic service area served by ZIP codes with the first three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by ZIP codes with the first three (3) digits 475, 476, and 477.

(i) "Medical service provider" refers to a person or an entity that provides medical services, treatment, or supplies to an employee under IC 22-3-2 through IC 22-3-6.

(j) "Pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under IC 22-3-2 through IC 22-3-6 in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products.

SECTION 2. IC 22-3-7-9, AS AMENDED BY P.L.201-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) As used in this chapter, "employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. A parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the parent's, or the subsidiaries' employees for purposes of sections 6 and 33 of this chapter. Both a lessor and a lessee of employees shall each be considered joint employers of the employees provided by the lessor to the lessee for purposes of sections 6 and 33 of this chapter. The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth under section 2.5 of this chapter. If the employer is insured, the term includes the employer's insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services

rendered to an employee with the approval of the employer. The term does not include a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

(b) As used in this chapter, "employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer. For purposes of this chapter the following apply:

(1) Any reference to an employee who has suffered disablement, when the employee is dead, also includes the employee's legal representative, dependents, and other persons to whom compensation may be payable.

(2) An owner of a sole proprietorship may elect to include the owner as an employee under this chapter if the owner is actually engaged in the proprietorship business. If the owner makes this election, the owner must serve upon the owner's insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under this chapter unless the notice has been received. If the owner of a sole proprietorship is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain an affidavit of exemption under section 34.5 of this chapter.

(3) A partner in a partnership may elect to include the partner as an employee under this chapter if the partner is actually engaged in the partnership business. If a partner makes this election, the partner must serve upon the partner's insurance carrier and upon the board written notice of the election. No partner may be considered an employee under this chapter until the notice has been received. If a partner in a partnership is an independent contractor in the construction trades and does not make the election provided under this subdivision, the partner must obtain an affidavit of exemption under section 34.5 of this chapter.

(4) Real estate professionals are not employees under this chapter if:

(A) they are licensed real estate agents;

(B) substantially all their remuneration is directly related to sales volume and not the number of hours worked; and

(C) they have written agreements with real estate brokers stating that they are not to be treated as employees for tax purposes.

(5) A person is an independent contractor in the construction trades and not an employee under this chapter if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.

(6) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR ~~1057,~~ **376,** to a motor carrier is not an employee of the motor carrier for purposes of this chapter. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's compensation insurance policy or authorized self-insurance that insures the motor carrier if the owner-operator pays the premiums as requested by the motor carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

(7) An unpaid participant under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the extent set forth under section 2.5 of this chapter.

(8) A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis is not an employee for purposes of this chapter.

(9) An officer of a corporation who is the sole officer of the corporation is an employee of the corporation under this chapter. An officer of a corporation who is the sole officer of the corporation may elect not to be an employee of the corporation under this chapter. If an officer makes this election, the officer must serve written notice of the election

on the corporation's insurance carrier and the board. An officer of a corporation who is the sole officer of the corporation may not be considered to be excluded as an employee under this chapter until the notice is received by the insurance carrier and the board.

(c) As used in this chapter, "minor" means an individual who has not reached seventeen (17) years of age. A minor employee shall be considered as being of full age for all purposes of this chapter. However, if the employee is a minor who, at the time of the last exposure, is employed, required, suffered, or permitted to work in violation of the child labor laws of this state, the amount of compensation and death benefits, as provided in this chapter, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the compensation or benefits that may be payable on account of the disability or death of the minor, and the employer shall be wholly liable for the other one-half (1/2) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age, and who at the time of the last exposure is employed, suffered, or permitted to work at any occupation which is not prohibited by law, the provisions of this subsection prescribing double the amount otherwise recoverable do not apply. The rights and remedies granted to a minor under this chapter on account of disease shall exclude all rights and remedies of the minor, ~~his~~ **the minor's** parents, ~~his~~ **the minor's** personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of any disease.

(d) This chapter does not apply to casual laborers as defined in subsection (b), nor to farm or agricultural employees, nor to household employees, nor to railroad employees engaged in train service as engineers, firemen, conductors, brakemen, flagmen, baggagemen, or foremen in charge of yard engines and helpers assigned thereto, nor to their employers with respect to these employees. Also, this chapter does not apply to employees or their employers with respect to employments in which the laws of the United States provide for compensation or liability for injury to the health, disability, or death by reason of diseases suffered by these employees.

(e) As used in this chapter, "disablement" means the event of becoming disabled from earning full wages at the work in which the employee was engaged when last exposed to the hazards of the occupational disease by the employer from whom the employee claims compensation or equal wages in other suitable employment, and "disability" means the state of being so incapacitated.

(f) For the purposes of this chapter, no compensation shall be payable for or on account of any occupational diseases unless disablement, as defined in subsection (e), occurs within two (2) years after the last day of the last exposure to the hazards of the disease except for the following:

(1) In all cases of occupational diseases caused by the inhalation of silica dust or coal dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards of the disease.

(2) In all cases of occupational disease caused by the exposure to radiation, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within two (2) years from the date on which the employee had knowledge of the nature of the employee's occupational disease or, by exercise of reasonable diligence, should have known of the existence of such disease and its causal relationship to the employee's employment.

(3) In all cases of occupational diseases caused by the inhalation of asbestos dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards of the disease if the last day of the last exposure was before July 1, 1985.

(4) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1985, and before July 1, 1988, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within twenty (20) years after the last day of the last exposure.

(5) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1988, no compensation shall be payable unless

disablement (as defined in subsection (e)) occurs within thirty-five (35) years after the last day of the last exposure.

(g) For the purposes of this chapter, no compensation shall be payable for or on account of death resulting from any occupational disease unless death occurs within two (2) years after the date of disablement. However, this subsection does not bar compensation for death:

(1) where death occurs during the pendency of a claim filed by an employee within two (2) years after the date of disablement and which claim has not resulted in a decision or has resulted in a decision which is in process of review or appeal; or

(2) where, by agreement filed or decision rendered, a compensable period of disability has been fixed and death occurs within two (2) years after the end of such fixed period, but in no event later than three hundred (300) weeks after the date of disablement.

(h) As used in this chapter, "billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

(i) As used in this chapter, "billing review standard" means the data used by a billing review service to determine pecuniary liability.

(j) As used in this chapter, "community" means a geographic service area based on ZIP code districts defined by the United States Postal Service according to the following groupings:

(1) The geographic service area served by ZIP codes with the first three (3) digits 463 and 464.

(2) The geographic service area served by ZIP codes with the first three (3) digits 465 and 466.

(3) The geographic service area served by ZIP codes with the first three (3) digits 467 and 468.

(4) The geographic service area served by ZIP codes with the first three (3) digits 469 and 479.

(5) The geographic service area served by ZIP codes with the first three (3) digits 460, 461 (except 46107), and 473.

(6) The geographic service area served by the 46107 ZIP code and ZIP codes with the first three (3) digits 462.

(7) The geographic service area served by ZIP codes with the first three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by ZIP codes with the first three (3) digits 475, 476, and 477.

(k) As used in this chapter, "medical service provider" refers to a person or an entity that provides medical services, treatment, or supplies to an employee under this chapter.

(l) As used in this chapter, "pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under this chapter in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products.

SECTION 3. **An emergency is declared for this act.**

P.L.181-2009
[H.1716. Approved May 13, 2009.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-13-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) The commission has ~~eleven (11) members as follows:~~

~~(1) One (1) member appointed by the county executive of Lake County.~~

~~(2) One (1) member appointed by the county executive of Porter County.~~

~~(3) One (1) member appointed by the executive of Gary.~~

~~(4) One (1) member appointed by the executive of Hammond.~~

~~(5) One (1) member appointed by the director.~~

~~(6) Six (6)~~ **five (5)** members appointed by the governor.

~~(b) Not more than six (6) members may belong to the same political party. The governor shall make appointments after all the others are made so that this requirement is feasible to implement.~~

(b) The governor shall appoint members of the commission so that the following requirements are met:

(1) One (1) member must be a representative of the department of natural resources. The member may not be an employee or elected official of a city, town, or county governmental unit.

(2) The remaining four (4) members must meet the following requirements:

(A) Four (4) members must reside in a:

(i) city;

(ii) town; or

(iii) township (if the member resides in an unincorporated area of the county);

that borders the Little Calumet River.

(B) At least three (3) of the members must have a background in:

(i) construction;

(ii) project management; or

(iii) flood control;

or a similar professional background.

(C) A member may not be an employee or elected official of a city, town, or county governmental unit.

SECTION 2. IC 14-13-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) The commission shall meet on call of any of the following:

(1) The chairman.

(2) The executive director.

(3) Any three (3) members.

(b) ~~Six (6)~~ **Three (3)** commission members constitute a quorum.

SECTION 3. IC 14-13-2-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) The commission may provide for the construction, improvement, development, operation, and management of projects, including any facilities, betterments, and improvements that are part of projects, in the manner

that the commission considers appropriate in furtherance of the purposes of this chapter.

(b) The commission may enter into:

(1) a lease agreement as lessor or sublessor; or

(2) an operation or a license agreement;

with respect to all or part of a site, a facility, a betterment, or an improvement that is part of projects with at least one (1) public or private person or entity, including political subdivisions of the state and public agencies, departments, and agencies, on the terms and conditions that the commission considers appropriate in furtherance of the purposes of this chapter.

(c) The commission shall provide or provide for the training and instruction of persons who are responsible for maintaining any levees or other improvements related to flood control under this article. The training and instruction must be sufficient to enable those persons to properly maintain the levees or other improvements related to flood control.

SECTION 4. IC 14-13-2-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 30. The commission is responsible for the safekeeping and deposit of money the commission receives under this chapter. The state board of accounts shall:**

(1) prescribe the methods and forms for the keeping of; and

(2) annually audit;

the accounts, records, and books of the commission and fund.

SECTION 5. IC 14-13-2-31 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 31. (a) Subject to subsection (c), before November 1 of each year, the commission shall make a report of the commission's activities to the following:**

(1) The governor.

(2) The legislative council.

(b) A report made to the legislative council under this section must be in an electronic format under IC 5-14-6.

(c) The governor may require the commission to issue reports more frequently than would otherwise be required under subsection (a).

SECTION 6. [EFFECTIVE JUNE 1, 2009] **(a) The definitions that apply to IC 14-13-2 also apply to this SECTION.**

(b) Notwithstanding IC 14-13-2-8, the terms of the members of the commission serving on June 30, 2009, expire on June 30, 2009.

(c) The governor shall appoint five (5) members to the commission under IC 14-13-2-7, as amended by this act. Notwithstanding IC 14-13-2-8, the members appointed under this SECTION have the following initial terms:

(1) One (1) member has a term of one (1) year.

(2) One (1) member has a term of two (2) years.

(3) One (1) member has a term of three (3) years.

(4) Two (2) members have a term of four (4) years.

(d) An individual appointed to the commission under subsection (c) becomes a member of the commission:

(1) on July 1, 2009; or

(2) on the date of appointment, if that date follows July 1, 2009.

However, for purposes of determining when the initial term of a member appointed under subsection (c) expires, July 1, 2009, shall be treated as the date on which the member's term began.

(e) This SECTION expires July 1, 2013.

SECTION 7. **An emergency is declared for this act.**

ACTS 2009

Laws enacted by the

116th GENERAL ASSEMBLY

at the

SPECIAL SESSION
(2009)

VOLUME IV

(P.L.182-2009(ss) through Index)

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

Office of Code Revision
Legislative Services Agency

P.L.182-2009(ss)
[H.1001(ss). Approved June 30, 2009.]

AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

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

SECTION 1. [EFFECTIVE JULY 1, 2009]

(a) The following definitions apply throughout this act:
(1) "Augmentation allowed" means the governor and the budget agency are authorized to add to an appropriation in this act from revenues accruing to the fund from which the appropriation was made.
(2) "Biennium" means the period beginning July 1, 2009, and ending June 30, 2011.

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Appropriations appearing in the biennial column for construction or other permanent improvements do not revert under IC 4-13-2-19 and may be allotted.
(3) "Deficiency appropriation" or "special claim" means an appropriation available during the 2008-2009 fiscal year.
(4) "Equipment" includes machinery, implements, tools, furniture, furnishings, vehicles, and other articles that have a calculable period of service that exceeds twelve (12) calendar months.
(5) "Fee replacement" includes payments to universities to be used to pay indebtedness resulting from financing the cost of planning, purchasing, rehabilitation, construction, repair, leasing, lease-purchasing, or otherwise acquiring land, buildings, facilities, and equipment to be used for academic and instructional purposes.
(6) "Federally qualified health center" means a community health center that is designated by the Health Resources Services Administration, Bureau of Primary Health Care, as a Federally Qualified Health Center Look Alike under the FED 330 Consolidated

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Health Center Program authorization, including Community Health Center (330e), Migrant Health Center (330g), Health Care for the Homeless (330h), Public Housing Primary Care (330i), and School Based Health Centers (330).
(7) "Other operating expense" includes payments for "services other than personal", "services by contract", "supplies, materials, and parts", "grants, subsidies, refunds, and awards", "in-state travel", "out-of-state travel", and "equipment".
(8) "Pension fund contributions" means the state of Indiana's contributions to a specific retirement fund.
(9) "Personal services" includes payments for salaries and wages to officers and employees of the state (either regular or temporary), payments for compensation awards, and the employer's share of Social Security, health insurance, life insurance, dental insurance, vision insurance, deferred compensation - state match, leave conversion, disability, and retirement fund contributions.
(10) "SSBG" means the Social Services Block Grant. This was formerly referred to as "Title XX".
(11) "State agency" means:
(A) each office, officer, board, commission, department, division, bureau, committee,

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fund, agency, authority, council, or other instrumentality of the state;
(B) each hospital, penal institution, and other institutional enterprise of the state;
(C) the judicial department of the state; and
(D) the legislative department of the state.
However, this term does not include cities, towns, townships, school cities, school townships, school districts, other municipal corporations or political subdivisions of the state, or universities and colleges supported in whole or in part by state funds.
(12) "State funded community health center" means a public or private not for profit (501(c)(3)) organization that provides comprehensive primary health care services to all age groups.
(13) "Total operating expense" includes payments for both "personal services" and "other operating expense".
(b) The state board of finance may authorize advances to boards or persons having control of the funds of any institution or department of the state of a sum of money out of any appropriation available at such time for the purpose of establishing

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working capital to provide for payment of expenses in the case of emergency when immediate payment is necessary or expedient. Advance payments shall be made by warrant by the auditor of state, and properly itemized and receipted bills or invoices shall be filed by the board or persons receiving the advance payments.

(c) All money appropriated by this act shall be considered either a direct appropriation or an appropriation from a rotary or revolving fund.

(1) Direct appropriations are subject to withdrawal from the state treasury and for expenditure for such purposes, at such time, and in such manner as may be prescribed by law. Direct appropriations are not subject to return and rewithdrawal from the state treasury, except for the correction of an error which may have occurred in any transaction or for reimbursement of expenditures which have occurred in the same fiscal year.

(2) A rotary or revolving fund is any designated part of a fund that is set apart as working capital in a manner prescribed by law and devoted to a specific purpose or purposes. The fund consists of earnings and income only from certain sources or a combination thereof. The money in the fund shall be used for the purpose designated by law as working capital. The fund at any time consists of the original appropriation

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

thereto, if any, all receipts accrued to the fund, and all money withdrawn from the fund and invested or to be invested. The fund shall be kept intact by separate entries in the auditor of state's office, and no part thereof shall be used for any purpose other than the lawful purpose of the fund or revert to any other fund at any time. However, any unencumbered excess above any prescribed amount shall be transferred to the state general fund at the close of each fiscal year unless otherwise specified in the Indiana Code.

SECTION 2. [EFFECTIVE JULY 1, 2009]

For the conduct of state government, its offices, funds, boards, commissions, departments, societies, associations, services, agencies, and undertakings, and for other appropriations not otherwise provided by statute, the following sums in SECTIONS 3 through 10 are appropriated for the periods of time designated from the general fund of the state of Indiana or other specifically designated funds.

In this act, whenever there is no specific fund or account designated, the appropriation

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is from the general fund.

SECTION 3. [EFFECTIVE JULY 1, 2009]

GENERAL GOVERNMENT

A. LEGISLATIVE

FOR THE GENERAL ASSEMBLY			
LEGISLATORS' SALARIES - HOUSE			
Total Operating Expense	**6,198,756**	**6,198,756**	
HOUSE EXPENSES			
Total Operating Expense	**10,299,327**	**10,700,339**	
LEGISLATORS' SALARIES - SENATE			
Total Operating Expense	**2,247,345**	**2,247,345**	
SENATE EXPENSES			
Total Operating Expense	**10,163,712**	**11,562,594**	

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Included in the above appropriations for house and senate expenses are funds for a legislative business per diem allowance, meals, and other usual and customary expenses associated with legislative affairs. Except as provided below, this allowance is to be paid to each member of the general assembly for every day, including Sundays, during which the general assembly is convened in regular or special session, commencing with the day the session is officially convened and concluding with the day the session is adjourned sine die. However, after five (5) consecutive days of recess, the legislative business per diem allowance is to be made on an individual voucher basis until the recess concludes.

Members of the general assembly are entitled, when authorized by the speaker of the house or the president pro tempore of the senate, to the legislative business per diem allowance for each and every day engaged in official business.

The legislative business per diem allowance that each member of the general assembly is entitled to receive equals the maximum daily amount allowable to employees of

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

the executive branch of the federal government for subsistence expenses while away from home in travel status in the Indianapolis area. The legislative business per diem changes each time there is a change in that maximum daily amount.

In addition to the legislative business per diem allowance, each member of the general assembly shall receive the mileage allowance in an amount equal to the standard mileage rates for personally owned transportation equipment established by the federal Internal Revenue Service for each mile necessarily traveled from the member's usual place of residence to the state capitol. However, if the member traveled by a means other than by motor vehicle, and the member's usual place of residence is more than one hundred (100) miles from the state capitol, the member is entitled to reimbursement in an amount equal to the lowest air travel cost incurred in traveling from the usual place of residence to the state capitol. During the period the general assembly is convened in regular or special session, the mileage allowance shall be limited to one (1) round trip each week per member.

Any member of the general assembly who is appointed, by the governor, speaker

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

of the house, president or president pro tempore of the senate, house or senate minority floor leader, or Indiana legislative council to serve on any research, study, or survey committee or commission, or who attends any meetings authorized or convened under the auspices of the Indiana legislative council, including pre-session conferences and federal-state relations conferences, is entitled, when authorized by the legislative council, to receive the legislative business per diem allowance for each day in actual attendance and is also entitled to a mileage allowance, at the rate specified above, for each mile necessarily traveled from the member's usual place of residence to the state capitol, or other in-state site of the committee, commission, or conference. The per diem allowance and the mileage allowance permitted under this paragraph shall be paid from the legislative council appropriation for legislator and lay member travel unless the member is attending an out-of-state meeting, as authorized by the speaker of the house of representatives or the president pro tempore of the senate, in which case the member is entitled to receive:

(1) the legislative business per diem allowance for each day the member is engaged in approved out-of-state travel; and

(2) reimbursement for traveling expenses actually incurred in connection with the

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

member's duties, as provided in the state travel policies and procedures established by the legislative council.

Notwithstanding the provisions of this or any other statute, the legislative council may adopt, by resolution, travel policies and procedures that apply only to members of the general assembly or to the staffs of the house of representatives, senate, and legislative services agency, or both members and staffs. The legislative council may apply these travel policies and procedures to lay members serving on research, study, or survey committees or commissions that are under the jurisdiction of the legislative council. Notwithstanding any other law, rule, or policy, the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency do not apply to members of the general assembly, to the staffs of the house of representatives, senate, or legislative services agency, or to lay members serving on research, study, or survey committees or commissions under the jurisdiction of the legislative council (if the legislative council applies its travel policies and procedures to lay members under the authority of this SECTION), except that, until the legislative council adopts travel policies and procedures,

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency apply to members of the general assembly, to the staffs of the house of representatives, senate, and legislative services agency, and to lay members serving on research, study, or survey committees or commissions under the jurisdiction of the legislative council. The executive director of the legislative services agency is responsible for the administration of travel policies and procedures adopted by the legislative council. The auditor of state shall approve and process claims for reimbursement of travel related expenses under this paragraph based upon the written affirmation of the speaker of the house of representatives, the president pro tempore of the senate, or the executive director of the legislative services agency that those claims comply with the travel policies and procedures adopted by the legislative council. If the funds appropriated for the house and senate expenses and legislative salaries are insufficient to pay all the necessary expenses incurred, including the cost of printing the journals of the house and senate, there is appropriated such further sums as may be necessary to pay such expenses.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
LEGISLATORS' SUBSISTENCE			
LEGISLATORS' EXPENSES - HOUSE			
Total Operating Expense	**2,524,980**	**2,620,929**	
LEGISLATORS' EXPENSES - SENATE			
Total Operating Expense	**1,126,579**	**1,004,601**	

Each member of the general assembly is entitled to a subsistence allowance of forty percent (40%) of the maximum daily amount allowable to employees of the executive branch of the federal government for subsistence expenses while away from home in travel status in the Indianapolis area:
(1) each day that the general assembly is not convened in regular or special session; and
(2) each day after the first session day held in November and before the first session day held in January.

However, the subsistence allowance under subdivision (2) may not be paid with respect to any day after the first session day held in November and before the first session

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

day held in January with respect to which all members of the general assembly are entitled to a legislative business per diem.

The subsistence allowance is payable from the appropriations for legislators' subsistence.

The officers of the senate are entitled to the following amounts annually in addition to the subsistence allowance: president pro tempore, $7,000; assistant president pro tempore, $3,000; majority floor leader, $5,500; assistant majority floor leaders, $3,500; majority caucus chair, $5,500; assistant majority caucus chairs, $1,500; appropriations committee chair, $5,500; tax and fiscal policy committee chair, $5,500; appropriations committee ranking majority member, $2,000; tax and fiscal policy committee ranking majority member, $2,000; majority whip, $4,000; assistant majority whip, $2,000; minority floor leader, $6,000; minority leader emeritus, $1,500; minority caucus chair, $5,000; minority assistant floor leader, $5,000; appropriations committee ranking minority member, $2,000; tax and fiscal policy committee ranking minority member, $2,000; minority whip(s), $2,000; assistant minority caucus chair(s), $1,000; agriculture and small business committee chair, $1,000; commerce, public policy,

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and interstate cooperation committee chair, $1,000; corrections, criminal, and civil matters committee chair, $1,000; education and career development chair, $1,000; elections committee chair, $1,000; energy and environmental affairs committee chair, $1,000; pensions and labor committee chair, $1,000; health and provider services committee chair, $1,000; homeland security, transportation, and veterans affairs committee chair, $1,000; insurance and financial institutions committee chair, $1,000; judiciary committee chair, $1,000; local government committee chair, $1,000; utilities and technology committee chair, $1,000; and natural resources committee chair, $1,000. If an officer fills more than one (1) leadership position, the officer shall be paid for the higher paid position.

Officers of the house of representatives are entitled to the following amounts annually in addition to the subsistence allowance: speaker of the house, $6,500; speaker pro tempore, $5,000; deputy speaker pro tempore, $1,500; majority leader, $5,000; majority caucus chair, $5,000; assistant majority caucus chair, $1,000; ways and means committee chair, $5,000; ways and means committee ranking majority member, $3,000; ways and means committee, chairman of the education subcommittee, $1,500; speaker pro tempore

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emeritus, $1,500; budget subcommittee chair, $3,000; majority whip, $3,500; assistant majority whip, $1,000; assistant majority leader, $1,000; minority leader, $5,500; minority caucus chair, $4,500; ways and means committee ranking minority member, $3,500; minority whip, $2,500; assistant minority leader, $4,500; second assistant minority leader, $1,500; and deputy assistant minority leader, $1,000.

If the senate or house of representatives eliminates a committee or officer referenced in this SECTION and replaces the committee or officer with a new committee or position, the foregoing appropriations for subsistence shall be used to pay for the new committee or officer. However, this does not permit any additional amounts to be paid under this SECTION for a replacement committee or officer than would have been spent for the eliminated committee or officer. If the senate or house of representatives creates a new additional committee or officer, or assigns additional duties to an existing officer, the foregoing appropriations for subsistence shall be used to pay for the new committee or officer, or to adjust the annual payments made to the existing officer, in amounts determined by the legislative council.

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If the funds appropriated for legislators' subsistence are insufficient to pay all the subsistence incurred, there are hereby appropriated such further sums as may be necessary to pay such subsistence.

FOR THE LEGISLATIVE COUNCIL AND THE LEGISLATIVE SERVICES AGENCY			
Total Operating Expense	**9,989,200**	**10,388,768**	
LEGISLATOR AND LAY MEMBER TRAVEL			
Total Operating Expense	**700,000**	**750,000**	

Included in the above appropriations for the legislative council and legislative services agency expenses are funds for usual and customary expenses associated with legislative services.

If the funds above appropriated for the legislative council and the legislative services agency and legislator and lay member travel are insufficient to pay all the necessary expenses incurred, there are hereby appropriated such further sums as may be necessary to pay those expenses.

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Any person other than a member of the general assembly who is appointed by the governor, speaker of the house, president or president pro tempore of the senate, house or senate minority floor leader, or legislative council to serve on any research, study, or survey committee or commission is entitled, when authorized by the legislative council, to a per diem instead of subsistence of $75 per day during the 2009-2011 biennium. In addition to the per diem, such a person is entitled to mileage reimbursement, at the rate specified for members of the general assembly, for each mile necessarily traveled from the person's usual place of residence to the state capitol or other in-state site of the committee, commission, or conference. However, reimbursement for any out-of-state travel expenses claimed by lay members serving on research, study, or survey committees or commissions under the jurisdiction of the legislative council shall be based on SECTION 14 of this act, until the legislative council applies those travel policies and procedures that govern legislators and their staffs to such lay members as authorized elsewhere in this SECTION. The allowance and reimbursement permitted in this paragraph shall be paid from the legislative council appropriations for legislative and lay member travel unless otherwise provided for by a specific

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

appropriation.

LEGISLATIVE COUNCIL CONTINGENCY FUND

Total Operating Expense	**225,000**

Disbursements from the fund may be made only for purposes approved by the chairman and vice chairman of the legislative council.

The legislative services agency shall charge the following fees, unless the legislative council sets these or other fees at different rates:

Annual subscription to the session document service for sessions ending in odd-numbered years: $900

Annual subscription to the session document service for sessions ending in even-numbered years: $500

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Per page charge for copies of legislative documents: $0.15			
Annual charge for interim calendar: $10			
Daily charge for the journal of either house: $2			
PRINTING AND DISTRIBUTION			
Total Operating Expense	**939,400**	**975,000**	

The above funds are appropriated for the printing and distribution of documents published by the legislative council. These documents include journals, bills, resolutions, enrolled documents, the acts of the first and second regular sessions of the 116th general assembly, the supplements to the Indiana Code for fiscal years 2009-2010 and 2010-2011, and the publication of the Indiana Administrative Code and the Indiana Register. Upon completion of the distribution of the Acts and the supplements to the Indiana Code, as provided in IC 2-6-1.5, remaining copies may be sold at a price or prices periodically determined by the legislative council. If the above appropriations

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

for the printing and distribution of documents published by the legislative council are insufficient to pay all of the necessary expenses incurred, there are hereby appropriated such sums as may be necessary to pay such expenses.

COUNCIL OF STATE GOVERNMENTS ANNUAL DUES			
Other Operating Expense	**143,944**	**143,944**	
NATIONAL CONFERENCE OF STATE LEGISLATURES ANNUAL DUES			
Other Operating Expense	**190,337**	**190,337**	
NATIONAL CONFERENCE OF INSURANCE LEGISLATORS ANNUAL DUES			
Other Operating Expense	**10,000**	**10,000**	
REAPPORTIONMENT SUPPORT AND SERVICES			
Total Operating Expense			**250,000**
FOR THE INDIANA LOBBY REGISTRATION COMMISSION			
Total Operating Expense	**271,910**	**271,910**	

B. JUDICIAL

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
FOR THE SUPREME COURT			
Personal Services	**7,564,269**	**7,564,269**	
Other Operating Expense	**2,001,965**	**2,001,965**	

The above appropriation for the supreme court personal services includes the subsistence allowance as provided by IC 33-38-5-8.

LOCAL JUDGES' SALARIES			
Personal Services	**57,146,053**	**57,146,053**	
Other Operating Expense	**39,000**	**39,000**	
COUNTY PROSECUTORS' SALARIES			
Personal Services	**24,785,126**	**24,785,126**	
Other Operating Expense	**31,000**	**31,000**	

The above appropriations for county prosecutors' salaries represent the amounts authorized by IC 33-39-6-5 and that are to be paid from the state general fund.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

In addition to the appropriations for local judges' salaries and for county prosecutors' salaries, there are hereby appropriated for personal services the amounts that the state is required to pay for salary changes or for additional courts created by the 116th general assembly.

TRIAL COURT OPERATIONS			
Total Operating Expense	**596,075**	**596,075**	
INDIANA CONFERENCE FOR LEGAL EDUCATION OPPORTUNITY			
Total Operating Expense	**778,750**	**778,750**	

The above funds are appropriated to the division of state court administration in compliance with the provisions of IC 33-24-13-7.

PUBLIC DEFENDER COMMISSION			
Total Operating Expense	**12,850,000**	**12,850,000**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

The above appropriation is made in addition to the distribution authorized by IC 33-37-7-9(c) for the purpose of reimbursing counties for indigent defense services provided to a defendant. The division of state court administration of the supreme court of Indiana shall provide staff support to the commission and shall administer the public defense fund. The administrative costs may come from the public defense fund. Any balance in the public defense fund is appropriated to the public defender commission.

GUARDIAN AD LITEM		
Total Operating Expense	**2,970,248**	**2,970,248**

The division of state court administration shall use the foregoing appropriation to administer an office of guardian ad litem and court appointed special advocate services and to provide matching funds to counties that are required to implement, in courts with juvenile jurisdiction, a guardian ad litem and court appointed special advocate program for children who are alleged to be victims of child abuse or neglect under IC 31-33 and to administer the program. A county may use these matching funds

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

to supplement amounts collected as fees under IC 31-40-3 to be used for the operation of guardian ad litem and court appointed special advocate programs. The county fiscal body shall appropriate adequate funds for the county to be eligible for these matching funds.

CIVIL LEGAL AID			
Total Operating Expense	**1,500,000**	**1,500,000**	

The above funds include the appropriation provided in IC 33-24-12-7.

SPECIAL JUDGES - COUNTY COURTS			
Personal Services	**15,000**	**15,000**	
Other Operating Expense	**134,000**	**134,000**	

If the funds appropriated above for special judges of county courts are insufficient to pay all of the necessary expenses that the state is required to pay under IC 34-35-1-4, there are hereby appropriated such further sums as may be necessary to pay these

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
expenses.			
COMMISSION ON RACE AND GENDER FAIRNESS			
Total Operating Expense	**380,996**	**380,996**	
FOR THE COURT OF APPEALS			
Personal Services	**9,141,271**	**9,141,271**	
Other Operating Expense	**1,025,470**	**1,025,470**	
The above appropriations for the court of appeals personal services include the subsistence allowance provided by IC 33-38-5-8.			
FOR THE TAX COURT			
Personal Services	**549,418**	**549,418**	
Other Operating Expense	**123,595**	**123,595**	
FOR THE JUDICIAL CENTER			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Personal Services	**1,680,763**	**1,680,763**	
Other Operating Expense	**1,140,419**	**1,140,419**	

The above appropriations for the judicial center include the appropriations for the judicial conference.

DRUG AND ALCOHOL PROGRAMS FUND

Total Operating Expense	**100,000**	**100,000**

The above funds are appropriated notwithstanding the distribution under IC 33-37-7-9 for the purpose of administering, certifying, and supporting alcohol and drug services programs under IC 12-23-14. However, if additional funds are needed to carry out the purpose of the program, existing revenues in the fund may be allotted.

INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION

Total Operating Expense	**200,000**	**200,000**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
FOR THE PUBLIC DEFENDER			
Personal Services	**5,679,783**	**5,679,783**	
Other Operating Expense	**985,133**	**985,133**	
FOR THE PUBLIC DEFENDER COUNCIL			
Personal Services	**943,769**	**943,769**	
Other Operating Expense	**420,328**	**420,328**	
FOR THE PROSECUTING ATTORNEYS' COUNCIL			
Personal Services	**638,099**	**638,099**	
Other Operating Expense	**577,177**	**577,177**	
DRUG PROSECUTION			
Drug Prosecution Fund (IC 33-39-8-6)			
Total Operating Expense	**79,000**	**109,000**	
Augmentation allowed.			
FOR THE PUBLIC EMPLOYEES' RETIREMENT FUND			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
JUDGES' RETIREMENT FUND			
Other Operating Expense	**11,474,961**	**12,048,709**	
PROSECUTORS' RETIREMENT FUND			
Other Operating Expense	**170,000**	**170,000**	
C. EXECUTIVE			
FOR THE GOVERNOR'S OFFICE			
Personal Services	**1,902,269**	**1,902,269**	
Other Operating Expense	**153,976**	**153,976**	
GOVERNOR'S RESIDENCE			
Total Operating Expense	**136,858**	**136,858**	
GOVERNOR'S CONTINGENCY FUND			
Total Operating Expense			**153,358**

Direct disbursements from the above contingency fund are not subject to the provisions of IC 5-22.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
GOVERNOR'S FELLOWSHIP PROGRAM			
Total Operating Expense	**265,205**	**265,205**	
FOR THE WASHINGTON LIAISON OFFICE			
Total Operating Expense	**242,500**	**242,500**	
FOR THE LIEUTENANT GOVERNOR			
Personal Services	**1,725,210**	**1,725,210**	
Other Operating Expense	**550,115**	**550,115**	
CONTINGENCY FUND			
Total Operating Expense			**12,388**

Direct disbursements from the above contingency fund are not subject to the provisions of IC 5-22.

FOR THE SECRETARY OF STATE

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
ADMINISTRATION			
Personal Services	**2,197,658**	**2,197,658**	
Other Operating Expense	**150,500**	**150,500**	

FOR THE ATTORNEY GENERAL

ATTORNEY GENERAL

From the General Fund

15,128,969 15,128,969

From the Motor Vehicle Odometer Fund (IC 9-29-1-5)

90,000 90,000

Augmentation allowed.

From the Medicaid Fraud Control Unit Fund (IC 4-6-10-1)

542,447 542,447

Augmentation allowed.

From the Victims' Assistance Address Confidentiality Fund (IC 5-26.5-3-6)

59,929 59,929

Augmentation allowed.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
From the Real Estate Appraiser Investigative Fund (IC 25-34.1-8-7.5)			
	64,230	**64,230**	
Augmentation allowed.			
From the Non-Consumer Settlements Fund			
	116,678	**116,678**	
Augmentation allowed.			
From the Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
	494,467	**494,467**	
Augmentation allowed.			
From the Abandoned Property Fund (IC 32-34-1-33)			
	318,968	**318,968**	
Augmentation allowed.			

The amounts specified from the General Fund, motor vehicle odometer fund, medicaid fraud control unit fund, victims' assistance address confidentiality fund, non-consumer settlements fund, real estate appraiser investigative fund, tobacco master settlement fund, and abandoned property fund are for the following purposes:

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Personal Services	**15,690,686**	**15,690,686**	
Other Operating Expense	**1,125,002**	**1,125,002**	
HOMEOWNER PROTECTION UNIT			
Homeowner Protection Unit Account (IC 4-6-12-9)			
Total Operating Expense	**422,000**	**422,000**	
MEDICAID FRAUD UNIT			
Total Operating Expense	**829,789**	**829,789**	

The above appropriations to the Medicaid fraud unit are the state's matching share of the state Medicaid fraud control unit under IC 4-6-10 as prescribed by 42 U.S.C. 1396b(q). Augmentation allowed from collections.

UNCLAIMED PROPERTY			
Abandoned Property Fund (IC 32-34-1-33)			
Personal Services	**1,347,951**	**1,347,951**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Other Operating Expense	**3,163,434**	**3,163,434**	

Augmentation allowed.

D. FINANCIAL MANAGEMENT

FOR THE AUDITOR OF STATE

Personal Services	**4,587,218**	**4,587,218**	
Other Operating Expense	**1,388,632**	**1,388,632**	
GOVERNORS' AND GOVERNORS' SURVIVING SPOUSES' PENSIONS			
Total Operating Expense	**140,246**	**140,246**	

The above appropriations for governors' and governors' surviving spouses' pensions are made under IC 4-3-3.

FOR THE STATE BOARD OF ACCOUNTS

Personal Services	**20,581,483**	**20,581,483**	
Other Operating Expense	**1,178,717**	**1,178,717**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
FOR THE STATE BUDGET COMMITTEE			
Total Operating Expense	**54,126**	**54,126**	

Notwithstanding IC 4-12-1-11(b), the salary per diem of the legislative members of the budget committee is an amount equal to one hundred fifty percent (150%) of the legislative business per diem allowance. If the above appropriations are insufficient to carry out the necessary operations of the budget committee, there are hereby appropriated such further sums as may be necessary.

FOR THE OFFICE OF MANAGEMENT AND BUDGET			
Personal Services	**1,000,227**	**1,000,227**	
Other Operating Expense	**153,095**	**153,095**	
FOR THE STATE BUDGET AGENCY			
Personal Services	**2,729,047**	**2,729,047**	
Other Operating Expense	**639,093**	**639,093**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
DEPARTMENTAL AND INSTITUTIONAL EMERGENCY CONTINGENCY FUND			
Total Operating Expense			**2,000,000**

The foregoing departmental and institutional emergency contingency fund appropriation is subject to allotment to departments, institutions, and all state agencies by the budget agency with the approval of the governor. These allocations may be made upon written request of proper officials, showing that contingencies exist that require additional funds for meeting necessary expenses. The budget committee shall be advised of each transfer request and allotment.

OUTSIDE BILL CONTINGENCY			
Total Operating Expense			**9,354,228**
PERSONAL SERVICES/FRINGE BENEFITS CONTINGENCY FUND			
Total Operating Expense			**35,625,000**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

The foregoing personal services/fringe benefits contingency fund appropriation is subject to allotment to departments, institutions, and all state agencies by the budget agency with the approval of the governor.

The foregoing personal services/fringe benefits contingency fund appropriation may be used only for salary increases, fringe benefit increases, an employee leave conversion program, or a state retiree health program for state employees and may not be used for any other purpose.

The foregoing personal services/fringe benefits contingency fund appropriation does not revert at the end of the biennium but remains in the personal services/fringe benefits contingency fund.

RETIREE HEALTH BENEFIT TRUST FUND			
Retiree Health Benefit Trust Fund (IC 5-10-8-8.5)			
Total Operating Expense			**54,000,000**
Augmentation Allowed.			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

The foregoing appropriation for the retiree health plan:

(1) is to fund employer contributions and benefits provided under IC 5-10-8.5;
(2) does not revert at the end of any state fiscal year but remains available for the purposes of the appropriation in subsequent state fiscal years; and
(3) is not subject to transfer to any other fund or to transfer, assignment, or reassignment for any other use or purpose by the state board of finance notwithstanding IC 4-9.1-1-7 and IC 4-13-2-23 or by the budget agency notwithstanding IC 4-12-1-12 or any other law.

The budget agency may transfer appropriations from federal or dedicated funds to the trust fund to accrue funds to pay benefits to employees that are not paid from the general fund.

COMPREHENSIVE HEALTH INSURANCE ASSOCIATION STATE SHARE			
Total Operating Expense			**77,000,000**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Augmentation Allowed.			
SCHOOL AND LIBRARY INTERNET CONNECTION (IC 4-34-3-2)			
Build Indiana Fund (IC 4-30-17)			
Total Operating Expense	**2,800,000**	**2,800,000**	

Of the foregoing appropriations, $1,800,000 each year shall be used for schools under IC 4-34-3-4, and $1,000,000 each year shall be used for libraries under IC 4-34-3-2.

INSPIRE (IC 4-34-3-2)			
Build Indiana Fund (IC 4-30-17)			
Other Operating Expense			**3,000,000**
COMMUNITY DEVELOPMENT MATCHING GRANTS			
Other Operating Expense			**2,000,000**

The foregoing appropriation shall be used to match a grant from a foundation for community development. The budget agency may release the funds after review by the

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
budget committee if the budget agency determines there is a significant investment from the foundation.			
FOR THE PUBLIC EMPLOYEES' RETIREMENT FUND			
PUBLIC SAFETY PENSION			
Total Operating Expense	**96,000,000**	**112,000,000**	
Augmentation Allowed.			
FOR THE TREASURER OF STATE			
Personal Services	**817,630**	**817,630**	
Other Operating Expense	**52,476**	**52,476**	

The treasurer of state, the board for depositories, the Indiana commission for higher education, and the state student assistance commission shall cooperate and provide to the Indiana education savings authority the following:

(1) Clerical and professional staff and related support.

(2) Office space and services.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

(3) Reasonable financial support for the development of rules, policies, programs, and guidelines, including authority operations and travel.

E. TAX ADMINISTRATION

FOR THE DEPARTMENT OF REVENUE
COLLECTION AND ADMINISTRATION

From the General Fund		
	48,831,936	**48,831,936**
From the Motor Carrier Regulation Fund (IC 8-2.1-23)		
	794,261	**794,261**
From the Motor Vehicle Highway Account (IC 8-14-1)		
	2,449,434	**2,449,434**

Augmentation allowed from the Motor Carrier Regulation Fund and the Motor Vehicle Highway Account.

The amounts specified from the General Fund, Motor Carrier Regulation Fund, and the

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Motor Vehicle Highway Account are for the following purposes:			
Personal Services	**37,103,377**	**37,103,377**	
Other Operating Expense	**14,972,254**	**14,972,254**	

With the approval of the governor and the budget agency, the department shall annually reimburse the state general fund for expenses incurred in support of the collection of dedicated fund revenue according to the department's cost allocation plan.

With the approval of the governor and the budget agency, the foregoing sums for the department of state revenue may be augmented to an amount not exceeding in total, together with the above specific amounts, one and one-tenth percent (1.1%) of the amount of money collected by the department of state revenue from taxes and fees.

OUTSIDE COLLECTIONS			
Total Operating Expense	**4,500,000**	**4,500,000**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

With the approval of the governor and the budget agency, the foregoing sums for the department of state revenue's outside collections may be augmented to an amount not exceeding in total, together with the above specific amounts, one and one-tenth percent (1.1%) of the amount of money collected by the department from taxes and fees.

MOTOR CARRIER REGULATION		
Motor Carrier Regulation Fund (IC 8-2.1-23)		
Personal Services	**1,744,843**	**1,744,843**
Other Operating Expense	**3,797,857**	**3,797,857**
Augmentation allowed from the Motor Carrier Regulation Fund.		
MOTOR FUEL TAX DIVISION		
Motor Vehicle Highway Account (IC 8-14-1)		
Personal Services	**7,041,830**	**7,041,830**
Other Operating Expense	**2,561,625**	**2,561,625**
Augmentation allowed from the Motor Vehicle Highway Account.		

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

In addition to the foregoing appropriations, there is hereby appropriated to the department of revenue motor fuel tax division an amount sufficient to pay claims for refunds on license-fee-exempt motor vehicle fuel as provided by law. The sums above appropriated from the motor vehicle highway account for the operation of the motor fuel tax division, together with all refunds for license-fee-exempt motor vehicle fuel, shall be paid from the receipts of those license fees before they are distributed as provided by IC 6-6-1.1.

FOR THE INDIANA GAMING COMMISSION

From the State Gaming Fund (IC 4-33-13-3)		
	3,501,183	**3,501,183**
From the Gaming Investigations Fund (IC 4-33-4.5)		
	600,000	**600,000**

The amounts specified from the state gaming fund and gaming investigations are for the following purposes:

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Personal Services	**3,288,542**	**3,288,542**	
Other Operating Expense	**812,641**	**812,641**	

The foregoing appropriations to the Indiana gaming commission are made from revenues accruing to the state gaming fund under IC 4-33-13-3 before any distribution is made under IC 4-33-13-5.

Augmentation allowed.

The foregoing appropriations to the Indiana gaming commission are made instead of the appropriation made in IC 4-33-13-4.

FOR THE INDIANA DEPARTMENT OF GAMING RESEARCH

Personal Services	**120,394**	**120,394**
Other Operating Expense	**104,312**	**104,312**

Augmentation allowed from fees accruing under IC 4-33-18-8.

FOR THE INDIANA HORSE RACING COMMISSION

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Indiana Horse Racing Commission Operating Fund (IC 4-31-10-2)			
Personal Services	**2,126,562**	**2,126,562**	
Other Operating Expense	**627,890**	**627,890**	

The foregoing appropriations to the Indiana horse racing commission are made from revenues accruing to the Indiana horse racing commission before any distribution is made under IC 4-31-9.

Augmentation allowed.

STANDARDBRED ADVISORY BOARD			
Standardbred Horse Fund (IC 15-19-2-10)			
Total Operating Expense	**193,500**	**193,500**	

The foregoing appropriations to the standardbred advisory board are made from revenues accruing to the Indiana horse racing commission before any distribution is made under IC 4-31-9.

Augmentation allowed.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
STANDARDBRED BREED DEVELOPMENT			
Indiana Horse Racing Commission Operating Fund (IC 4-31-10-2)			
Total Operating Expense	**4,049,719**	**4,049,719**	
Augmentation allowed.			
THOROUGHBRED BREED DEVELOPMENT			
Indiana Horse Racing Commission Operating Fund (IC 4-31-10-2)			
Total Operating Expense	**2,904,012**	**2,904,012**	
Augmentation allowed.			
QUARTER HORSE BREED DEVELOPMENT			
Indiana Horse Racing Commission Operating Fund (IC 4-31-10-2)			
Total Operating Expense	**228,896**	**228,896**	
Augmentation allowed.			
FINGERPRINT FEES			
Indiana Horse Racing Commission Operating Fund (IC 4-31-10-2)			
Total Operating Expense	**52,110**	**52,110**	
Augmentation allowed.			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
GAMING INTEGRITY FUND - IHRC			
Gaming Integrity Fund - IHRC (IC 4-35-8.7-3)			
Total Operating Expense	**500,000**	**500,000**	
Augmentation allowed.			
FOR THE DEPARTMENT OF LOCAL GOVERNMENT FINANCE			
Personal Services	**3,927,361**	**3,926,359**	
Other Operating Expense	**722,957**	**722,957**	

From the above appropriations for the department of local government finance, travel subsistence and mileage allowances may be paid for members of the local government tax control board created by IC 6-1.1-18.5-11 and the state school property tax control board created by IC 6-1.1-19-4.1, under state travel regulations.

DISTRESSED UNIT APPEAL BOARD			
Total Operating Expense	**20,600**	**20,600**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
FOR THE INDIANA BOARD OF TAX REVIEW			
Personal Services	**1,209,019**	**1,209,019**	
Other Operating Expense	**63,510**	**63,510**	
F. ADMINISTRATION			
FOR THE DEPARTMENT OF ADMINISTRATION			
Personal Services	**11,562,865**	**11,562,865**	
Other Operating Expense	**14,718,815**	**14,718,815**	
FOR THE STATE PERSONNEL DEPARTMENT			
Personal Services	**3,405,686**	**3,405,686**	
Other Operating Expense	**320,200**	**320,200**	

The department may establish an internal service fund to perform the functions of the department.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
FOR THE STATE EMPLOYEES APPEALS COMMISSION			
Personal Services	**169,653**	**169,653**	
Other Operating Expense	**10,086**	**10,086**	
FOR THE OFFICE OF TECHNOLOGY			
Pay Phone Fund (IC 5-22-23-7)			
Total Operating Expense	**1,900,000**	**1,900,000**	
Augmentation allowed.			

The pay phone fund is established for the procurement of hardware, software, and related equipment and services needed to expand and enhance the state campus backbone and other central information technology initiatives. Such procurements may include, but are not limited to, wiring and rewiring of state offices, Internet services, video conferencing, telecommunications, application software, and related services. The fund consists of the net proceeds received from contracts with companies providing phone services at state institutions and other state properties. The fund shall be administered by the budget agency. Money in the fund may be spent by the office

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

in compliance with a plan approved by the budget agency. Any money remaining in the fund at the end of any fiscal year does not revert to the general fund or any other fund but remains in the pay phone fund.

FOR THE COMMISSION ON PUBLIC RECORDS			
Personal Services		**1,325,220**	**1,325,220**
Other Operating Expense		**141,446**	**141,446**
FOR THE OFFICE OF THE PUBLIC ACCESS COUNSELOR			
Personal Services		**153,041**	**153,041**
Other Operating Expense		**3,688**	**3,688**
FOR THE OFFICE OF FEDERAL GRANTS AND PROCUREMENT			
Total Operating Expense		**95,039**	**95,039**

G. OTHER

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
FOR THE COMMISSION ON UNIFORM STATE LAWS			
Total Operating Expense	**43,584**	**43,584**	
FOR THE OFFICE OF INSPECTOR GENERAL			
Personal Services	**1,212,488**	**1,212,488**	
Other Operating Expense	**229,383**	**229,383**	
STATE ETHICS COMMISSION			
Personal Services	**2,668**	**2,668**	
Other Operating Expense	**6,297**	**6,297**	
FOR THE SECRETARY OF STATE			
ELECTION DIVISION			
Personal Services	**701,510**	**701,510**	
Other Operating Expense	**196,242**	**196,242**	
VOTER LIST MAINTENANCE			
Total Operating Expense	**512,500**	**512,500**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

The above appropriation includes state HAVA matching funds.

H. COMMUNITY SERVICES

FOR THE GOVERNOR'S OFFICE OF FAITH BASED & COMMUNITY INITIATIVES

Personal Services	**240,327**	**240,327**	
Other Operating Expense	**50,225**	**50,225**	

SECTION 4. [EFFECTIVE JULY 1, 2009]

PUBLIC SAFETY

A. CORRECTION

FOR THE DEPARTMENT OF CORRECTION
CENTRAL OFFICE

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Personal Services	**9,376,633**	**9,376,633**	
Other Operating Expense	**6,158,981**	**6,158,981**	
ESCAPEE COUNSEL AND TRIAL EXPENSE			
Other Operating Expense	**198,000**	**198,000**	
COUNTY JAIL MISDEMEANANT HOUSING			
Total Operating Expense	**4,281,101**	**4,281,101**	
ADULT CONTRACT BEDS			
Total Operating Expense	**2,831,443**	**2,831,443**	
STAFF DEVELOPMENT AND TRAINING			
Personal Services	**1,084,457**	**1,084,457**	
Other Operating Expense	**132,885**	**132,885**	
PAROLE DIVISION			
Personal Services	**8,337,627**	**8,337,627**	
Other Operating Expense	**905,405**	**905,405**	
PAROLE BOARD			
Personal Services	**657,976**	**657,976**	
Other Operating Expense	**23,741**	**23,741**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
INFORMATION MANAGEMENT SERVICES			
Personal Services	**1,048,752**	**1,048,752**	
Other Operating Expense	**432,534**	**432,534**	
JUVENILE TRANSITION			
Personal Services	**662,692**	**662,692**	
Other Operating Expense	**908,545**	**908,545**	
COMMUNITY CORRECTIONS PROGRAMS			
Total Operating Expense	**34,018,114**	**34,018,114**	

The above appropriation for community corrections programs is not subject to transfer to any other fund or to transfer, assignment, or reassignment for any other use or purpose by the state board of finance notwithstanding IC 4-9.1-1-7 and IC 4-13-2-23 or by the budget agency notwithstanding IC 4-12-1-12 or any other law.

Notwithstanding IC 4-13-2-19 and any other law, the above appropriation for community corrections programs does not revert to the general fund or another fund at the close of a state fiscal year but remains available in subsequent state fiscal years for

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
the purposes of the appropriation.			
DRUG PREVENTION AND OFFENDER TRANSITION			
Total Operating Expense	**206,824**	**206,824**	

The above appropriation shall be used for minimum security release programs, transition programs, mentoring programs, and supervision of and assistance to adult and juvenile offenders to promote the successful integration of the offender into the community.

CENTRAL EMERGENCY RESPONSE			
Personal Services	**1,159,005**	**1,159,005**	
Other Operating Expense	**120,174**	**120,174**	
MEDICAL SERVICES			
Other Operating Expense	**76,130,153**	**86,032,783**	

The above appropriations for medical services shall be used only for services that are determined to be medically necessary.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
DRUG ABUSE PREVENTION			
Drug Abuse Fund (IC 11-8-2-11)			
Personal Services	**740,000**	**740,000**	
Other Operating Expense	**2,600**	**2,600**	
Augmentation allowed.			
COUNTY JAIL MAINTENANCE CONTINGENCY FUND			
Other Operating Expense	**20,000,000**	**20,000,000**	

Disbursements from the fund shall be made for the purpose of reimbursing sheriffs for the cost of incarcerating in county jails persons convicted of felonies to the extent that such persons are incarcerated for more than five (5) days after the day of sentencing, at the rate of $35 per day. In addition to the per diem, the state shall reimburse the sheriffs for expenses determined by the sheriff to be medically necessary medical care to the convicted persons. However, if the sheriff or county receives money with respect to a convicted person (from a source other than the county), the per diem or medical expense reimbursement with respect to the convicted person

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

shall be reduced by the amount received. A sheriff shall not be required to comply with IC 35-38-3-4(a) or transport convicted persons within five (5) days after the day of sentencing if the department of correction does not have the capacity to receive the convicted person.

Augmentation allowed.

FOOD SERVICES			
Total Operating Expense	**36,652,458**	**40,281,856**	
FOR THE STATE BUDGET AGENCY			
MEDICAL SERVICE PAYMENTS			
Total Operating Expense	**25,000,000**	**25,000,000**	

These appropriations for medical service payments are made to pay for services determined to be medically necessary for committed individuals, patients and students of institutions under the jurisdiction of the department of correction, the state department of health,

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

the division of mental health and addiction, the school for the blind and visually impaired, the school for the deaf, the division of disability and rehabilitative services, or the division of aging if the services are provided outside these institutions. These appropriations may not be used for payments for medical services that are covered by IC 12-16 unless these services have been approved under IC 12-16. These appropriations shall not be used for payment for medical services which are payable from an appropriation in this act for the state department of health, the division of mental health and addiction, the school for the blind and visually impaired, the school for the deaf, the division of disability and rehabilitative services, the division of aging, or the department of correction, or that are reimbursable from funds for medical assistance under IC 12-15. If these appropriations are insufficient to make these medical service payments, there is hereby appropriated such further sums as may be necessary.

Direct disbursements from the above contingency fund are not subject to the provisions of IC 4-13-2.

FOR THE DEPARTMENT OF ADMINISTRATION

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
DEPARTMENT OF CORRECTION OMBUDSMAN BUREAU			
Personal Services	**134,554**	**134,554**	
Other Operating Expense	**7,328**	**7,328**	
FOR THE DEPARTMENT OF CORRECTION			
INDIANA STATE PRISON			
Personal Services	**32,867,370**	**32,867,370**	
Other Operating Expense	**6,751,252**	**6,751,252**	
PENDLETON CORRECTIONAL FACILITY			
Personal Services	**27,299,395**	**27,299,395**	
Other Operating Expense	**7,070,626**	**7,070,626**	
CORRECTIONAL INDUSTRIAL FACILITY			
Personal Services	**20,245,770**	**20,245,770**	
Other Operating Expense	**997,243**	**997,243**	
INDIANA WOMEN'S PRISON			
Personal Services	**8,612,523**	**8,612,523**	
Other Operating Expense	**1,059,099**	**1,059,099**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
PUTNAMVILLE CORRECTIONAL FACILITY			
Personal Services	**30,333,741**	**30,333,741**	
Other Operating Expense	**4,329,691**	**4,329,691**	
WABASH VALLEY CORRECTIONAL FACILITY			
Personal Services	**35,452,554**	**35,452,554**	
Other Operating Expense	**5,409,888**	**5,409,888**	
PLAINFIELD EDUCATION RE-ENTRY FACILITY			
Personal Services	**7,055,354**	**7,055,354**	
Other Operating Expense	**3,235,412**	**3,235,412**	
INDIANAPOLIS JUVENILE CORRECTIONAL FACILITY			
Personal Services	**10,906,670**	**10,906,670**	
Other Operating Expense	**1,090,070**	**1,090,070**	
BRANCHVILLE CORRECTIONAL FACILITY			
Personal Services	**16,560,275**	**16,560,275**	
Other Operating Expense	**2,361,080**	**2,361,080**	
WESTVILLE CORRECTIONAL FACILITY			
Personal Services	**42,786,893**	**42,786,893**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Other Operating Expense	**5,980,703**	**5,980,703**	
ROCKVILLE CORRECTIONAL FACILITY FOR WOMEN			
Personal Services	**14,998,655**	**14,998,655**	
Other Operating Expense	**1,927,015**	**1,927,015**	
PLAINFIELD CORRECTIONAL FACILITY			
Personal Services	**22,950,007**	**22,950,007**	
Other Operating Expense	**2,619,303**	**2,619,303**	
RECEPTION AND DIAGNOSTIC CENTER			
Personal Services	**11,799,385**	**11,799,385**	
Other Operating Expense	**695,865**	**695,865**	
MIAMI CORRECTIONAL FACILITY			
Personal Services	**28,891,409**	**28,891,409**	
Other Operating Expense	**5,231,704**	**5,231,704**	
NEW CASTLE CORRECTIONAL FACILITY			
Other Operating Expense	**31,587,079**	**32,328,736**	
SOCIAL SERVICES BLOCK GRANT			
General Fund			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**5,029,318**	**5,029,318**	
Work Release - Study Release Special Revenue Fund (IC 11-10-8-6.5)			
Total Operating Expense	**1,328,704**	**1,328,704**	
Augmentation allowed from Work Release - Study Release Special Revenue Fund and Social Services Block Grant.			
HENRYVILLE CORRECTIONAL FACILITY			
Personal Services	**2,355,124**	**2,355,124**	
Other Operating Expense	**271,599**	**271,599**	
CHAIN O' LAKES CORRECTIONAL FACILITY			
Personal Services	**1,743,782**	**1,743,782**	
Other Operating Expense	**261,355**	**261,355**	
MADISON CORRECTIONAL FACILITY			
Personal Services	**4,835,168**	**4,835,168**	
Other Operating Expense	**962,558**	**962,558**	
EDINBURGH CORRECTIONAL FACILITY			
Personal Services	**3,614,415**	**3,614,415**	
Other Operating Expense	**388,295**	**388,295**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
SOUTH BEND JUVENILE CORRECTIONAL FACILITY			
Personal Services	**4,739,483**	**4,739,483**	
Other Operating Expense	**2,826,481**	**2,826,481**	
NORTH CENTRAL JUVENILE CORRECTIONAL FACILITY			
Personal Services	**9,213,446**	**9,213,446**	
Other Operating Expense	**1,243,603**	**1,243,603**	
CAMP SUMMIT			
Personal Services	**2,258,110**	**2,258,110**	
Other Operating Expense	**217,833**	**217,833**	
PENDLETON JUVENILE CORRECTIONAL FACILITY			
Personal Services	**15,807,771**	**15,807,771**	
Other Operating Expense	**1,633,941**	**1,633,941**	

B. LAW ENFORCEMENT

FOR THE INDIANA STATE POLICE AND MOTOR CARRIER INSPECTION
From the General Fund

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
	45,469,876	**45,469,876**	
From the Motor Vehicle Highway Account (IC 8-14-1)			
	79,313,933	**79,313,933**	
From the Motor Carrier Regulation Fund (IC 8-2.1-23)			
	4,391,978	**4,391,978**	
Augmentation allowed from the general fund, the motor vehicle highway account, and the motor carrier regulation fund.			

The amounts specified from the General Fund, the Motor Vehicle Highway Account, and the Motor Carrier Regulation Fund are for the following purposes:

Personal Services	**115,028,075**	**115,028,075**
Other Operating Expense	**14,147,712**	**14,147,712**

The above appropriations for personal services and other operating expense include funds to continue the state police minority recruiting program.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
The foregoing appropriations for the Indiana state police and motor carrier inspection include funds for the police security detail to be provided to the Indiana state fair board. However, amounts actually expended to provide security for the Indiana state fair board as determined by the budget agency shall be reimbursed by the Indiana state fair board to the state general fund.			
ODOMETER FRAUD INVESTIGATION			
Motor Vehicle Odometer Fund (IC 9-29-1-5)			
Total Operating Expense	**25,000**	**25,000**	
Augmentation allowed.			
STATE POLICE TRAINING			
State Police Training Fund (IC 5-2-8-5)			
Total Operating Expense	**502,875**	**502,875**	
Augmentation allowed.			
FORENSIC AND HEALTH SCIENCES LABORATORIES			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
From the General Fund			
	3,888,671	**3,888,671**	
From the Motor Carrier Regulation Fund (IC 8-2.1-23)			
	375,611	**375,611**	
From the Motor Vehicle Highway Account (IC 8-14-1)			
	6,783,078	**6,783,078**	

Augmentation allowed from the general fund, the motor vehicle highway account, and the motor carrier regulation fund.

The amounts specified from the General Fund, the Motor Vehicle Highway Account, and the Motor Carrier Regulation Fund are for the following purposes:

Personal Services	**10,572,562**	**10,572,562**
Other Operating Expense	**474,798**	**474,798**

ENFORCEMENT AID

General Fund

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**40,000**	**40,000**	
Motor Vehicle Highway Account (IC 8-14-1)			
Total Operating Expense	**40,000**	**40,000**	

The above appropriations for enforcement aid are to meet unforeseen emergencies of a confidential nature. They are to be expended under the direction of the superintendent and to be accounted for solely on the superintendent's authority.

PENSION FUND			
General Fund			
Total Operating Expense	**4,736,247**	**4,736,247**	
Motor Vehicle Highway Account (IC 8-14-1)			
Total Operating Expense	**4,736,246**	**4,736,246**	

The above appropriations shall be paid into the state police pension fund provided for in IC 10-12-2 in twelve (12) equal installments on or before July 30 and on or before the 30th of each succeeding month thereafter.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
BENEFIT FUND			
General Fund			
Total Operating Expense	**1,713,151**	**1,713,151**	
Augmentation allowed.			
Motor Vehicle Highway Account (IC 8-14-1)			
Total Operating Expense	**1,713,151**	**1,713,151**	
Augmentation allowed.			

All benefits to members shall be paid by warrant drawn on the treasurer of state by the auditor of state on the basis of claims filed and approved by the trustees of the state police pension and benefit funds created by IC 10-12-2.

SUPPLEMENTAL PENSION			
General Fund			
Total Operating Expense	**1,900,753**	**1,900,753**	
Augmentation allowed.			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Motor Vehicle Highway Account (IC 8-14-1)			
Total Operating Expense	**1,900,753**	**1,900,753**	
Augmentation allowed.			

If the above appropriations for supplemental pension for any one (1) year are greater than the amount actually required under the provisions of IC 10-12-5, then the excess shall be returned proportionately to the funds from which the appropriations were made. If the amount actually required under IC 10-12-5 is greater than the above appropriations, then, with the approval of the governor and the budget agency, those sums may be augmented from the general fund and the motor vehicle highway account.

ACCIDENT REPORTING			
Accident Report Account (IC 9-29-11-1)			
Total Operating Expense	**30,000**	**30,000**	
Augmentation allowed.			
DRUG INTERDICTION			
Drug Interdiction Fund (IC 10-11-7)			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**273,420**	**273,420**	
Augmentation allowed.			
DNA SAMPLE PROCESSING FUND			
DNA Sample Processing Fund (IC 10-13-6-9.5)			
Total Operating Expense	**1,327,777**	**1,327,777**	
Augmentation allowed.			
FOR THE INTEGRATED PUBLIC SAFETY COMMISSION			
PROJECT SAFE-T			
Integrated Public Safety Communications Fund (IC 5-26-4-1)			
Total Operating Expense	**13,000,000**	**13,000,000**	
Augmentation allowed.			
FOR THE ADJUTANT GENERAL			
CAMP ATTERBURY MUSCATATUCK CENTER FOR COMPLEX OPERATIONS			
Personal Services	**653,456**	**653,456**	
Other Operating Expense	**362,134**	**362,134**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
ADJUTANT GENERAL FEDERAL COOP AGREEMENT			
Total Operating Expense	**9,653,699**	**9,653,699**	
BAER FIELD FEDERAL COOP AGREEMENT			
Total Operating Expense	**370,161**	**370,161**	
HULMAN FIELD FEDERAL COOP AGREEMENT			
Total Operating Expense	**306,453**	**306,453**	
DISABLED SOLDIERS' PENSION			
Other Operating Expense	**1**	**1**	
Augmentation allowed.			
MUTC - MUSCATATUCK URBAN TRAINING CENTER			
Total Operating Expense	**1,386,906**	**1,386,906**	
HOOSIER YOUTH CHALLENGE ACADEMY			
Total Operating Expense	**1,148,948**	**1,800,000**	
GOVERNOR'S CIVIL AND MILITARY CONTINGENCY FUND			
Total Operating Expense			**288,672**

The above appropriations for the governor's civil and military contingency fund are

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
made under IC 10-16-11-1.			
FOR THE CRIMINAL JUSTICE INSTITUTE			
ADMINISTRATIVE MATCH			
Total Operating Expense	**427,253**	**427,253**	
DRUG ENFORCEMENT MATCH			
Total Operating Expense	**1,571,760**	**1,571,760**	
VICTIM AND WITNESS ASSISTANCE FUND			
Victim and Witness Assistance Fund (IC 5-2-6-14)			
Total Operating Expense	**629,689**	**629,689**	
Augmentation allowed.			
ALCOHOL AND DRUG COUNTERMEASURES			
Alcohol and Drug Countermeasures Fund (IC 9-27-2-11)			
Total Operating Expense	**348,211**	**348,211**	
Augmentation allowed.			
STATE DRUG FREE COMMUNITIES FUND			
State Drug Free Communities Fund (IC 5-2-10-2)			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**526,585**	**526,585**	
Augmentation allowed.			
INDIANA SAFE SCHOOLS			
General Fund			
Total Operating Expense	**1,247,756**	**1,247,756**	
Indiana Safe Schools Fund (IC 5-2-10.1-2)			
Total Operating Expense	**764,397**	**764,397**	
Augmentation allowed from Indiana Safe Schools Fund.			

Of the above appropriations for the Indiana safe schools program, $1,262,153 is appropriated annually to provide grants to school corporations for school safe haven programs, emergency preparedness programs, and school safety programs, and $750,000 is appropriated annually for use in providing training to school safety specialists.

CHILD RESTRAINT SYSTEM FUND			
Total Operating Expense	**100,000**	**100,000**	
COMMUNITY DRIVER TRAINING SCHOOLS & INSTRUCTION			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Motor Vehicle Highway Account (IC 8-14-1)			
Total Operating Expense	**63,359**	**63,359**	
Augmentation allowed.			
OFFICE OF TRAFFIC SAFETY			
Motor Vehicle Highway Account (IC 8-14-1)			
Personal Services	**575,778**	**575,778**	
Other Operating Expense	**13,211,355**	**13,211,355**	
Augmentation allowed.			

The above appropriation for the office of traffic safety is from the motor vehicle highway account and may be used to fund traffic safety projects that are included in a current highway safety plan approved by the governor and the budget agency. The department shall apply to the national highway traffic safety administration for reimbursement of all eligible project costs. Any federal reimbursement received by the department for the highway safety plan shall be deposited into the motor vehicle highway account.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
SEXUAL ASSAULT VICTIMS' ASSISTANCE			
Sexual Assault Victims' Assistance Account (IC 5-2-6-23(h))			
Total Operating Expense	**49,000**	**49,000**	

Augmentation allowed. The full amount of the above appropriations shall be distributed to rape crisis centers in Indiana without any deduction of personal services or other operating expenses of any state agency.

VICTIMS OF VIOLENT CRIME ADMINISTRATION			
Violent Crime Victims Compensation Fund (IC 5-2-6.1-40)			
Personal Services	**112,122**	**112,122**	
Other Operating Expense	**2,407,402**	**2,407,402**	
Augmentation allowed.			
DOMESTIC VIOLENCE PREVENTION AND TREATMENT			
General Fund			
Total Operating Expense	**1,734,014**	**1,734,014**	
Domestic Violence Prevention and Treatment Fund (IC 12-18-4)			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**1,115,590**	**1,115,590**	

Augmentation allowed.

FOR THE CORONERS' TRAINING BOARD

Coroners' Training and Continuing Education Fund (IC 4-23-6.5-8)

Total Operating Expense	**361,229**	**361,229**	

Augmentation allowed.

FOR THE LAW ENFORCEMENT TRAINING ACADEMY

From the General Fund

2,190,933 2,190,933

From the Law Enforcement Training Fund (IC 5-2-1-13(b))

2,220,048 2,220,048

Augmentation allowed from the Law Enforcement Training Fund.

The amounts specified from the General Fund and the Law Enforcement Training Fund are for the following purposes:

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Personal Services	**3,608,441**	**3,608,441**	
Other Operating Expense	**802,540**	**802,540**	
C. REGULATORY AND LICENSING			
FOR THE BUREAU OF MOTOR VEHICLES			
Motor Vehicle Highway Account (IC 8-14-1)			
Personal Services	**17,446,403**	**17,446,403**	
Other Operating Expense	**13,493,000**	**13,493,000**	
Augmentation allowed.			
LICENSE PLATES			
Motor Vehicle Highway Account (IC 8-14-1)			
Total Operating Expense	**5,600,000**	**5,600,000**	
Augmentation allowed.			
FINANCIAL RESPONSIBILITY COMPLIANCE VERIFICATION			
Financial Responsibility Compliance Verification Fund (IC 9-25-9-7)			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**6,571,932**	**6,571,932**	
Augmentation allowed.			
STATE MOTOR VEHICLE TECHNOLOGY			
State Motor Vehicle Technology Fund (IC 9-29-16-1)			
Total Operating Expense	**5,261,692**	**5,261,692**	
Augmentation allowed.			
FOR THE DEPARTMENT OF LABOR			
Personal Services	**871,619**	**871,619**	
Other Operating Expense	**141,615**	**141,615**	
BUREAU OF MINES AND MINING			
Personal Services	**150,554**	**150,554**	
Other Operating Expense	**20,104**	**20,104**	
M.I.S. RESEARCH AND STATISTICS			
Personal Services	**207,354**	**207,354**	
Other Operating Expense	**22,360**	**22,360**	
OCCUPATIONAL SAFETY AND HEALTH			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Personal Services	**3,237,073**	**3,237,073**	
Other Operating Expense	**568,548**	**568,548**	

The above funds are appropriated to occupational safety and health and management information services research and statistics to provide the total program cost of the Indiana occupational safety and health plan as approved by the United States Department of Labor. Inasmuch as the state is eligible to receive from the federal government partial reimbursement of the state's total Indiana occupational safety and health plan program cost, it is the intention of the general assembly that the department of labor make application to the federal government for the federal share of the total program cost.

EMPLOYMENT OF YOUTH			
Employment of Youth Fund (IC 20-33-3-42)			
Total Operating Expense	**183,555**	**183,555**	
Augmentation allowed.			
INSAFE			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Special Fund for Safety and Health Consultation Services (IC 22-8-1.1-48)			
Personal Services	**874,587**	**874,587**	
Other Operating Expense	**217,752**	**217,752**	
Augmentation allowed.			
FOR THE DEPARTMENT OF INSURANCE			
Department of Insurance Fund (IC 27-1-3-28)			
Personal Services	**5,318,138**	**5,318,138**	
Other Operating Expense	**1,195,519**	**1,195,519**	
Augmentation allowed.			
BAIL BOND DIVISION			
Bail Bond Enforcement and Administration Fund (IC 27-10-5-1)			
Personal Services	**171,597**	**171,597**	
Other Operating Expense	**8,832**	**8,832**	
Augmentation allowed.			
PATIENTS' COMPENSATION AUTHORITY			
Patients' Compensation Fund (IC 34-18-6-1)			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Personal Services	**490,135**	**490,135**	
Other Operating Expense	**1,346,870**	**1,346,870**	
Augmentation allowed.			
POLITICAL SUBDIVISION RISK MANAGEMENT			
Political Subdivision Risk Management Fund (IC 27-1-29-10)			
Personal Services	**44,195**	**44,195**	
Other Operating Expense	**782,960**	**782,960**	
Augmentation allowed.			
MINE SUBSIDENCE INSURANCE			
Mine Subsidence Insurance Fund (IC 27-7-9-7)			
Personal Services	**62,116**	**62,116**	
Other Operating Expense	**827,283**	**827,283**	
Augmentation allowed.			
TITLE INSURANCE ENFORCEMENT OPERATING			
Title Insurance Enforcement Fund (IC 27-7-3.6-1)			
Personal Services	**288,370**	**288,370**	
Other Operating Expense	**80,921**	**80,921**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Augmentation allowed.			
FOR THE ALCOHOL AND TOBACCO COMMISSION			
Enforcement and Administration Fund (IC 7.1-4-10-1)			
Personal Services	**8,612,469**	**8,612,469**	
Other Operating Expense	**1,780,699**	**1,780,699**	
Augmentation allowed.			
ALCOHOLIC BEVERAGE ENFORCEMENT OFFICERS' TRAINING			
Alcoholic Beverage Commission Enforcement Officers' Training Fund (IC 5-2-8-8)			
Total Operating Expense	**4,200**	**4,200**	
Augmentation allowed.			
YOUTH TOBACCO EDUCATION AND ENFORCEMENT			
Youth Tobacco Education and Enforcement Fund (IC 7.1-6-2-6)			
Total Operating Expense	**25,000**	**25,000**	
Augmentation allowed.			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
FOR THE DEPARTMENT OF FINANCIAL INSTITUTIONS			
Financial Institutions Fund (IC 28-11-2-9)			
Personal Services	**6,972,935**	**6,972,935**	
Other Operating Expense	**1,518,119**	**1,518,119**	
Augmentation allowed.			
FOR THE PROFESSIONAL LICENSING AGENCY			
Personal Services	**4,669,317**	**4,669,317**	
Other Operating Expense	**867,325**	**867,325**	
PRENEED CONSUMER PROTECTION			
Preneed Consumer Protection Fund (IC 30-2-13-28)			
Total Operating Expense	**72,750**	**72,750**	
Augmentation allowed.			
BOARD OF FUNERAL AND CEMETERY SERVICE			
Funeral Service Education Fund (IC 25-15-9-13)			
Total Operating Expense	**4,850**	**4,850**	
Augmentation allowed.			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
FOR THE CIVIL RIGHTS COMMISSION			
Personal Services	**1,916,298**	**1,916,298**	
Other Operating Expense	**270,632**	**270,632**	

It is the intention of the general assembly that the civil rights commission shall apply to the federal government for funding based upon the processing of employment and housing discrimination complaints by the civil rights commission. Such federal funds received by the state shall be considered as a reimbursement of state expenditures and shall be deposited into the state general fund.

MARTIN LUTHER KING JR. HOLIDAY COMMISSION			
Total Operating Expense	**20,000**	**20,000**	
FOR THE UTILITY CONSUMER COUNSELOR			
Public Utility Fund (IC 8-1-6-1)			
Personal Services	**4,485,790**	**4,485,790**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Other Operating Expense	**687,910**	**687,910**	
Augmentation allowed.			
EXPERT WITNESS FEES AND AUDIT			
Public Utility Fund (IC 8-1-6-1)			
Total Operating Expense			**1,503,500**
Augmentation allowed.			
FOR THE UTILITY REGULATORY COMMISSION			
Public Utility Fund (IC 8-1-6-1)			
Personal Services	**6,729,019**	**6,729,019**	
Other Operating Expense	**1,917,752**	**1,917,752**	
Augmentation allowed.			
FOR THE WORKERS' COMPENSATION BOARD			
From the General Fund			
	1,918,782	**1,918,782**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
From the Workers' Compensation Supplemental Administration Fund (IC 22-3-5-6)			
	145,007	**145,007**	
Augmentation allowed.			

The amounts specified from the general fund and the workers' compensation supplemental administrative fund are for the following purposes:

Personal Services	**1,927,761**	**1,927,761**	
Other Operating Expense	**136,028**	**136,028**	
FOR THE STATE BOARD OF ANIMAL HEALTH			
Personal Services	**4,021,557**	**4,021,557**	
Other Operating Expense	**865,228**	**865,228**	
INDEMNITY FUND			
Total Operating Expense			**9,700**
Augmentation allowed.			
MEAT & POULTRY INSPECTION			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**1,884,049**	**1,884,049**	

FOR THE DEPARTMENT OF HOMELAND SECURITY
FIRE AND BUILDING SERVICES
From the Fire and Building Services Fund (IC 22-12-6-1)
15,251,362 15,251,362
From the Medical Services Education Fund (IC 16-31-7-1)
23,437 23,437
Augmentation allowed from the fire and building services fund and medical services education fund.

The amounts specified from the fire and building services fund and medical services education fund are for the following purposes:

Personal Services	**12,467,711**	**12,467,711**
Other Operating Expense	**2,807,088**	**2,807,088**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
REGIONAL PUBLIC SAFETY TRAINING			
Regional Public Safety Training Fund (IC 10-15-3-12)			
Total Operating Expense	**1,902,047**	**1,902,047**	
Augmentation allowed.			
EMERGENCY MANAGEMENT CONTINGENCY FUND			
Total Operating Expense	**121,645**	**121,645**	

The above appropriations for the emergency management contingency fund are made under IC 10-14-3-28.

PUBLIC ASSISTANCE			
Total Operating Expense	**1**	**1**	
HOMELAND SECURITY FUND - FOUNDATION			
Homeland Security Fund - Foundation (IC 10-15-3-1)			
Total Operating Expense	**224,423**	**224,423**	
Augmentation allowed.			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
INDIANA EMERGENCY RESPONSE COMMISSION			
Emergency Planning and Right to Know Fund (IC 6-6-10-5)			
Total Operating Expense	**40,962**	**40,962**	
Augmentation allowed.			
STATE DISASTER RELIEF FUND			
State Disaster Relief Fund (IC 10-14-4-5)			
Total Operating Expense	**500,000**	**500,000**	
Augmentation allowed, not to exceed revenues collected from the public safety fee imposed by IC 22-11-14-12.			
Augmentation allowed from the general fund to match federal disaster relief funds.			
REDUCED IGNITION PROPENSITY STANDARDS FOR CIGARETTES FUND			
Reduced Ignition Propensity Standards for Cigarettes Fund (IC 22-14-7-22(a))			
Total Operating Expense	**80,000**	**80,000**	
Augmentation allowed.			
INDIANA INTELLIGENCE FUSION CENTER			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**969,252**	**969,252**	
STATEWIDE FIRE AND BUILDING SAFETY EDUCATION FUND			
Statewide Fire and Building Safety Education Fund (IC 22-12-6-3)			
Total Operating Expense	**117,162**	**117,162**	
Augmentation allowed.			

SECTION 5. [EFFECTIVE JULY 1, 2009]

CONSERVATION AND ENVIRONMENT

A. NATURAL RESOURCES

FOR THE DEPARTMENT OF NATURAL RESOURCES - ADMINISTRATION			
Personal Services	**8,179,372**	**8,179,372**	
Other Operating Expense	**1,358,733**	**1,358,733**	
ENTOMOLOGY AND PLANT PATHOLOGY DIVISION			
Personal Services	**588,850**	**588,850**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Other Operating Expense	**151,997**	**151,997**	
ENTOMOLOGY AND PLANT PATHOLOGY FUND			
Entomology and Plant Pathology Fund (IC 14-24-10-3)			
Total Operating Expense			**662,868**
Augmentation allowed.			
ENGINEERING DIVISION			
Personal Services	**1,728,557**	**1,728,557**	
Other Operating Expense	**99,232**	**99,232**	
STATE MUSEUM			
Personal Services	**5,020,180**	**5,020,180**	
Other Operating Expense	**1,251,406**	**1,251,406**	
HISTORIC PRESERVATION DIVISION			
Personal Services	**755,246**	**755,246**	
Other Operating Expense	**70,346**	**70,346**	
HISTORIC PRESERVATION - FEDERAL			
Total Operating Expense	**32,559**	**32,559**	
STATE HISTORIC SITES			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Personal Services	**2,400,530**	**2,400,530**	
Other Operating Expense	**499,789**	**499,789**	

From the above appropriations, $75,000 in each state fiscal year shall be used for the Grissom Museum.

LINCOLN PRODUCTION			
Total Operating Expense	**440,000**	**440,000**	
INDIANA FLOOD CONTROL SUMMIT			
Total Operating Expense	**5,000**	**0**	

The department of natural resources shall schedule, organize, and conduct an Indiana flood control summit for one (1) or more days in Indiana before November 1, 2009.

WABASH RIVER HERITAGE CORRIDOR			
Total Operating Expense	**80,246**	**80,246**	
OUTDOOR RECREATION DIVISION			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Personal Services	**615,004**	**615,004**	
Other Operating Expense	**41,931**	**41,931**	
NATURE PRESERVES DIVISION			
Personal Services	**923,068**	**923,068**	
Other Operating Expense	**46,569**	**46,569**	
WATER DIVISION			
Personal Services	**4,417,754**	**4,417,754**	
Other Operating Expense	**405,079**	**405,079**	

All revenues accruing from state and local units of government and from private utilities and industrial concerns as a result of water resources study projects, and as a result of topographic and other mapping projects, shall be deposited into the state general fund, and such receipts are hereby appropriated, in addition to the foregoing amounts, for water resources studies.

DEER RESEARCH AND MANAGEMENT

Deer Research and Management Fund (IC 14-22-5-2)

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**189,160**	**189,160**	
Augmentation allowed.			
OIL AND GAS DIVISION			
Oil and Gas Fund (IC 6-8-1-27)			
Personal Services	**1,300,410**	**1,300,410**	
Other Operating Expense	**322,789**	**322,789**	
Augmentation allowed.			

STATE PARKS AND RESERVOIRS

From the General Fund

11,343,213 11,343,213

From the State Parks and Reservoirs Special Revenue Fund (IC 14-19-8-2)

20,644,742 20,644,742

Augmentation allowed from the State Parks and Reservoirs Special Revenue Fund.

The amounts specified from the General Fund and the State Parks and Reservoirs Special Revenue Fund are for the following purposes:

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Personal Services	**23,781,129**	**23,781,129**	
Other Operating Expense	**8,206,826**	**8,206,826**	

OFF-ROAD VEHICLE AND SNOWMOBILE FUND

Off-Road Vehicle and Snowmobile Fund (IC 14-16-1-30)

Total Operating Expense	**291,001**	**291,001**	

Augmentation allowed.

LAW ENFORCEMENT DIVISION

From the General Fund

	9,936,748	**9,936,748**

From the Fish and Wildlife Fund (IC 14-22-3-2)

	13,381,894	**13,381,894**

Augmentation allowed from the Fish and Wildlife Fund.

The amounts specified from the General Fund and the Fish and Wildlife Fund are for the following purposes:

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Personal Services	**19,396,301**	**19,396,301**	
Other Operating Expense	**3,922,341**	**3,922,341**	
FISH AND WILDLIFE DIVISION			
Fish and Wildlife Fund (IC 14-22-3-2)			
Personal Services	**13,124,471**	**13,124,471**	
Other Operating Expense	**4,377,957**	**4,377,957**	
Augmentation allowed.			
FORESTRY DIVISION			
From the General Fund			
	4,494,586	**4,494,586**	
From the State Forestry Fund (IC 14-23-3-2)			
	7,492,186	**7,492,186**	
Augmentation allowed from the State Forestry Fund.			

The amounts specified from the General Fund and the State Forestry Fund are

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
for the following purposes:			
Personal Services	**7,796,996**	**7,796,996**	
Other Operating Expense	**4,189,776**	**4,189,776**	
RECLAMATION DIVISION			
Natural Resources Reclamation Division Fund (IC 14-34-14-2)			
Personal Services	**1,496,777**	**1,496,777**	
Other Operating Expense	**393,565**	**393,565**	
Augmentation allowed.			

In addition to any of the foregoing appropriations for the department of natural resources, any federal funds received by the state of Indiana for support of approved outdoor recreation projects for planning, acquisition, and development under the provisions of the federal Land and Water Conservation Fund Act, P.L.88-578, are appropriated for the uses and purposes for which the funds were paid to the state, and shall be distributed by the department of natural resources to state agencies and other governmental

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
units in accordance with the provisions under which the funds were received.			
LAKE MICHIGAN COASTAL PROGRAM			
Cigarette Tax Fund (IC 6-7-1-29.1)			
Total Operating Expense	**142,283**	**142,283**	
Augmentation allowed.			
LAKE AND RIVER ENHANCEMENT			
Lake and River Enhancement Fund (IC 6-6-11-12.5)			
Total Operating Expense			**4,603,882**
Augmentation allowed.			
CONSERVATION OFFICERS' MARINE ENFORCEMENT FUND			
Lake and River Enhancement Fund (IC 6-6-11-12.5)			
Total Operating Expense	**795,400**	**795,400**	
Augmentation allowed.			
HERITAGE TRUST			
Total Operating Expense	**1,000,000**	**1,000,000**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
B. OTHER NATURAL RESOURCES			
FOR THE WORLD WAR MEMORIAL COMMISSION			
Personal Services	**735,437**	**735,437**	
Other Operating Expense	**302,381**	**302,381**	

All revenues received as rent for space in the buildings located at 777 North Meridian Street and 700 North Pennsylvania Street, in the city of Indianapolis, that exceed the costs of operation and maintenance of the space rented, shall be paid into the general fund. The American Legion shall provide for the complete maintenance of the interior of these buildings.

FOR THE WHITE RIVER PARK COMMISSION			
Total Operating Expense	**998,999**	**998,999**	
FOR THE MAUMEE RIVER BASIN COMMISSION			
Total Operating Expense	**67,658**	**67,658**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
FOR THE ST. JOSEPH RIVER BASIN COMMISSION			
Total Operating Expense	**58,751**	**58,751**	
FOR THE KANKAKEE RIVER BASIN COMMISSION			
Total Operating Expense	**67,658**	**67,658**	

C. ENVIRONMENTAL MANAGEMENT

FOR THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
ADMINISTRATION

From the General Fund			
	3,363,457	**3,363,457**	
From the State Solid Waste Management Fund (IC 13-20-22-2)			
	66,480	**66,480**	
From the Indiana Recycling Promotion and Assistance Fund (IC 4-23-5.5-14)			
	57,475	**57,475**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
From the Waste Tire Management Fund (IC 13-20-13-8)	**101,519**	**101,519**	
From the Title V Operating Permit Program Trust Fund (IC 13-17-8-1)	**639,953**	**639,953**	
From the Environmental Management Permit Operation Fund (IC 13-15-11-1)	**608,752**	**608,752**	
From the Environmental Management Special Fund (IC 13-14-12-1)	**88,128**	**88,128**	
From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)	**179,093**	**179,093**	
From the Asbestos Trust Fund (IC 13-17-6-3)	**23,089**	**23,089**	
From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)	**51,616**	**51,616**	
From the Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)	**1,761,099**	**1,761,099**	
Augmentation allowed from the State Solid Waste Management Fund, Indiana			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Recycling Promotion and Assistance Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund.			

The amounts specified from the General Fund, State Solid Waste Management Fund, Indiana Recycling Promotion and Assistance Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund are for the following purposes:

Personal Services	**5,241,508**	**5,241,508**
Other Operating Expense	**1,699,153**	**1,699,153**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
LABORATORY CONTRACTS			
Environmental Management Special Fund (IC 13-14-12-1)			
Total Operating Expense	**461,424**	**461,424**	
Augmentation allowed.			
Hazardous Substances Response Trust Fund (IC 13-25-4-1)			
Total Operating Expense	**200,747**	**200,747**	
Augmentation allowed.			
OWQ LABORATORY CONTRACTS			
Environmental Management Special Fund (IC 13-14-12-1)			
Total Operating Expense	**340,470**	**340,470**	
Augmentation allowed.			
Hazardous Substances Response Trust Fund (IC 13-25-4-1)			
Total Operating Expense	**794,430**	**794,430**	
Augmentation allowed.			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
NORTHWEST REGIONAL OFFICE			
From the General Fund			
	308,229	**308,229**	
From the State Solid Waste Management Fund (IC 13-20-22-2)			
	6,760	**6,760**	
From the Indiana Recycling Promotion and Assistance Fund (IC 4-23-5.5-14)			
	5,844	**5,844**	
From the Waste Tire Management Fund (IC 13-20-13-8)			
	12,094	**12,094**	
From the Title V Operating Permit Program Trust Fund (IC 13-17-8-1)			
	143,845	**143,845**	
From the Environmental Management Permit Operation Fund (IC 13-15-11-1)			
	69,339	**69,339**	
From the Environmental Management Special Fund (IC 13-14-12-1)			
	10,760	**10,760**	
From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)			
	23,294	**23,294**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
From the Asbestos Trust Fund (IC 13-17-6-3)			
	5,190	**5,190**	
From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)			
	7,396	**7,396**	

Augmentation allowed from the State Solid Waste Management Fund, Indiana Recycling Promotion and Assistance Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, and Underground Petroleum Storage Tank Trust Fund.

The amounts specified from the General Fund, State Solid Waste Management Fund, Indiana Recycling Promotion and Assistance Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, and Underground Petroleum Storage Tank Trust Fund are for the following purposes:

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Personal Services	**255,609**	**255,609**	
Other Operating Expense	**337,142**	**337,142**	

NORTHERN REGIONAL OFFICE

From the General Fund

190,702 190,702

From the State Solid Waste Management Fund (IC 13-20-22-2)

8,067 8,067

From the Indiana Recycling Promotion and Assistance Fund (IC 4-23-5.5-14)

6,972 6,972

From the Waste Tire Management Fund (IC 13-20-13-8)

12,143 12,143

From the Title V Operating Permit Program Trust Fund (IC 13-17-8-1)

118,951 118,951

From the Environmental Management Permit Operation Fund (IC 13-15-11-1)

74,143 74,143

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
From the Environmental Management Special Fund (IC 13-14-12-1)	**11,395**	**11,395**	
From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)	**21,336**	**21,336**	
From the Asbestos Trust Fund (IC 13-17-6-3)	**4,290**	**4,290**	
From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)	**6,050**	**6,050**	

Augmentation allowed from the State Solid Waste Management Fund, Indiana Recycling Promotion and Assistance Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, and Underground Petroleum Storage Tank Trust Fund.

The amounts specified from the General Fund, State Solid Waste Management Fund, Indiana Recycling Promotion and Assistance Fund, Waste Tire Management Fund,

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, and Underground Petroleum Storage Tank Trust Fund are for the following purposes:			
Personal Services	**204,566**	**204,566**	
Other Operating Expense	**249,483**	**249,483**	
SOUTHWEST REGIONAL OFFICE			
From the General Fund			
	152,909	**152,909**	
From the State Solid Waste Management Fund (IC 13-20-22-2)			
	16,615	**16,615**	
From the Indiana Recycling Promotion and Assistance Fund (IC 4-23-5.5-14)			
	14,363	**14,363**	
From the Waste Tire Management Fund (IC 13-20-13-8)			
	20,150	**20,150**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
From the Title V Operating Permit Program Trust Fund (IC 13-17-8-1)	**69,085**	**69,085**	
From the Environmental Management Permit Operation Fund (IC 13-15-11-1)	**65,400**	**65,400**	
From the Environmental Management Special Fund (IC 13-14-12-1)	**11,913**	**11,913**	
From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)	**22,794**	**22,794**	
From the Asbestos Trust Fund (IC 13-17-6-3)	**2,490**	**2,490**	
From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)	**6,564**	**6,564**	

Augmentation allowed from the State Solid Waste Management Fund, Indiana Recycling Promotion and Assistance Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, and Underground Petroleum Storage

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Tank Trust Fund.			

The amounts specified from the General Fund, State Solid Waste Management Fund, Indiana Recycling Promotion and Assistance Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, and Underground Petroleum Storage Tank Trust Fund are for the following purposes:

Personal Services		**200,171**	**200,171**
Other Operating Expense		**182,112**	**182,112**

LEGAL AFFAIRS

From the General Fund

		493,113	**493,113**

From the Waste Tire Management Fund (IC 13-20-13-8)

		8,168	**8,168**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
From the Title V Operating Permit Program Trust Fund (IC 13-17-8-1)	**217,015**	**217,015**	
From the Environmental Management Permit Operation Fund (IC 13-15-11-1)	**159,037**	**159,037**	
From the Environmental Management Special Fund (IC 13-14-12-1)	**19,518**	**19,518**	
From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)	**36,872**	**36,872**	
From the Asbestos Trust Fund (IC 13-17-6-3)	**7,829**	**7,829**	
From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)	**9,907**	**9,907**	
From the Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)	**337,980**	**337,980**	

Augmentation allowed from the Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund.			

The amounts specified from the General Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund are for the following purposes:

Personal Services		**1,173,821**	**1,173,821**
Other Operating Expense		**115,618**	**115,618**

ENFORCEMENT

From the General Fund

		199,909	**199,909**

From the Waste Tire Management Fund (IC 13-20-13-8)

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
	14,231	**14,231**	
From the Title V Operating Permit Program Trust Fund (IC 13-17-8-1)			
	55,898	**55,898**	
From the Environmental Management Special Fund (IC 13-14-12-1)			
	15,847	**15,847**	
From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)			
	51,200	**51,200**	
From the Asbestos Trust Fund (IC 13-17-6-3)			
	2,016	**2,016**	
From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)			
	17,255	**17,255**	
Augmentation allowed from the Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, and Underground Petroleum Storage Tank Trust Fund.			

The amounts specified from the General Fund, Waste Tire Management Fund, Title V

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Operating Permit Program Trust Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, and Underground Petroleum Storage Tank Trust Fund are for the following purposes:			
Personal Services	**289,276**	**289,276**	
Other Operating Expense	**67,080**	**67,080**	
INVESTIGATIONS			
From the General Fund			
	173,097	**173,097**	
From the State Solid Waste Management Fund (IC 13-20-22-2)			
	6,622	**6,622**	
From the Indiana Recycling Promotion and Assistance Fund (IC 4-23-5.5-14)			
	5,725	**5,725**	
From the Waste Tire Management Fund (IC 13-20-13-8)			
	15,565	**15,565**	
From the Title V Operating Permit Program Trust Fund (IC 13-17-8-1)			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
	57,883	**57,883**	
From the Environmental Management Permit Operation Fund (IC 13-15-11-1)			
	83,397	**83,397**	
From the Environmental Management Special Fund (IC 13-14-12-1)			
	10,405	**10,405**	
From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)			
	33,468	**33,468**	
From the Asbestos Trust Fund (IC 13-17-6-3)			
	2,088	**2,088**	
From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)			
	11,753	**11,753**	

Augmentation allowed from the State Solid Waste Management Fund, Indiana Recycling Promotion and Assistance Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, and Underground Petroleum Storage Tank Trust Fund.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
The amounts specified from the General Fund, State Solid Waste Management Fund, Indiana Recycling Promotion and Assistance Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, and Underground Petroleum Storage Tank Trust Fund are for the following purposes:			
Personal Services	**330,556**	**330,556**	
Other Operating Expense	**69,447**	**69,447**	
MEDIA AND COMMUNICATIONS			
From the General Fund			
	417,794	**417,794**	
From the State Solid Waste Management Fund (IC 13-20-22-2)			
	8,437	**8,437**	
From the Indiana Recycling Promotion and Assistance Fund (IC 4-23-5.5-14)			
	7,294	**7,294**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
From the Waste Tire Management Fund (IC 13-20-13-8)			
	12,595	**12,595**	
From the Title V Operating Permit Program Trust Fund (IC 13-17-8-1)			
	73,727	**73,727**	
From the Environmental Management Permit Operation Fund (IC 13-15-11-1)			
	64,768	**64,768**	
From the Environmental Management Special Fund (IC 13-14-12-1)			
	9,757	**9,757**	
From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)			
	20,693	**20,693**	
From the Asbestos Trust Fund (IC 13-17-6-3)			
	2,657	**2,657**	
From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)			
	6,208	**6,208**	
From the Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)			
	211,660	**211,660**	
Augmentation allowed from the State Solid Waste Management Fund, Indiana			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Recycling Promotion and Assistance Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund.			

The amounts specified from the General Fund, State Solid Waste Management Fund, Indiana Recycling Promotion and Assistance Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund, are for the following purposes:

Personal Services	**780,640**	**780,640**
Other Operating Expense	**54,950**	**54,950**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
COMMUNITY RELATIONS			
From the General Fund			
	480,081	**480,081**	
From the State Solid Waste Management Fund (IC 13-20-22-2)			
	13,954	**13,954**	
From the Indiana Recycling Promotion and Assistance Fund (IC 4-23-5.5-14)			
	12,061	**12,061**	
From the Waste Tire Management Fund (IC 13-20-13-8)			
	20,830	**20,830**	
From the Title V Operating Permit Program Trust Fund (IC 13-17-8-1)			
	121,916	**121,916**	
From the Environmental Management Permit Operation Fund (IC 13-15-11-1)			
	107,104	**107,104**	
From the Environmental Management Special Fund (IC 13-14-12-1)			
	16,124	**16,124**	
From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)			
	34,215	**34,215**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
From the Asbestos Trust Fund (IC 13-17-6-3)			
	4,398	**4,398**	
From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)			
	10,260	**10,260**	
From the Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)			
	349,996	**349,996**	

Augmentation allowed from the State Solid Waste Management Fund, Indiana Recycling Promotion and Assistance Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund.

The amounts specified from the General Fund, State Solid Waste Management Fund, Indiana Recycling Promotion and Assistance Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund are for the following purposes:			
Personal Services	**1,080,148**	**1,080,148**	
Other Operating Expense	**90,791**	**90,791**	
OHIO RIVER VALLEY WATER SANITATION COMMISSION			
Environmental Management Special Fund (IC 13-14-12-1)			
Total Operating Expense	**270,242**	**270,242**	
Augmentation allowed.			
OFFICE OF ENVIRONMENTAL RESPONSE			
Personal Services	**3,000,468**	**3,000,468**	
Other Operating Expense	**319,013**	**319,013**	
POLLUTION PREVENTION AND TECHNICAL ASSISTANCE			
Personal Services	**1,456,036**	**1,456,036**	
Other Operating Expense	**437,489**	**437,489**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
PCB INSPECTIONS			
Environmental Management Permit Operation Fund (IC 13-15-11-1)			
Total Operating Expense	**30,562**	**30,562**	
Augmentation allowed.			
U.S. GEOLOGICAL SURVEY CONTRACTS			
Environmental Management Special Fund (IC 13-14-12-1)			
Total Operating Expense	**64,398**	**64,398**	
Augmentation allowed.			
STATE SOLID WASTE GRANTS MANAGEMENT			
State Solid Waste Management Fund (IC 13-20-22-2)			
Personal Services	**391,814**	**391,814**	
Other Operating Expense	**337,443**	**337,443**	
Augmentation allowed.			
RECYCLING OPERATING			
Indiana Recycling Promotion and Assistance Fund (IC 4-23-5.5-14)			
Personal Services	**325,931**	**325,931**	
Other Operating Expense	**312,525**	**312,525**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Augmentation allowed.			
RECYCLING PROMOTION AND ASSISTANCE PROGRAM			
Indiana Recycling Promotion and Assistance Fund (IC 4-23-5.5-14)			
Total Operating Expense	**770,000**	**770,000**	
Augmentation allowed.			
VOLUNTARY CLEAN-UP PROGRAM			
Voluntary Remediation Fund (IC 13-25-5-21)			
Personal Services	**739,322**	**739,322**	
Other Operating Expense	**179,935**	**179,935**	
Augmentation allowed.			
TITLE V AIR PERMIT PROGRAM			
Title V Operating Permit Program Trust Fund (IC 13-17-8-1)			
Personal Services	**12,041,882**	**12,041,882**	
Other Operating Expense	**2,798,196**	**2,798,196**	
Augmentation allowed.			
WATER MANAGEMENT PERMITTING			
From the General Fund			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
	1,923,612	**1,923,612**	
From the Environmental Management Permit Operation Fund (IC 13-15-11-1)			
	4,867,843	**4,867,843**	
Augmentation allowed from the Environmental Management Permit Operation Fund.			

The amounts specified from the General Fund and the Environmental Management Permit Operation Fund are for the following purposes:

Personal Services	**6,136,065**	**6,136,065**
Other Operating Expense	**655,390**	**655,390**

SOLID WASTE MANAGEMENT PERMITTING		
From the General Fund		
	2,221,388	**2,221,388**
From the Environmental Management Permit Operation Fund (IC 13-15-11-1)		
	3,409,461	**3,409,461**
Augmentation allowed from the Environmental Management Permit Operation Fund.		

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
The amounts specified from the General Fund and the Environmental Management Permit Operation Fund are for the following purposes:			
Personal Services	**5,310,601**	**5,310,601**	
Other Operating Expense	**320,248**	**320,248**	
CFO/CAFO INSPECTIONS			
Total Operating Expense	**450,000**	**450,000**	
HAZARDOUS WASTE MANAGEMENT PERMITTING			
From the General Fund			
	2,319,283	**2,319,283**	
From the Environmental Management Permit Operation Fund (IC 13-15-11-1)			
	2,762,897	**2,762,897**	
Augmentation allowed from the Environmental Management Permit Operation Fund.			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

The amounts specified from the General Fund and the Environmental Management Permit Operation Fund are for the following purposes:

Personal Services	**4,156,730**	**4,156,730**
Other Operating Expense	**925,450**	**925,450**

SAFE DRINKING WATER PROGRAM

From the General Fund

371,290 371,290

From the Environmental Management Permit Operation Fund (IC 13-15-11-1)

2,421,272 2,421,272

Augmentation allowed from the Environmental Management Permit Operation Fund.

The amounts specified from the General Fund and the Environmental Management Permit Operation Fund are for the following purposes:

Personal Services	**2,301,996**	**2,301,996**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Other Operating Expense	**490,566**	**490,566**	
CLEAN VESSEL PUMPOUT			
Environmental Management Special Fund (IC 13-14-12-1)			
Total Operating Expense	**77,588**	**77,588**	
Augmentation allowed.			
GROUNDWATER PROGRAM			
Environmental Management Special Fund (IC 13-14-12-1)			
Total Operating Expense	**122,150**	**122,150**	
Augmentation allowed.			
UNDERGROUND STORAGE TANK PROGRAM			
Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)			
Total Operating Expense	**656,973**	**656,973**	
Augmentation allowed.			
Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)			
Total Operating Expense	**282,669**	**282,669**	
Augmentation allowed.			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
AIR MANAGEMENT OPERATING			
From the General Fund			
	620,477	**620,477**	
From the Environmental Management Special Fund (IC 13-14-12-1)			
	248,424	**248,424**	
Augmentation allowed from the Environmental Management Special Fund.			

The amounts specified from the General Fund and the Environmental Management Special Fund are for the following purposes:

Personal Services	**518,018**	**518,018**
Other Operating Expense	**350,883**	**350,883**
WATER MANAGEMENT NONPERMITTING		
Personal Services	**3,291,009**	**3,291,009**
Other Operating Expense	**719,538**	**719,538**
GREAT LAKES INITIATIVE		

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Environmental Management Special Fund (IC 13-14-12-1)			
Total Operating Expense	**57,207**	**57,207**	
Augmentation allowed.			
OUTREACH OPERATOR TRAINING			
General Fund			
Total Operating Expense	**2,963**	**2,963**	
Environmental Management Special Fund (IC 13-14-12-1)			
Total Operating Expense	**5,924**	**5,924**	
Augmentation allowed.			
LEAKING UNDERGROUND STORAGE TANKS			
Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)			
Personal Services	**161,311**	**161,311**	
Other Operating Expense	**31,718**	**31,718**	
Augmentation allowed.			
CORE SUPERFUND			
Hazardous Substances Response Trust Fund (IC 13-25-4-1)			
Total Operating Expense	**12,967**	**12,967**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Augmentation allowed.			
AUTO EMISSIONS TESTING PROGRAM			
Personal Services	**86,983**	**86,983**	
Other Operating Expense	**5,672,829**	**5,672,829**	

The above appropriations for auto emissions testing are the maximum amounts available for this purpose. If it becomes necessary to conduct additional tests in other locations, the above appropriations shall be prorated among all locations.

HAZARDOUS WASTE SITE - STATE CLEAN-UP			
Hazardous Substances Response Trust Fund (IC 13-25-4-1)			
Personal Services	**1,425,495**	**1,425,495**	
Other Operating Expense	**515,152**	**515,152**	
Augmentation allowed.			
HAZARDOUS WASTE SITES - NATURAL RESOURCE DAMAGES			
Hazardous Substances Response Trust Fund (IC 13-25-4-1)			
Personal Services	**141,408**	**141,408**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Other Operating Expense	**289,544**	**289,544**	
Augmentation allowed.			
SUPERFUND MATCH			
Hazardous Substances Response Trust Fund (IC 13-25-4-1)			
Total Operating Expense	**511,675**	**511,675**	
Augmentation allowed.			
HOUSEHOLD HAZARDOUS WASTE			
Hazardous Substances Response Trust Fund (IC 13-25-4-1)			
Other Operating Expense	**278,293**	**278,293**	
Augmentation allowed.			
ASBESTOS TRUST - OPERATING			
Asbestos Trust Fund (IC 13-17-6-3)			
Personal Services	**415,391**	**415,391**	
Other Operating Expense	**132,292**	**132,292**	
Augmentation allowed.			
UNDERGROUND PETROLEUM STORAGE TANK - OPERATING			
Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Personal Services	**874,215**	**874,215**	
Other Operating Expense	**42,446,857**	**42,446,857**	
Augmentation allowed.			
WASTE TIRE MANAGEMENT			
Waste Tire Management Fund (IC 13-20-13-8)			
Total Operating Expense	**563,887**	**563,887**	
Augmentation allowed.			
WASTE TIRE RE-USE			
Waste Tire Management Fund (IC 13-20-13-8)			
Total Operating Expense	**907,796**	**907,796**	
Augmentation allowed.			
VOLUNTARY COMPLIANCE			
Environmental Management Special Fund (IC 13-14-12-1)			
Personal Services	**293,070**	**293,070**	
Other Operating Expense	**170,394**	**170,394**	
Augmentation allowed.			
ENVIRONMENTAL MANAGEMENT SPECIAL FUND - OPERATING			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Environmental Management Special Fund (IC 13-14-12-1)			
Total Operating Expense	**961,315**	**961,315**	
Augmentation allowed.			
SMALL TOWN COMPLIANCE			
Environmental Management Special Fund (IC 13-14-12-1)			
Total Operating Expense	**58,200**	**58,200**	
Augmentation allowed.			
WETLANDS PROTECTION			
Environmental Management Special Fund (IC 13-14-12-1)			
Total Operating Expense	**22,148**	**22,148**	
Augmentation allowed.			
PETROLEUM TRUST - OPERATING			
Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)			
Personal Services	**121,790**	**121,790**	
Other Operating Expense	**350,689**	**350,689**	
Augmentation allowed.			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

Notwithstanding any other law, with the approval of the governor and the budget agency, the above appropriations for hazardous waste management permitting, wetlands protection, groundwater program, underground storage tank program, air management operating, asbestos trust operating, water management nonpermitting, safe drinking water program, and any other appropriation eligible to be included in a performance partnership grant may be used to fund activities incorporated into a performance partnership grant between the United States Environmental Protection Agency and the department of environmental management.

FOR THE OFFICE OF ENVIRONMENTAL ADJUDICATION		
Personal Services	**308,690**	**308,690**
Other Operating Expense	**59,560**	**59,560**

SECTION 6. [EFFECTIVE JULY 1, 2009]

ECONOMIC DEVELOPMENT

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
A. AGRICULTURE			
FOR THE DEPARTMENT OF AGRICULTURE			
Personal Services	**1,930,284**	**1,930,284**	
Other Operating Expense	**456,387**	**456,387**	
DISTRIBUTIONS TO FOOD BANKS			
Total Operating Expense	**300,000**	**300,000**	
CLEAN WATER INDIANA			
Total Operating Expense	**500,000**	**500,000**	
Cigarette Tax Fund (IC 6-7-1-29.1)			
Total Operating Expense	**3,666,425**	**3,666,425**	
Augmentation allowed.			
SOIL CONSERVATION DIVISION			
Cigarette Tax Fund (IC 6-7-1-29.1)			
Total Operating Expense	**1,862,216**	**1,862,216**	
Augmentation allowed.			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
GRAIN BUYERS AND WAREHOUSE LICENSING			
Grain Buyers and Warehouse Licensing Agency License Fee Fund (IC 26-3-7-6.3)			
Total Operating Expense	**165,050**	**165,050**	
Augmentation allowed.			

B. COMMERCE

FOR THE LIEUTENANT GOVERNOR			
RURAL ECONOMIC DEVELOPMENT FUND			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**1,497,688**	**1,497,688**	
OFFICE OF TOURISM			
Total Operating Expense	**4,406,684**	**4,406,684**	

Of the above appropriations, the office of tourism shall distribute $500,000 each year to the Indiana Sports Corporation to promote the hosting of amateur sporting events in Indiana cities. Funds may be released after review by the budget committee.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

The above appropriations include $1,000,000 for grants for local convention and visitors bureaus and other local organizations that exist to promote tourism. The office of tourism shall develop standards for application for grants and award of grants, including a local match requirement. The maximum amount of a grant is $50,000. Funds may be released only after review by the budget committee.

STATE ENERGY PROGRAM			
Total Operating Expense	**237,963**	**237,963**	
FOOD ASSISTANCE PROGRAM			
Total Operating Expense	**131,261**	**131,261**	

FOR THE INDIANA ECONOMIC DEVELOPMENT CORPORATION			
ADMINISTRATIVE AND FINANCIAL SERVICES			
General Fund			
Total Operating Expense	**6,423,392**	**6,423,392**	
Training 2000 Fund (IC 5-28-7-5)			
Total Operating Expense	**185,630**	**185,630**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Industrial Development Grant Fund (IC 5-28-25-4)			
Total Operating Expense	**52,139**	**52,139**	
21ST CENTURY RESEARCH & TECHNOLOGY FUND			
Total Operating Expense	**17,500,000**	**17,500,000**	
INTERNATIONAL TRADE			
Total Operating Expense	**1,297,049**	**1,297,049**	
ENTERPRISE ZONE PROGRAM			
Enterprise Zone Fund (IC 5-28-15-6)			
Total Operating Expense	**215,536**	**215,536**	
Augmentation allowed.			
LOCAL ECONOMIC DEVELOPMENT ORGANIZATION/ REGIONAL ECONOMIC DEVELOPMENT ORGANIZATION (LEDO/REDO) MATCHING GRANT PROGRAM			
Total Operating Expense			**1,713,990**
TRAINING 2000			
General Fund			
Total Operating Expense			**19,401,660**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Training 2000 Fund (IC 5-28-7-5)			
Total Operating Expense			**3,858,206**
Augmentation allowed.			
BUSINESS PROMOTION PROGRAM			
Total Operating Expense			**2,049,126**
TRADE PROMOTION PROGRAM			
Total Operating Expense	**167,791**	**167,791**	
BUSINESS DEVELOPMENT LOAN PROGRAM			
Total Operating Expense	**838,953**	**838,953**	
AG LOAN AND RURAL DEVELOP GUARANTEE FUND			
Economic Development Fund (IC 5-28-8-5)			
Total Operating Expense	**200,000**	**200,000**	
Augmentation allowed.			
ECONOMIC DEVELOPMENT GRANT AND LOAN PROGRAM			
General Fund			
Total Operating Expense			**1,006,744**
Economic Development Fund (IC 5-28-8-5)			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense			**448,256**
Augmentation allowed.			
INDUSTRIAL DEVELOPMENT GRANT PROGRAM			
General Fund			
Total Operating Expense			**6,500,000**
Industrial Development Grant Fund (IC 5-28-25-4)			
Total Operating Expense			**4,500,000**
Augmentation allowed.			
TECHNOLOGY DEVELOPMENT GRANT PROGRAM			
Total Operating Expense	**1,894,410**	**1,894,410**	
FOR THE INDIANA FINANCE AUTHORITY (IFA)			
ENVIRONMENTAL REMEDIATION REVOLVING LOAN PROGRAM			
Total Operating Expense	**500,000**	**500,000**	
FOR THE HOUSING AND COMMUNITY DEVELOPMENT AUTHORITY			
INDIANA INDIVIDUAL DEVELOPMENT ACCOUNTS			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**1,000,000**	**1,000,000**	

The housing and community development authority shall collect and report to the family and social services administration (FSSA) all data required for FSSA to meet the data collection and reporting requirements in 45 CFR Part 265.

Family and social services administration, division of family resources shall apply all qualifying expenditures for individual development accounts deposits toward Indiana's maintenance of effort under the federal Temporary Assistance to Needy Families (TANF) program (45 CFR 260 et seq.).

MORTGAGE FORECLOSURE COUNSELING		
Home Ownership Education Fund (IC 5-20-1-27)		
Total Operating Expense	**2,700,000**	**2,700,000**
Augmentation Allowed.		

FOR THE STATE BUDGET AGENCY

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
MIDWEST INSTITUTE FOR NANOELECTRONICS DISCOVERY (MIND)			
ARRA State Fiscal Stabilization Fund (Section 14002(b))			
Total Operating Expense			**10,000,000**
FOR THE SHORELINE DEVELOPMENT COMMISSION (IC 36-7-13.5)			
Total Operating Expense	**1,000,000**	**1,000,000**	

Funds may be released after budget agency approval and budget committee review.

C. EMPLOYMENT SERVICES

FOR THE DEPARTMENT OF WORKFORCE DEVELOPMENT		
ADMINISTRATION		
Total Operating Expense	**855,000**	**855,000**
WOMEN'S COMMISSION		
Personal Services	**106,824**	**106,824**
Other Operating Expense	**12,175**	**12,175**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
NATIVE AMERICAN INDIAN AFFAIRS COMMISSION			
Total Operating Expense	**90,211**	**90,211**	
COMMISSION ON HISPANIC/LATINO AFFAIRS			
Total Operating Expense	**124,235**	**124,235**	

The above appropriations are in addition to any funding for the commission derived from funds appropriated to the department of workforce development.

D. OTHER ECONOMIC DEVELOPMENT

FOR THE INDIANA STATE FAIR BOARD			
STATE FAIR			
Total Operating Expense	**2,119,124**	**1,619,124**	

SECTION 7. [EFFECTIVE JULY 1, 2009]

TRANSPORTATION

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
FOR THE DEPARTMENT OF TRANSPORTATION			
For the conduct and operation of the department of transportation, the following sums are appropriated for the periods designated from the public mass transportation fund, the industrial rail service fund, the state highway fund, the motor vehicle highway account, the distressed road fund, the state highway road construction and improvement fund, the motor carrier regulation fund, and the crossroads 2000 fund.			
INTERMODAL GRANT PROGRAM			
Public Mass Transportation Fund (IC 8-23-3-8)			
Total Operating Expense	**50,000**	**50,000**	
Augmentation allowed.			
RAILROAD GRADE CROSSING IMPROVEMENT			
Motor Vehicle Highway Account (IC 8-14-1)			
Total Operating Expense	**500,000**	**500,000**	
HIGH SPEED RAIL			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Industrial Rail Service Fund (IC 8-3-1.7-2)			
Matching Funds			**40,000**
Augmentation allowed.			
PUBLIC MASS TRANSPORTATION			
Public Mass Transportation Fund (IC 8-23-3-8)			
Total Operating Expense	**42,300,000**	**44,400,000**	
Augmentation allowed.			

Any unencumbered amount remaining from this appropriation at the end of a state fiscal year remains available in subsequent state fiscal years for the purposes for which it is appropriated.

The appropriations are to be used solely for the promotion and development of public transportation. The department of transportation shall allocate funds based on a formula approved by the commissioner of the department of transportation.

The department of transportation may distribute public mass transportation funds

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

to an eligible grantee that provides public transportation in Indiana.

The state funds can be used to match federal funds available under the Federal Transit Act (49 U.S.C. 1601, et seq.) or local funds from a requesting grantee.

Before funds may be disbursed to a grantee, the grantee must submit its request for financial assistance to the department of transportation for approval. Allocations must be approved by the governor and the budget agency after review by the budget committee and shall be made on a reimbursement basis. Only applications for capital and operating assistance may be approved. Only those grantees that have met the reporting requirements under IC 8-23-3 are eligible for assistance under this appropriation.

HIGHWAY OPERATING		
State Highway Fund (IC 8-23-9-54)		
Personal Services	**256,703,031**	**252,219,117**
Other Operating Expense	**63,309,536**	**63,309,536**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
HIGHWAY VEHICLE AND ROAD MAINTENANCE EQUIPMENT			
State Highway Fund (IC 8-23-9-54)			
Other Operating Expense	**8,800,000**	**18,000,000**	

The above appropriations for highway operating and highway vehicle and road maintenance equipment may be used for personal services, equipment, and other operating expense, including the cost of transportation for the governor.

HIGHWAY MAINTENANCE WORK PROGRAM			
State Highway Fund (IC 8-23-9-54)			
Other Operating Expense	**63,000,000**	**70,000,000**	

The above appropriations for the highway maintenance work program may be used for:
(1) materials for patching roadways and shoulders;
(2) repairing and painting bridges;
(3) installing signs and signals and painting roadways for traffic control;
(4) mowing, herbicide application, and brush control;

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

(5) drainage control;
(6) maintenance of rest areas, public roads on properties of the department of natural resources, and driveways on the premises of all state facilities;
(7) materials for snow and ice removal;
(8) utility costs for roadway lighting; and
(9) other special maintenance and support activities consistent with the highway maintenance work program.

HIGHWAY CAPITAL IMPROVEMENTS		
State Highway Fund (IC 8-23-9-54)		
Right-of-Way Expense	**38,250,000**	**24,800,000**
Formal Contracts Expense	**47,181,225**	**72,307,207**
Consulting Services Expense	**18,600,000**	**24,736,741**
Institutional Road Construction	**5,000,000**	**5,000,000**

The above appropriations for the capital improvements program may be used for:
(1) bridge rehabilitation and replacement;

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

(2) road construction, reconstruction, or replacement;
(3) construction, reconstruction, or replacement of travel lanes, intersections, grade separations, rest parks, and weigh stations;
(4) relocation and modernization of existing roads;
(5) resurfacing;
(6) erosion and slide control;
(7) construction and improvement of railroad grade crossings, including the use of the appropriations to match federal funds for projects;
(8) small structure replacements;
(9) safety and spot improvements; and
(10) right-of-way, relocation, and engineering and consulting expenses associated with any of the above types of projects.

The appropriations for highway operating, highway vehicle and road maintenance equipment, highway buildings and grounds, the highway planning and research program, the highway maintenance work program, and highway capital improvements are appropriated from estimated revenues, which include the following:

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

(1) Funds distributed to the state highway fund from the motor vehicle highway account under IC 8-14-1-3(4).
(2) Funds distributed to the state highway fund from the highway, road and street fund under IC 8-14-2-3.
(3) All fees and miscellaneous revenues deposited in or accruing to the state highway fund under IC 8-23-9-54.
(4) Any unencumbered funds carried forward in the state highway fund from any previous fiscal year.
(5) All other funds appropriated or made available to the department of transportation by the general assembly.

If funds from sources set out above for the department of transportation exceed appropriations from those sources to the department, the excess amount is hereby appropriated to be used for formal contracts with approval of the governor and the budget agency.

If there is a change in a statute reducing or increasing revenue for department use, the budget agency shall notify the auditor of state to adjust the above appropriations

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

to reflect the estimated increase or decrease. Upon the request of the department, the budget agency, with the approval of the governor, may allot any increase in appropriations to the department for formal contracts.

If the department of transportation finds that an emergency exists or that an appropriation will be insufficient to cover expenses incurred in the normal operation of the department, the budget agency may, upon request of the department, and with the approval of the governor, transfer funds from revenue sources set out above from one (1) appropriation to the deficient appropriation. No appropriation from the state highway fund may be used to fund any toll road or toll bridge project except as specifically provided for under IC 8-15-2-20.

HIGHWAY PLANNING AND RESEARCH PROGRAM		
State Highway Fund (IC 8-23-9-54)		
Total Operating Expense	**2,500,000**	**2,500,000**

STATE HIGHWAY ROAD CONSTRUCTION AND IMPROVEMENT PROGRAM

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
State Highway Road Construction Improvement Fund (IC 8-14-10-5)			
Lease Rental Payments Expense	**61,524,711**	**62,139,958**	
Augmentation allowed.			

The above appropriations for the state highway road construction and improvement program are appropriated from the state highway road construction and improvement fund provided in IC 8-14-10-5 and may include any unencumbered funds carried forward from any previous fiscal year. The funds shall be first used for payment of rentals and leases relating to projects under IC 8-14.5. If any funds remain, the funds may be used for the following purposes:
(1) road and bridge construction, reconstruction, or replacement;
(2) construction, reconstruction, or replacement of travel lanes, intersections, and grade separations;
(3) relocation and modernization of existing roads; and
(4) right-of-way, relocation, and engineering and consulting expenses associated with any of the above types of projects.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
CROSSROADS 2000 PROGRAM			
Crossroads 2000 Fund (IC 8-14-10-9)			
Lease Rental Payment Expense	**46,142,787**	**38,517,564**	
Augmentation allowed.			

The above appropriations for the crossroads 2000 program are appropriated from the crossroads 2000 fund provided in IC 8-14-10-9 and may include any unencumbered funds carried forward from any previous fiscal year. The funds shall be first used for payment of rentals and leases relating to projects under IC 8-14-10-9. If any funds remain, the funds may be used for the following purposes:
(1) road and bridge construction, reconstruction, or replacement;
(2) construction, reconstruction, or replacement of travel lanes, intersections, and grade separations;
(3) relocation and modernization of existing roads; and
(4) right-of-way, relocation, and engineering and consulting expenses associated with any of the above types of projects.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
MAJOR MOVES CONSTRUCTION PROGRAM			
Major Moves Construction Fund (IC 8-14-14-5)			
Formal Contracts Expense	**545,000,000**	**535,000,000**	
Augmentation allowed.			
FEDERAL APPORTIONMENT			
Right-of-Way Expense	**174,250,000**	**113,100,000**	
Formal Contracts Expense	**426,642,292**	**502,792,291**	
Consulting Engineers Expense	**84,500,000**	**69,500,000**	
Highway Planning and Research	**12,807,708**	**12,807,709**	
Local Government Revolving Acct.	**266,000,000**	**266,000,000**	

The department may establish an account to be known as the "local government revolving account". The account is to be used to administer the federal-local highway construction program. All contracts issued and all funds received for federal-local projects under this program shall be entered into this account.

If the federal apportionments for the fiscal years covered by this act exceed the

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

above estimated appropriations for the department or for local governments, the excess federal apportionment is hereby appropriated for use by the department with the approval of the governor and the budget agency.

The department shall bill, in a timely manner, the federal government for all department payments that are eligible for total or partial reimbursement.

The department may let contracts and enter into agreements for construction and preliminary engineering during each year of the 2009-2011 biennium that obligate not more than one-third (1/3) of the amount of state funds estimated by the department to be available for appropriation in the following year for formal contracts and consulting engineers for the capital improvements program.

Under IC 8-23-5-7(a), the department, with the approval of the governor, may construct and maintain roadside parks and highways where highways will connect any state highway now existing, or hereafter constructed, with any state park, state forest preserve, state game preserve, or the grounds of any state institution. There is appropriated

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

to the department of transportation an amount sufficient to carry out the provisions of this paragraph. Under IC 8-23-5-7(d), such appropriations shall be made from the motor vehicle highway account before distribution to local units of government.

LOCAL TECHNICAL ASSISTANCE AND RESEARCH

Under IC 8-14-1-3(6), there is appropriated to the department of transportation an amount sufficient for:
(1) the program of technical assistance under IC 8-23-2-5(6); and
(2) the research and highway extension program conducted for local government under IC 8-17-7-4.

The department shall develop an annual program of work for research and extension in cooperation with those units being served, listing the types of research and educational programs to be undertaken. The commissioner of the department of transportation may make a grant under this appropriation to the institution or agency selected to conduct the annual work program. Under IC 8-14-1-3(6), appropriations for the program of

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

technical assistance and for the program of research and extension shall be taken from the local share of the motor vehicle highway account.

Under IC 8-14-1-3(7) there is hereby appropriated such sums as are necessary to maintain a sufficient working balance in accounts established to match federal and local money for highway projects. These funds are appropriated from the following sources in the proportion specified:
(1) one-half (1/2) from the forty-seven percent (47%) set aside of the motor vehicle highway account under IC 8-14-1-3(7); and
(2) for counties and for those cities and towns with a population greater than five thousand (5,000), one-half (1/2) from the distressed road fund under IC 8-14-8-2.

AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

There is apportioned to the department of transportation the following sums for the periods and purposes designated under the American Recovery and Reinvestment Act (ARRA) of 2009.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
FOR THE DEPARTMENT OF TRANSPORTATION			
Highway Capital Improvements			
Formal Contracts Expense			**440,838,364**
Augmentation allowed			
Transportation Enhancements			
Formal Contracts Expense			**19,739,031**
Augmentation allowed			
Highway Capital Improvements - Metro Planning Organizations, Cities, Towns, and Counties			**197,390,312**
Augmentation allowed			
Rural Transit Funds			**20,316,134**
Augmentation allowed			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

As soon as practical after passage of this act, the department with the approval of the governor shall prepare a plan for the allocation and expenditure of the appropriations listed above. The plan shall list the projects to be funded. The department shall present the plan to the state budget committee for review under IC 4-12-1-11.5.

In preparing that portion of the plan for expenditure for Highway Capital Improvements and Transportation Enhancements, the department shall adhere to the following goals to the extent practical:

(1) The plan shall comply with all applicable federal statutes, rules, and policies as necessary to ensure eligibility for the maximum level of federal funding.
(2) The plan shall be designed to obligate the federal funds and begin construction as soon as practical.
(3) The plan shall be designed to minimize the likelihood that any funding apportioned to Indiana will have to be returned to the federal government.
(4) The plan shall strive to make Indiana eligible for any increased funding that

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

may become available as a result of reallocation from other states.
(5) The plan shall reasonably allocate funding to projects located across all areas of the state, with an emphasis on areas determined by the department to be economically distressed.
(6) The department may hold special lettings for contracts using the above appropriations. The department shall strive to limit each contract to a maximum of $10,000,000.
(7) The department shall strive to diversify the type of work using the above appropriations.

In preparing that portion of the plan for expenditure for Highway Capital Improvements - Local Government and Highway Capital Improvements - Metro Planning Organizations, Cities, Towns, and Counties, the department shall adhere to the following guidelines to the extent practical:

(1) The plan shall comply with all applicable federal statutes, rules, and policies as necessary to ensure eligibility for the maximum level of federal funding.
(2) The plan shall be designed to obligate the federal funds and begin construction as soon as practical.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

(3) The plan shall be designed to minimize the likelihood that any funding apportioned to Indiana will have to be returned to the federal government.
(4) The plan shall strive to make Indiana eligible for any increased funding that may become available as a result of reallocation from other states.
(5) The plan shall reasonably allocate funds to projects located across all areas of the state. However, if the department cannot identify local government projects that can be obligated within the established time frames the department may allocate funds as necessary to fully obligate all federal funding.
(6) For Highway Capital Improvements for Metro Planning Organizations the plan shall include projects selected by the respective metropolitan planning organizations. However, if the metropolitan planning organizations cannot identify projects that can be obligated within the established time frames, the department may select alternate projects as necessary to fully obligate all federal funding.
(7) The department may hold special lettings for contracts using the above appropriations. The department shall strive to limit each contract for Highway Capital Improvements for Cities, Towns, and Counties to a maximum of $7,000,000.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

The department shall establish reasonable policies and guidelines for cities, towns, and counties and metropolitan planning organizations to follow to help ensure reasonable access and timely obligation of funds. The department shall provide reasonable assistance to cities, towns, and counties and metropolitan planning organizations in meeting deadlines established to ensure timely obligation of funding.

If the governor finds that any of the above goals conflict with another goal, the governor shall determine the appropriate weight to give to each goal. Actions taken by the governor or the department with respect to allocation, obligation, or expenditure of the above appropriations before passage of this act is deemed to have satisfied the requirement for budget committee review providing such actions were taken to conform to the plan or to comply with laws, policies, or direction issued by the United States Department of Transportation or any other federal agency as a condition to qualifying for the federal funds.

The department with the approval of the governor may adjust the above appropriations for Highway Capital Improvements, Transportation Enhancements, Highway Capital Improvements

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

- Metropolitan Planning Organizations, Cities, Towns, and Counties as necessary to comply with federal law, policies, or direction established to ensure continuing eligibility for federal funding.

The department shall submit reports to the budget committee and legislative council by December 31 of 2009, 2010, and 2011 detailing the status of the appropriations and projects funded under the plan. The department may submit copies of reports required to be submitted to the federal government to fulfill this requirement.

The above appropriations do not revert but remain in effect until obligated.

SECTION 8. [EFFECTIVE JULY 1, 2009]

FAMILY AND SOCIAL SERVICES, HEALTH, AND VETERANS' AFFAIRS

A. FAMILY AND SOCIAL SERVICES

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
FOR THE FAMILY AND SOCIAL SERVICES ADMINISTRATION			
INDIANA PRESCRIPTION DRUG PROGRAM			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**1,117,830**	**1,117,830**	
CHILDREN'S HEALTH INSURANCE PROGRAM			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**34,918,921**	**36,984,511**	
FAMILY AND SOCIAL SERVICES ADMINISTRATION			
Total Operating Expense	**19,764,734**	**19,764,734**	
OFFICE OF MEDICAID POLICY AND PLANNING - ADMINISTRATION			
Total Operating Expense	**6,061,868**	**6,062,487**	
MEDICAID ADMINISTRATION			
Total Operating Expense	**36,427,564**	**36,427,564**	
MEDICAID - CURRENT OBLIGATIONS			
General Fund			
Total Operating Expense	**1,116,000,000**	**1,428,800,000**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

The foregoing appropriations for Medicaid current obligations and for Medicaid administration are for the purpose of enabling the office of Medicaid policy and planning to carry out all services as provided in IC 12-8-6. In addition to the above appropriations, all money received from the federal government and paid into the state treasury as a grant or allowance is appropriated and shall be expended by the office of Medicaid policy and planning for the respective purposes for which the money was allocated and paid to the state. Subject to the provisions of P.L.46-1995, if the sums herein appropriated for Medicaid current obligations and for Medicaid administration are insufficient to enable the office of Medicaid policy and planning to meet its obligations, then there is appropriated from the general fund such further sums as may be necessary for that purpose, subject to the approval of the governor and the budget agency.

INDIANA CHECK-UP PLAN (EXCLUDING IMMUNIZATION)			
Indiana Check-Up Plan Trust Fund (IC 12-15-44.2-17)			
Total Operating Expense	**137,466,043**	**157,766,043**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
HOSPITAL CARE FOR THE INDIGENT FUND			
Total Operating Expense	**61,500,000**	**61,500,000**	
MEDICAID DISABILITY ELIGIBILITY EXAMS			
Total Operating Expense	**937,000**	**937,000**	
MEDICAL ASSISTANCE TO WARDS (MAW)			
Total Operating Expense	**13,100,000**	**13,100,000**	
MARION COUNTY HEALTH AND HOSPITAL CORPORATION			
Total Operating Expense	**38,000,000**	**38,000,000**	
MENTAL HEALTH ADMINISTRATION			
Other Operating Expense	**4,059,047**	**4,059,047**	

Two hundred seventy-five thousand dollars ($275,000) of the above appropriation for the state fiscal year beginning July 1, 2009, and ending June 30, 2010, and two hundred seventy-five thousand dollars ($275,000) of the above appropriation for the state fiscal year beginning July 1, 2010, and ending June 30, 2011, shall be distributed in the state fiscal year to neighborhood based community service programs.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
CHILD PSYCHIATRIC SERVICES FUND			
Total Operating Expense	**20,423,760**	**20,423,760**	
SERIOUSLY EMOTIONALLY DISTURBED			
Total Operating Expense	**15,975,408**	**15,975,408**	
SERIOUSLY MENTALLY ILL			
General Fund			
Total Operating Expense	**91,046,702**	**91,046,702**	
Mental Health Centers Fund (IC 6-7-1-32.1)			
Total Operating Expense	**4,311,650**	**4,311,650**	
Augmentation allowed.			
COMMUNITY MENTAL HEALTH CENTERS			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**7,000,000**	**7,000,000**	

The above appropriation from the Tobacco Master Settlement Agreement Fund is in addition to other funds. The above appropriations for comprehensive community mental health services include the intragovernmental transfers necessary to provide the nonfederal

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

share of reimbursement under the Medicaid rehabilitation option.

The comprehensive community mental health centers shall submit their proposed annual budgets (including income and operating statements) to the budget agency on or before August 1 of each year. All federal funds shall be applied in augmentation of the foregoing funds rather than in place of any part of the funds. The office of the secretary, with the approval of the budget agency, shall determine an equitable allocation of the appropriation among the mental health centers.

GAMBLERS' ASSISTANCE		
Gamblers' Assistance Fund (IC 4-33-12-6)		
Total Operating Expense	**4,490,809**	**4,490,809**
MVOV CONFERENCE		
Gamblers' Assistance Fund (IC 4-33-12-6)		
Total Operating Expense	**199,763**	**199,763**
SUBSTANCE ABUSE TREATMENT		
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)		

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**4,855,820**	**4,855,820**	
QUALITY ASSURANCE/RESEARCH			
Total Operating Expense	**812,860**	**812,860**	
PREVENTION			
Gamblers' Assistance Fund (IC 4-33-12-6)			
Total Operating Expense	**2,858,528**	**2,858,528**	
Augmentation allowed.			
METHADONE DIVERSION CONTROL AND OVERSIGHT (MDCO) PROGRAM			
MDCO Fund (IC 12-23-18)			
Total Operating Expense	**243,486**	**243,486**	
Augmentation allowed.			
DMHA YOUTH TOBACCO REDUCTION SUPPORT PROGRAM			
DMHA Youth Tobacco Reduction Support Program (IC 4-33-12-6)			
Total Operating Expense	**250,000**	**250,000**	
Augmentation allowed.			
EVANSVILLE PSYCHIATRIC CHILDREN'S CENTER			
Personal Services	**496,318**	**473,948**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Other Operating Expense	**123,252**	**123,252**	

EVANSVILLE STATE HOSPITAL

From the General Fund

20,276,654 20,340,477

From the Mental Health Fund (IC 12-24-14-4)

677,943 678,778

Augmentation allowed.

The amounts specified from the general fund and the mental health fund are for the following purposes:

Personal Services	**15,636,749**	**15,701,407**
Other Operating Expense	**5,317,848**	**5,317,848**

LARUE CARTER MEMORIAL HOSPITAL

From the General Fund

22,483,147 22,534,726

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
From the Mental Health Fund (IC 12-24-14-4)			
	476,465	**472,254**	
Augmentation allowed.			

The amounts specified from the general fund and the mental health fund are for the following purposes:

Personal Services	**16,020,593**	**16,067,961**
Other Operating Expense	**6,939,019**	**6,939,019**

LOGANSPORT STATE HOSPITAL		
From the General Fund		
	40,772,672	**40,769,722**
From the Mental Health Fund (IC 12-24-14-4)		
	1,378,232	**1,378,232**
Augmentation allowed.		

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

The amounts specified from the general fund and the mental health fund are for the following purposes:

Personal Services	**32,407,597**	**32,404,647**
Other Operating Expense	**9,743,307**	**9,743,307**

MADISON STATE HOSPITAL

From the General Fund

16,403,876 16,402,626

From the Mental Health Fund (IC 12-24-14-4)

666,308 666,308

Augmentation allowed.

The amounts specified from the general fund and the mental health fund are for the following purposes:

Personal Services	**13,135,516**	**13,134,266**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Other Operating Expense	**3,934,668**	**3,934,668**	

RICHMOND STATE HOSPITAL

From the General Fund

37,112,498 37,096,244

From the Mental Health Fund (IC 12-24-14-4)

650,335 650,335

Augmentation allowed.

The amounts specified from the general fund and the mental health fund are for the following purposes:

Personal Services	**29,512,684**	**29,496,430**
Other Operating Expense	**8,250,149**	**8,250,149**

PATIENT PAYROLL

Total Operating Expense	**285,785**	**285,785**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

The federal share of revenue accruing to the state mental health institutions under IC 12-15, based on the applicable Federal Medical Assistance Percentage (FMAP), shall be deposited in the mental health fund established by IC 12-24-14-1, and the remainder shall be deposited in the general fund.

In addition to the above appropriations, each institution may qualify for an additional appropriation, or allotment, subject to approval of the governor and the budget agency, from the mental health fund of up to twenty percent (20%), but not to exceed $50,000 in each fiscal year, of the amount by which actual net collections exceed an amount specified in writing by the division of mental health and addiction before July 1 of each year beginning July 1, 2009.

DIVISION OF FAMILY RESOURCES ADMINISTRATION			
Personal Services	**6,061,903**	**6,061,903**	
Other Operating Expense	**1,963,063**	**1,963,063**	
COMMISSION ON THE SOCIAL STATUS OF BLACK MALES			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**173,179**	**173,179**	
CHILD CARE LICENSING FUND			
Child Care Fund (IC 12-17.2-2-3)			
Total Operating Expense	**100,000**	**100,000**	
Augmentation allowed.			
ELECTRONIC BENEFIT TRANSFER PROGRAM			
Total Operating Expense	**2,529,915**	**2,529,915**	

The foregoing appropriations for the division of family resources Title IV-D of the federal Social Security Act are made under, and not in addition to, IC 31-25-4-28.

STATE WELFARE - COUNTY ADMINISTRATION			
Total Operating Expense	**56,464,688**	**56,464,688**	
INDIANA CLIENT ELIGIBILITY SYSTEM (ICES)			
Total Operating Expense	**7,402,387**	**7,402,387**	
IMPACT PROGRAM			
Total Operating Expense	**689,001**	**689,001**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)			
Total Operating Expense	**31,776,757**	**31,776,757**	
IMPACT - TANF			
Total Operating Expense	**1,880,252**	**1,880,252**	
CHILD CARE & DEVELOPMENT FUND			
Total Operating Expense	**34,418,255**	**34,418,255**	

The foregoing appropriations for information systems/technology, education and training, Temporary Assistance to Needy Families (TANF), and child care services are for the purpose of enabling the division of family resources to carry out all services as provided in IC 12-14. In addition to the above appropriations, all money received from the federal government and paid into the state treasury as a grant or allowance is appropriated and shall be expended by the division of family resources for the respective purposes for which such money was allocated and paid to the state.

BURIAL EXPENSES

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**1,607,219**	**1,607,219**	
SCHOOL AGE CHILD CARE PROJECT FUND			
Total Operating Expense	**955,780**	**955,780**	
DIVISION OF AGING ADMINISTRATION			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Personal Services	**594,659**	**594,659**	
Other Operating Expense	**852,751**	**852,751**	

The above appropriations for the division of aging administration are for administrative expenses. Any federal fund reimbursements received for such purposes are to be deposited in the general fund.

ROOM AND BOARD ASSISTANCE (R-CAP)			
Total Operating Expense	**13,477,844**	**13,477,844**	
C.H.O.I.C.E. IN-HOME SERVICES			
Total Operating Expense	**48,765,643**	**48,765,643**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

The foregoing appropriations for C.H.O.I.C.E. In-Home Services include intragovernmental transfers to provide the nonfederal share of the Medicaid aged and disabled waiver. The intragovernmental transfers for use in the Medicaid aged and disabled waiver may not exceed in the state fiscal year beginning July 1, 2009, and ending June 30, 2010, $12,900,000. The intragovernmental transfers for use in the Medicaid aged and disabled waiver may not exceed in the state fiscal year beginning July 1, 2010, and ending June 30, 2011, $12,900,000. After July 1, 2009, and before August 1, 2010, the office of the secretary (as defined in IC 12-7-2-135) shall submit a report to the legislative council in an electronic format under IC 5-14-6 and the governor in each July, October, January, and April specifying the number of persons on the waiting list for C.H.O.I.C.E. In-Home Services at the end of the month preceding the date of the report, a schedule indicating the length of time persons have been on the waiting list, a description of the conditions or problems that contribute to the waiting list, the plan in the next six (6) months after the end of the reporting period to reduce the waiting list, and any other information that is necessary or appropriate to interpret the information provided in the report.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

The division of aging shall conduct an annual evaluation of the cost effectiveness of providing home care. Before January of each year, the division shall submit a report to the budget committee, the budget agency, and the legislative council that covers all aspects of the division's evaluation and such other information pertaining thereto as may be requested by the budget committee, the budget agency, or the legislative council, including the following:
(1) the number and demographic characteristics of the recipients of home care during the preceding fiscal year;
(2) the total cost and per recipient cost of providing home care services during the preceding fiscal year;
(3) the number of recipients of home care services who would have been placed in long term care facilities had they not received home care services; and
(4) the total cost savings during the preceding fiscal year realized by the state due to recipients of home care services (including Medicaid) being diverted from long term care facilities.

The division shall obtain from providers of services data on their costs and expenditures

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

regarding implementation of the program and report the findings to the budget committee, the budget agency, and the legislative council. The report to the legislative council must be in an electronic format under IC 5-14-6.

The foregoing appropriations for C.H.O.I.C.E. In-Home Services do not revert to the state general fund or any other fund at the close of any state fiscal year but remain available for the purposes of C.H.O.I.C.E. In-Home Services in subsequent state fiscal years.

OLDER HOOSIERS ACT		
Total Operating Expense	**1,573,446**	**1,573,446**
ADULT PROTECTIVE SERVICES		
Total Operating Expense	**1,956,528**	**1,956,528**
ADULT GUARDIANSHIP SERVICES		
Total Operating Expense	**477,135**	**477,135**
TITLE V EMPLOYMENT GRANT (OLDER WORKERS)		
Total Operating Expense	**229,034**	**229,034**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
MEDICAID WAIVER			
Total Operating Expense	**322,275**	**322,275**	
OBRA/PASSARR			
Total Operating Expense	**91,108**	**91,108**	
TITLE III ADMINISTRATION GRANT			
Total Operating Expense	**252,163**	**252,163**	
OMBUDSMAN			
Total Operating Expense	**310,124**	**310,124**	
DIVISION OF DISABILITY AND REHABILITATIVE SERVICES ADMINISTRATION			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**360,764**	**360,764**	
VOCATIONAL REHABILITATION SERVICES			
Personal Services	**3,525,457**	**3,525,457**	
Other Operating Expense	**12,348,257**	**12,348,257**	
AID TO INDEPENDENT LIVING			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**46,927**	**46,927**	
INDIANAPOLIS RESOURCE CENTER FOR INDEPENDENT LIVING			
Total Operating Expense	**87,665**	**87,665**	
SOUTHERN INDIANA CENTER FOR INDEPENDENT LIVING			
Total Operating Expense	**87,665**	**87,665**	
ATTIC, INCORPORATED			
Total Operating Expense	**87,665**	**87,665**	
LEAGUE FOR THE BLIND AND DISABLED			
Total Operating Expense	**87,665**	**87,665**	
FUTURE CHOICES, INC.			
Total Operating Expense	**158,113**	**158,113**	
THE WABASH INDEPENDENT LIVING AND LEARNING CENTER, INC.			
Total Operating Expense	**158,113**	**158,113**	
INDEPENDENT LIVING CENTER OF EASTERN INDIANA			
Total Operating Expense	**158,113**	**158,113**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
OFFICE OF DEAF AND HEARING IMPAIRED			
Personal Services	**185,104**	**185,104**	
Other Operating Expense	**131,670**	**131,670**	
BLIND VENDING OPERATIONS			
Total Operating Expense	**129,905**	**129,905**	
DEVELOPMENTAL DISABILITY RESIDENTIAL FACILITIES COUNCIL			
Personal Services	**2,970**	**2,970**	
Other Operating Expense	**12,038**	**12,038**	
OFFICE OF SERVICES FOR THE BLIND AND VISUALLY IMPAIRED			
Personal Services	**56,751**	**56,751**	
Other Operating Expense	**24,985**	**24,985**	
EMPLOYEE TRAINING			
Total Operating Expense	**6,112**	**6,112**	
BUREAU OF QUALITY IMPROVEMENT SERVICES - BQIS			
Total Operating Expense	**3,936,983**	**3,936,983**	
DAY SERVICES - DEVELOPMENTALLY DISABLED			
Other Operating Expense	**11,759,384**	**11,759,384**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
DIAGNOSIS AND EVALUATION			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Other Operating Expense	**400,125**	**400,125**	
FEDERAL EARLY INTERVENTION			
Total Operating Expense	**6,149,513**	**6,149,513**	
SUPPORTED EMPLOYMENT			
Other Operating Expense	**3,880,000**	**3,880,000**	
EPILEPSY PROGRAM			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Other Operating Expense	**463,758**	**463,758**	
CAREGIVER SUPPORT			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Other Operating Expense	**809,500**	**809,500**	
BDDS OPERATING			
General Fund			
Total Operating Expense	**5,286,709**	**5,286,709**	
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**1,869,887**	**1,869,887**	
Augmentation allowed.			
OASIS - OBJECTIVE ASSISTANCE SYSTEM FROM INDEPENDENT SERVICES			
Total Operating Expense	**5,529,000**	**5,529,000**	
CRISIS MANAGEMENT			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**4,136,080**	**4,136,080**	
Augmentation allowed.			
OUTREACH - STATE OPERATING SERVICES			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**2,232,973**	**2,232,973**	
Augmentation allowed.			
RESIDENTIAL SERVICES FOR DEVELOPMENTALLY DISABLED PERSONS			
General Fund			
Total Operating Expense	**91,996,290**	**91,996,290**	
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**17,229,000**	**17,229,000**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

The above appropriations for client services include the intragovernmental transfers necessary to provide the nonfederal share of reimbursement under the Medicaid program for day services provided to residents of group homes and nursing facilities.

In the development of new community residential settings for persons with developmental disabilities, the division of disability and rehabilitative services must give priority to the appropriate placement of such persons who are eligible for Medicaid and currently residing in intermediate care or skilled nursing facilities and, to the extent permitted by law, such persons who reside with aged parents or guardians or families in crisis.

FOR THE DEPARTMENT OF CHILD SERVICES

DEPARTMENT OF CHILD SERVICES - ADMINISTRATION

Personal Services	**89,445,563**	**89,445,563**
Other Operating Expense	**20,582,245**	**20,582,245**

DEPARTMENT OF CHILD SERVICES - STATE ADMINISTRATION

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Personal Services	**14,689,383**	**14,689,383**	
Other Operating Expense	**3,636,219**	**3,636,219**	
CHILD WELFARE SERVICES STATE GRANTS			
General Fund			
Total Operating Expense	**7,500,000**	**7,500,000**	
Excise and Financial Institution Taxes			
Total Operating Expense	**6,275,000**	**6,275,000**	
Augmentation allowed.			
TITLE IV-D OF THE FEDERAL SOCIAL SECURITY ACT (STATE MATCH)			
Total Operating Expense	**5,598,019**	**5,598,019**	

The foregoing appropriations for the department of child services Title IV-D of the federal Social Security Act are made under, and not in addition to, IC 31-25-4-28.

FAMILY AND CHILDREN FUND			
General Fund			
Total Operating Expense	**445,406,171**	**445,406,171**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Augmentation allowed.			
Family and Children Reimbursement (IC 31-40-1-3)			
Total Operating Expense	**8,782,173**	**8,782,173**	
Augmentation allowed.			
YOUTH SERVICE BUREAU			
Total Operating Expense	**1,528,000**	**1,528,000**	
PROJECT SAFEPLACE			
Total Operating Expense	**125,000**	**125,000**	
HEALTHY FAMILIES INDIANA			
Total Operating Expense	**6,826,935**	**6,826,935**	
CHILD WELFARE TRAINING			
Total Operating Expense	**1,729,473**	**1,729,473**	
SPECIAL NEEDS ADOPTION II			
Personal Services	**243,060**	**243,060**	
Other Operating Expense	**456,540**	**456,540**	
ADOPTION ASSISTANCE			
Total Operating Expense	**14,307,971**	**14,307,971**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
NON-RECURRING ADOPTION ASSISTANCE			
Total Operating Expense	**921,500**	**921,500**	
INDIANA SUPPORT ENFORCEMENT TRACKING (ISETS)			
Total Operating Expense	**4,804,602**	**4,804,602**	
CHILD PROTECTION AUTOMATION PROJECT (ICWIS)			
Total Operating Expense	**4,224,334**	**4,224,334**	
SOCIAL SERVICES BLOCK GRANT (SSBG)			
Total Operating Expense	**4,012,083**	**4,012,083**	

The funds appropriated above to the social services block grant are allocated in the following manner during the biennium:

Division of Disability and Rehabilitative Services		
	343,481	**343,481**
Division of Family Resources		
	1,100,000	**1,100,000**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Division of Aging			
	687,396	**687,396**	
Department of Child Services			
	289,352	**289,352**	
Department of Health			
	296,504	**296,504**	
Department of Correction			
	1,295,350	**1,295,350**	
FOR THE DEPARTMENT OF ADMINISTRATION			
DEPARTMENT OF CHILD SERVICES OMBUDSMAN BUREAU			
Total Operating Expense	**145,400**	**145,400**	
B. PUBLIC HEALTH			
FOR THE STATE DEPARTMENT OF HEALTH			
Personal Services	**21,315,999**	**21,315,999**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Other Operating Expense	**7,410,840**	**7,410,840**	

All receipts to the state department of health from licenses or permit fees shall be deposited in the state general fund. Augmentation allowed in amounts not to exceed revenue from penalties or fees collected by the state department of health.

The above appropriations for the state department of health include funds to establish a medical adverse events reporting system by making a grant to or an agreement with an appropriate agency.

AREA HEALTH EDUCATION CENTERS		
Total Operating Expense	**1,387,500**	**1,387,500**
CANCER REGISTRY		
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)		
Total Operating Expense	**610,647**	**610,647**
MINORITY HEALTH INITIATIVE		
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)		

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**3,000,000**	**3,000,000**	

The foregoing appropriations shall be allocated to the Indiana Minority Health Coalition to work with the state department on the implementation of IC 16-46-11.

SICKLE CELL		
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)		
Total Operating Expense	**250,000**	**250,000**
AID TO COUNTY TUBERCULOSIS HOSPITALS		
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)		
Total Operating Expense	**96,883**	**96,883**

These funds shall be used for eligible expenses according to IC 16-21-7-3 for tuberculosis patients for whom there are no other sources of reimbursement, including patient resources, health insurance, medical assistance payments, and hospital care for the indigent.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
MEDICARE-MEDICAID CERTIFICATION			
Total Operating Expense	**6,269,426**	**6,269,426**	

Personal services augmentation allowed in amounts not to exceed revenue from health facilities license fees or from health care providers (as defined in IC 16-18-2-163) fee increases or those adopted by the Executive Board of the Indiana State Department of health pursuant to IC 16-19-3.

AIDS EDUCATION			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Personal Services	**286,161**	**286,161**	
Other Operating Expense	**531,084**	**531,084**	
HIV/AIDS SERVICES			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**2,162,254**	**2,162,254**	
TEST FOR DRUG AFFLICTED BABIES			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**58,121**	**58,121**	
STATE CHRONIC DISEASES			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Personal Services	**120,459**	**120,459**	
Other Operating Expense	**957,968**	**957,968**	

At least $82,560 of the above appropriations shall be for grants to community groups and organizations as provided in IC 16-46-7-8.

WOMEN, INFANTS, AND CHILDREN SUPPLEMENT			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**190,000**	**190,000**	
MATERNAL AND CHILD HEALTH SUPPLEMENT			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**190,000**	**190,000**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
CANCER EDUCATION AND DIAGNOSIS - BREAST CANCER			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**86,490**	**86,490**	
CANCER EDUCATION AND DIAGNOSIS - PROSTATE CANCER			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**93,000**	**93,000**	
ADOPTION HISTORY			
Adoption History Fund (IC 31-19-18-6)			
Total Operating Expense	**215,543**	**215,543**	
Augmentation allowed.			
CHILDREN WITH SPECIAL HEALTH CARE NEEDS			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**13,862,070**	**13,862,070**	
Augmentation allowed.			
NEWBORN SCREENING PROGRAM			
Newborn Screening Fund (IC 16-41-17-11)			
Personal Services	**366,971**	**366,971**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Other Operating Expense	**2,294,672**	**2,294,672**	
Augmentation allowed.			
RADON GAS TRUST FUND			
Radon Gas Trust Fund (IC 16-41-38-8)			
Total Operating Expense	**11,458**	**11,458**	
Augmentation allowed.			
BIRTH PROBLEMS REGISTRY			
Birth Problems Registry Fund (IC 16-38-4-17)			
Personal Services	**62,071**	**62,071**	
Other Operating Expense	**62,389**	**62,389**	
Augmentation allowed.			
MOTOR FUEL INSPECTION PROGRAM			
Motor Fuel Inspection Fund (IC 16-44-3-10)			
Total Operating Expense	**174,464**	**174,464**	
Augmentation allowed.			
PROJECT RESPECT			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**537,904**	**537,904**	
DONATED DENTAL SERVICES			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**42,932**	**42,932**	

The above appropriation shall be used by the Indiana foundation for dentistry for the handicapped.

OFFICE OF WOMEN'S HEALTH			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**121,248**	**121,248**	
SPINAL CORD AND BRAIN INJURY			
Spinal Cord and Brain Injury Fund (IC 16-41-42.2-3)			
Total Operating Expense	**1,175,770**	**1,175,770**	
INDIANA CHECK-UP PLAN - IMMUNIZATIONS			
Indiana Check-Up Plan Trust Fund (IC 12-15-44.2-17)			
Total Operating Expense	**11,000,000**	**11,000,000**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
WEIGHTS AND MEASURES FUND			
Weights and Measures Fund (IC 16-19-5-4)			
Total Operating Expense	**22,824**	**22,824**	
Augmentation allowed.			
MINORITY EPIDEMIOLOGY			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**750,000**	**750,000**	
COMMUNITY HEALTH CENTERS			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**17,500,000**	**20,000,000**	
PRENATAL SUBSTANCE USE & PREVENTION			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**150,000**	**150,000**	
LOCAL HEALTH MAINTENANCE FUND			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**3,860,000**	**3,860,000**	
Augmentation allowed.			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

The amount appropriated from the tobacco master settlement agreement fund is in lieu of the appropriation provided for this purpose in IC 6-7-1-30.5 or any other law. Of the above appropriations for the local health maintenance fund, $60,000 each year shall be used to provide additional funding to adjust funding through the formula in IC 16-46-10 to reflect population increases in various counties. Money appropriated to the local health maintenance fund must be allocated under the following schedule each year to each local board of health whose application for funding is approved by the state department of health:

COUNTY POPULATION	AMOUNT OF GRANT
over 499,999	94,112
100,000 - 499,999	72,672
50,000 - 99,999	48,859
under 50,000	33,139

LOCAL HEALTH DEPARTMENT ACCOUNT

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**3,000,000**	**3,000,000**	

The foregoing appropriations for the local health department account are statutory distributions pursuant to IC 4-12-7.

FOR THE TOBACCO USE PREVENTION AND CESSATION BOARD
TOBACCO USE PREVENTION AND CESSATION PROGRAM
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Total Operating Expense	**10,859,308**	**10,859,308**

A minimum of 75% of the above appropriations shall be used for grants to local agencies and other entities with programs designed to reduce smoking.

FOR THE INDIANA SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED

Personal Services	**10,525,311**	**10,524,650**
Other Operating Expense	**1,028,728**	**1,029,396**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
FOR THE INDIANA SCHOOL FOR THE DEAF			
Personal Services	**16,817,364**	**16,822,021**	
Other Operating Expense	**1,959,367**	**1,959,367**	
C. VETERANS' AFFAIRS			
FOR THE INDIANA DEPARTMENT OF VETERANS' AFFAIRS			
Personal Services	**538,944**	**538,944**	
Other Operating Expense	**80,108**	**80,108**	
DISABLED AMERICAN VETERANS OF WORLD WARS			
Total Operating Expense	**40,000**	**40,000**	
AMERICAN VETERANS OF WORLD WAR II, KOREA, AND VIETNAM			
Total Operating Expense	**30,000**	**30,000**	
VETERANS OF FOREIGN WARS			
Total Operating Expense	**30,000**	**30,000**	
VIETNAM VETERANS OF AMERICA			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense			**20,000**
MILITARY FAMILY RELIEF FUND			
Military Family Relief Fund (IC 10-17-12-8)			
Total Operating Expense	**450,000**	**450,000**	

INDIANA VETERANS' HOME

From the General Fund

12,815,594 12,815,594

From the Comfort and Welfare Fund (IC 10-17-9-7(c))

9,381,362 9,381,362

Augmentation allowed from the Comfort and Welfare Fund in amounts not to exceed revenue collected for Medicaid and Medicare reimbursement.

The amounts specified from the General Fund and the Comfort and Welfare Fund are for the following purposes:

Personal Services	**16,956,676**	**16,956,676**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Other Operating Expense	**5,240,280**	**5,240,280**	
COMFORT AND WELFARE PROGRAM			
Comfort and Welfare Fund (IC 10-17-9-7(c))			
Total Operating Expense	**10,127,221**	**10,127,221**	
Augmentation allowed.			

SECTION 9. [EFFECTIVE JULY 1, 2009]

EDUCATION

A. HIGHER EDUCATION

FOR INDIANA UNIVERSITY

BLOOMINGTON CAMPUS			
Total Operating Expense	**194,908,592**	**190,670,086**	
Fee Replacement	**26,901,091**	**39,480,478**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
FOR INDIANA UNIVERSITY REGIONAL CAMPUSES			
EAST			
Total Operating Expense	**7,978,684**	**7,896,005**	
Fee Replacement	**1,896,844**	**1,400,591**	
KOKOMO			
Total Operating Expense	**10,409,563**	**10,345,995**	
Fee Replacement	**2,103,973**	**1,553,532**	
NORTHWEST			
Total Operating Expense	**17,243,776**	**16,949,512**	
Fee Replacement	**3,899,173**	**2,879,072**	
SOUTH BEND			
Total Operating Expense	**22,157,280**	**21,772,918**	
Fee Replacement	**5,658,917**	**4,178,432**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
SOUTHEAST			
Total Operating Expense	**20,002,235**	**19,846,717**	
Fee Replacement	**5,048,022**	**3,727,359**	
TOTAL APPROPRIATION - INDIANA UNIVERSITY REGIONAL CAMPUSES	**96,398,467**	**90,550,133**	
FOR INDIANA UNIVERSITY - PURDUE UNIVERSITY AT INDIANAPOLIS (IUPUI)			
HEALTH DIVISIONS			
Total Operating Expense	**104,111,058**	**102,027,773**	
Fee Replacement	**4,189,020**	**4,160,100**	
FOR INDIANA UNIVERSITY SCHOOL OF MEDICINE ON THE CAMPUS OF THE UNIVERSITY OF SOUTHERN INDIANA			
Total Operating Expense	**1,565,404**	**1,603,670**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
THE CAMPUS OF INDIANA UNIVERSITY-PURDUE UNIVERSITY FORT WAYNE			
Total Operating Expense	**1,440,072**	**1,475,274**	
THE CAMPUS OF INDIANA UNIVERSITY-NORTHWEST			
Total Operating Expense	**2,045,819**	**2,095,829**	
THE CAMPUS OF PURDUE UNIVERSITY			
Total Operating Expense	**1,826,182**	**1,870,823**	
THE CAMPUS OF BALL STATE UNIVERSITY			
Total Operating Expense	**1,642,036**	**1,682,175**	
THE CAMPUS OF THE UNIVERSITY OF NOTRE DAME			
Total Operating Expense	**1,522,791**	**1,560,016**	
THE CAMPUS OF INDIANA STATE UNIVERSITY			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**1,815,496**	**1,859,876**	

The Indiana University School of Medicine - Indianapolis shall submit to the Indiana commission for higher education before May 15 of each year an accountability report containing data on the number of medical school graduates who entered primary care physician residencies in Indiana from the school's most recent graduating class.

FOR INDIANA UNIVERSITY - PURDUE UNIVERSITY AT INDIANAPOLIS (IUPUI)

GENERAL ACADEMIC DIVISIONS

Total Operating Expense	**80,314,605**	**80,232,626**
Fee Replacement	**20,004,544**	**13,472,705**

TOTAL APPROPRIATIONS - IUPUI

220,477,027 212,040,867

Transfers of allocations between campuses to correct for errors in allocation among the campuses of Indiana University can be made by the institution with the approval

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
of the commission for higher education and the budget agency. Indiana University shall maintain current operations at all statewide medical education sites.			
FOR INDIANA UNIVERSITY			
ABILENE NETWORK OPERATIONS CENTER			
Total Operating Expense	**832,596**	**832,596**	
SPINAL CORD AND HEAD INJURY RESEARCH CENTER			
Spinal Cord and Brain Injury Fund (IC 16-41-42.2-3)			
Total Operating Expense	**524,230**	**524,230**	
STATE DEPARTMENT OF TOXICOLOGY			
Total Operating Expense	**2,463,380**	**2,463,380**	
INSTITUTE FOR THE STUDY OF DEVELOPMENTAL DISABILITIES			
Total Operating Expense	**2,477,440**	**2,477,440**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
GEOLOGICAL SURVEY			
Total Operating Expense	**3,102,244**	**3,102,244**	
LOCAL GOVERNMENT ADVISORY COMMISSION			
Total Operating Expense	**56,543**	**56,543**	
I-LIGHT NETWORK OPERATIONS			
Build Indiana Fund (IC 4-30-17)			
Total Operating Expense	**2,000,000**	**2,000,000**	
FOR PURDUE UNIVERSITY			
WEST LAFAYETTE			
Total Operating Expense	**248,053,173**	**241,119,044**	
Fee Replacement	**26,722,911**	**27,614,524**	
FOR PURDUE UNIVERSITY - REGIONAL CAMPUSES			
CALUMET			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**27,028,286**	**26,750,801**	
Fee Replacement	**1,491,261**	**1,491,824**	
NORTH CENTRAL			
Total Operating Expense	**11,847,744**	**12,299,238**	
TOTAL APPROPRIATION - PURDUE UNIVERSITY REGIONAL CAMPUSES	**40,367,291**	**40,541,863**	
FOR INDIANA UNIVERSITY - PURDUE UNIVERSITY AT FORT WAYNE (IPFW)			
Total Operating Expense	**37,378,801**	**37,816,896**	
Fee Replacement	**5,995,241**	**5,980,642**	

Transfers of allocations between campuses to correct for errors in allocation among the campuses of Purdue University can be made by the institution with the approval of the commission for higher education and the budget agency.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
FOR PURDUE UNIVERSITY			
ANIMAL DISEASE DIAGNOSTIC LABORATORY SYSTEM			
Total Operating Expense	**3,449,706**	**3,449,706**	

The above appropriations shall be used to fund the animal disease diagnostic laboratory system (ADDL), which consists of the main ADDL at West Lafayette, the bangs disease testing service at West Lafayette, and the southern branch of ADDL Southern Indiana Purdue Agricultural Center (SIPAC) in Dubois County. The above appropriations are in addition to any user charges that may be established and collected under IC 21-46-3-5. Notwithstanding IC 21-46-3-4, the trustees of Purdue University may approve reasonable charges for testing for pseudorabies.

STATEWIDE TECHNOLOGY			
Total Operating Expense	**6,433,939**	**6,433,939**	

COUNTY AGRICULTURAL EXTENSION EDUCATORS

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**7,234,605**	**7,234,605**	
AGRICULTURAL RESEARCH AND EXTENSION - CROSSROADS			
Total Operating Expense	**7,238,961**	**7,238,961**	
CENTER FOR PARALYSIS RESEARCH			
Total Operating Expense	**522,558**	**522,558**	
UNIVERSITY-BASED BUSINESS ASSISTANCE			
Total Operating Expense	**1,889,039**	**1,889,039**	
FOR INDIANA STATE UNIVERSITY			
Total Operating Expense	**72,442,778**	**71,536,249**	
Fee Replacement	**8,231,452**	**9,455,023**	
NURSING PROGRAM			
Total Operating Expense	**240,000**	**240,000**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
FOR UNIVERSITY OF SOUTHERN INDIANA			
Total Operating Expense	**39,044,222**	**39,172,365**	
Fee Replacement	**11,920,469**	**11,119,519**	
HISTORIC NEW HARMONY			
Total Operating Expense	**553,428**	**553,428**	
FOR BALL STATE UNIVERSITY			
Total Operating Expense	**125,529,452**	**125,182,828**	
Fee Replacement	**11,543,674**	**14,296,955**	
ENTREPRENEURIAL COLLEGE			
From the General Fund			
	960,000	**960,000**	
From the ARRA State Fiscal Stabilization Fund (Section 14002(b))			
	1,000,000	**1,000,000**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
The amounts specified from the General Fund and the American Recovery and Reinvestment Act are for the following purposes:			
Total Operating Expense	**1,960,000**	**1,960,000**	
ACADEMY FOR SCIENCE, MATHEMATICS, AND HUMANITIES			
Total Operating Expense	**4,273,836**	**4,273,836**	
FOR VINCENNES UNIVERSITY			
Total Operating Expense	**37,420,510**	**37,190,537**	
Fee Replacement	**5,275,650**	**5,282,662**	
FOR IVY TECH COMMUNITY COLLEGE			
Total Operating Expense	**164,419,166**	**175,842,161**	
Fee Replacement	**26,656,511**	**31,178,968**	
VALPO NURSING PARTNERSHIP			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**100,484**	**100,484**	
FT. WAYNE PUBLIC SAFETY TRAINING CENTER			
Total Operating Expense	**1,000,000**	**1,000,000**	
FOR THE INDIANA HIGHER EDUCATION TELECOMMUNICATIONS SYSTEM (IHETS)			
Build Indiana Fund (IC 4-30-17)			
Total Operating Expense	**600,000**	**600,000**	

The above appropriations do not include funds for the course development grant program.

The sums herein appropriated to Indiana University, Purdue University, Indiana State University, University of Southern Indiana, Ball State University, Vincennes University, Ivy Tech Community College, and the Indiana Higher Education Telecommunications System (IHETS) are in addition to all income of said institutions and IHETS, respectively, from all permanent fees and endowments and from all land grants, fees, earnings, and receipts, including gifts, grants, bequests, and devises, and receipts from any

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

miscellaneous sales from whatever source derived.

All such income and all such fees, earnings, and receipts on hand June 30, 2009, and all such income and fees, earnings, and receipts accruing thereafter are hereby appropriated to the boards of trustees or directors of the aforementioned institutions and IHETS and may be expended for any necessary expenses of the respective institutions and IHETS, including university hospitals, schools of medicine, nurses' training schools, schools of dentistry, and agricultural extension and experimental stations. However, such income, fees, earnings, and receipts may be used for land and structures only if approved by the governor and the budget agency.

The foregoing appropriations to Indiana University, Purdue University, Indiana State University, University of Southern Indiana, Ball State University, Vincennes University, Ivy Tech Community College, and IHETS include the employers' share of Social Security payments for university and IHETS employees under the public employees' retirement fund, or institutions covered by the Indiana state teachers' retirement fund. The funds appropriated also include funding for the employers' share of payments to the

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

public employees' retirement fund and to the Indiana state teachers' retirement fund at a rate to be established by the retirement funds for both fiscal years for each institution and for IHETS employees covered by these retirement plans.

The treasurers of Indiana University, Purdue University, Indiana State University, University of Southern Indiana, Ball State University, Vincennes University, and Ivy Tech Community College shall, at the end of each three (3) month period, prepare and file with the auditor of state a financial statement that shall show in total all revenues received from any source, together with a consolidated statement of disbursements for the same period. The budget director shall establish the requirements for the form and substance of the reports.

The reports of the treasurer also shall contain in such form and in such detail as the governor and the budget agency may specify, complete information concerning receipts from all sources, together with any contracts, agreements, or arrangements with any federal agency, private foundation, corporation, or other entity from which such receipts accrue.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

All such treasurers' reports are matters of public record and shall include without limitation a record of the purposes of any and all gifts and trusts with the sole exception of the names of those donors who request to remain anonymous.

Notwithstanding IC 4-10-11, the auditor of state shall draw warrants to the treasurers of Indiana University, Purdue University, Indiana State University, University of Southern Indiana, Ball State University, Vincennes University, and Ivy Tech Community College on the basis of vouchers stating the total amount claimed against each fund or account, or both, but not to exceed the legally made appropriations.

Notwithstanding IC 4-12-1-14, for universities and colleges supported in whole or in part by state funds, grant applications and lists of applications need only be submitted upon request to the budget agency for review and approval or disapproval and, unless disapproved by the budget agency, federal grant funds may be requested and spent without approval by the budget agency. Each institution shall retain the applications for a reasonable period of time and submit a list of all grant applications,

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

at least monthly, to the commission for higher education for informational purposes.

For all university special appropriations, an itemized list of intended expenditures, in such form as the governor and the budget agency may specify, shall be submitted to support the allotment request. All budget requests for university special appropriations shall be furnished in a like manner and as a part of the operating budgets of the state universities.

The trustees of Indiana University, the trustees of Purdue University, the trustees of Indiana State University, the trustees of University of Southern Indiana, the trustees of Ball State University, the trustees of Vincennes University, the trustees of Ivy Tech Community College and the directors of IHETS are hereby authorized to accept federal grants, subject to IC 4-12-1.

Fee replacement funds are to be distributed as requested by each institution, on payment due dates, subject to available appropriations.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
FOR THE MEDICAL EDUCATION BOARD			
FAMILY PRACTICE RESIDENCY FUND			
Total Operating Expense	**2,247,056**	**2,247,056**	

Of the foregoing appropriations for the medical education board-family practice residency fund, $1,000,000 each year shall be used for grants for the purpose of improving family practice residency programs serving medically underserved areas.

FOR THE COMMISSION FOR HIGHER EDUCATION			
Total Operating Expense	**1,476,735**	**1,476,735**	
STATEWIDE TRANSFER WEB SITE			
Total Operating Expense	**644,293**	**644,293**	
FOR THE DEPARTMENT OF ADMINISTRATION			
ANIMAL DISEASE DIAGNOSTIC LABORATORY LEASE RENTAL			
Total Operating Expense	**1,045,098**	**1,046,630**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
COLUMBUS LEARNING CENTER LEASE PAYMENT			
Total Operating Expense	**4,988,000**	**4,934,000**	
FOR THE STATE BUDGET AGENCY			
MEDICAL EDUCATION CENTER EXPANSION			
Total Operating Expense	**3,000,000**	**3,000,000**	

The above appropriations for medical education center expansion are intended to help increase medical school class size on a statewide basis. The funds shall be used to help increase enrollment for years 1 and 2 and to provide clinical instruction for years 3 and 4. The funds shall be distributed to the nine (9) existing medical education centers in proportion to the increase in enrollment for each center. The budget agency shall release the funds after a plan is submitted and favorably reviewed by the budget committee.

TECHNICAL ASSISTANCE AND ADVANCED MANUFACTURING

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**2,000,000**	**2,000,000**	

The above appropriation for technical assistance and advanced manufacturing is intended to be used to expand post graduate pharmacy residency training and post graduate biomedical engineering specialization and for a technical assistance program for cost containment through the healthcare technology assistance program at Purdue University. Funds shall be released after favorable review by the budget committee.

CORE RESEARCH

Total Operating Expense	**5,000,000**	**5,000,000**	

The above appropriations for core research are intended to fund facilities, equipment, researchers, and related expenses at Purdue University and Indiana University to conduct basic research in the core life sciences that are aligned with Indiana's major bioscience employment sectors. Those sectors include pharmaceutical, biotech, medical devices and equipment, orthopedics, and agricultural feedstock and chemicals. Funds shall be released after favorable review by the budget committee. Purdue University

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
and Indiana University shall report to the budget committee on the status of the program one (1) year after the funds are released.			
GIGAPOP PROJECT			
Build Indiana Fund (IC 4-30-17)			
Total Operating Expense	**771,951**	**771,951**	
SOUTH CENTRAL EDUCATIONAL ALLIANCE - BEDFORD SERVICE AREA			
Build Indiana Fund (IC 4-30-17)			
Total Operating Expense	**395,266**	**395,266**	
SOUTHEAST INDIANA EDUCATION SERVICES			
Build Indiana Fund (IC 4-30-17)			
Total Operating Expense	**695,226**	**695,226**	
DEGREE LINK			
Build Indiana Fund (IC 4-30-17)			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**541,465**	**541,465**	

The above appropriations shall be used for the delivery of Indiana State University baccalaureate degree programs at Ivy Tech Community College and Vincennes University locations through Degree Link.

WORKFORCE CENTERS			
Build Indiana Fund (IC 4-30-17)			
Total Operating Expense	**862,110**	**862,110**	
MIDWEST HIGHER EDUCATION COMMISSION			
Build Indiana Fund (IC 4-30-17)			
Total Operating Expense	**95,000**	**95,000**	
HIGHER EDUCATION FEE REPLACEMENT			
Total Operating Expense	**0**	**16,500,000**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
The state budget agency shall transfer fee replacement as needed for higher education capital projects approved by the budget committee.			
FOR THE STATE STUDENT ASSISTANCE COMMISSION			
Total Operating Expense	**1,073,337**	**1,073,337**	
FREEDOM OF CHOICE GRANTS			
Total Operating Expense	**50,660,522**	**52,130,838**	
HIGHER EDUCATION AWARD PROGRAM			
Total Operating Expense	**148,575,712**	**152,886,733**	
NURSING SCHOLARSHIP PROGRAM			
Total Operating Expense	**418,389**	**418,389**	
HOOSIER SCHOLAR PROGRAM			
Total Operating Expense	**404,500**	**404,500**	

For the higher education awards and freedom of choice grants made for the 2009-2011 biennium, the following guidelines shall be used, notwithstanding current administrative rule or practice:

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

(1) Financial Need: For purposes of these awards, financial need shall be limited to actual undergraduate tuition and fees for the prior academic year as established by the commission.
(2) Maximum Base Award: The maximum award shall not exceed the lesser of:
(A) eighty percent (80%) of actual prior academic year undergraduate tuition and fees; or
(B) eighty percent (80%) of the sum of the highest prior academic year undergraduate tuition and fees at any public institution of higher education and the lowest appropriation per full-time equivalent (FTE) undergraduate student at any public institution of higher education.
(3) Minimum Award: No actual award shall be less than $400.
(4) Award Size: A student's maximum award shall be reduced one (1) time:
(A) for dependent students, by the expected contribution from parents based upon information submitted on the financial aid application form; and
(B) for independent students, by the expected contribution derived from information submitted on the financial aid application form.
(5) Award Adjustment: The maximum base award may be adjusted by the commission, for

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

any eligible recipient who fulfills college preparation requirements defined by the commission.
(6) Adjustment:
(A) If the dollar amounts of eligible awards exceed appropriations and program reserves, all awards may be adjusted by the commission by reducing the maximum award under subdivision (2)(A) or (2)(B).
(B) If appropriations and program reserves are sufficient and the maximum awards are not at the levels described in subdivision (2)(A) and (2)(B), all awards may be adjusted by the commission by proportionally increasing the awards to the maximum award under that subdivision so that parity between those maxima is maintained but not exceeded.

For the Hoosier scholar program for the 2009-2011 biennium, each award shall not exceed five hundred dollars ($500) and shall be made available for one (1) year only. Receipt of this award shall not reduce any other award received under any state funded student assistance program.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
STATUTORY FEE REMISSION			
Total Operating Expense	**20,557,932**	**20,557,932**	
PART-TIME STUDENT GRANT DISTRIBUTION			
Total Operating Expense	**5,462,100**	**5,462,100**	

Priority for awards made from the above appropriation shall be given first to eligible students meeting TANF income eligibility guidelines as determined by the family and social services administration and second to eligible students who received awards from the part-time grant fund during the school year associated with the biennial budget year. Funds remaining shall be distributed according to procedures established by the commission. The maximum grant that an applicant may receive for a particular academic term shall be established by the commission but shall in no case be greater than a grant for which an applicant would be eligible under IC 21-12-3 if the applicant were a full-time student. The commission shall collect and report to the family and social services administration (FSSA) all data required for FSSA to meet the data collection and reporting requirements in 45 CFR Part 265.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

The family and social services administration, division of family resources, shall apply all qualifying expenditures for the part-time grant program toward Indiana's maintenance of effort under the federal Temporary Assistance for Needy Families (TANF) program (45 CFR 260 et seq.).

CONTRACT FOR INSTRUCTIONAL OPPORTUNITIES IN SOUTHEASTERN INDIANA			
Total Operating Expense	**458,253**	**458,253**	
MINORITY TEACHER SCHOLARSHIP FUND			
Total Operating Expense	**415,919**	**415,919**	
COLLEGE WORK STUDY PROGRAM			
Total Operating Expense	**837,719**	**837,719**	
21ST CENTURY ADMINISTRATION			
Total Operating Expense	**2,102,648**	**2,102,648**	
21ST CENTURY SCHOLAR AWARDS			
Total Operating Expense	**28,289,852**	**29,109,298**	

Augmentation for 21st Century Scholar Awards allowed from the general fund.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

The commission shall collect and report to the family and social services administration (FSSA) all data required for FSSA to meet the data collection and reporting requirements in 45 CFR 265.

Family and social services administration, division of family resources, shall apply all qualifying expenditures for the 21st century scholars program toward Indiana's maintenance of effort under the federal Temporary Assistance for Needy Families (TANF) program (45 CFR 260 et seq.)

NATIONAL GUARD SCHOLARSHIP			
Total Operating Expense	**2,874,264**	**2,874,264**	

The above appropriations for national guard scholarship and any program reserves existing on June 30, 2009, shall be the total allowable state expenditure for the program in the 2009-2011 biennium. If the dollar amounts of eligible awards exceed appropriations and program reserves, the state student assistance commission shall

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
develop a plan to ensure that the total dollar amount does not exceed the above appropriations and any program reserves.			
INSURANCE EDUCATION SCHOLARSHIPS			
Insurance Education Scholarship Fund (IC 21-12-9-5)			
Total Operating Expense	**100,000**	**100,000**	
Augmentation allowed.			
B. ELEMENTARY AND SECONDARY EDUCATION			
FOR THE DEPARTMENT OF EDUCATION			
STATE BOARD OF EDUCATION			
Total Operating Expense	**3,144,762**	**3,144,762**	

The foregoing appropriations for the Indiana state board of education are for the education roundtable established by IC 20-19-4; for the academic standards project to distribute copies of the academic standards and provide teachers with curriculum

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

frameworks; for special evaluation and research projects including national and international assessments; and for state board and roundtable administrative expenses.

SUPERINTENDENT'S OFFICE

From the General Fund

	8,495,125	**8,495,125**

From the Professional Standards Fund (IC 20-28-2-8)

	395,000	**395,000**

Augmentation allowed from the Professional Standards Fund.

The amounts specified from the General Fund and the Professional Standards Fund are for the following purposes:

Personal Services	**5,895,372**	**5,895,372**
Other Operating Expense	**2,994,753**	**2,994,753**

PUBLIC TELEVISION DISTRIBUTION

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**3,220,000**	**3,220,000**	

These appropriations are for grants for public television. The Indiana Public Broadcasting Stations, Inc., shall submit a distribution plan for the eight Indiana public education television stations that shall be approved by the budget agency after review by the budget committee. Of the above appropriations, $368,000 each year shall be distributed equally among all of the public radio stations.

SCHOOL IMPROVEMENT PROGRAMS

ARRA State Fiscal Stabilization Fund (Section 14002(b))

Total Operating Expense **5,000,000**

The foregoing appropriation shall be used for the Woodrow Wilson teaching fellowship program for new math and science teachers in underserved areas and to support start-up costs to establish New Tech high schools in Indiana.

RILEY HOSPITAL

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Total Operating Expense	**27,900**	**27,900**	
BEST BUDDIES			
Total Operating Expense	**250,000**	**250,000**	
MOTORCYCLE OPERATOR SAFETY EDUCATION FUND			
Safety Education Fund (IC 20-30-13-11)			
Personal Services	**154,388**	**154,388**	
Other Operating Expense	**829,642**	**829,642**	

The foregoing appropriations for the motorcycle operator safety education fund are from the motorcycle operator safety education fund created by IC 20-30-13-11.

SCHOOL TRAFFIC SAFETY			
Motor Vehicle Highway Account (IC 8-14-1)			
Personal Services	**224,364**	**224,364**	
Other Operating Expense	**28,119**	**28,119**	
Augmentation allowed.			
EDUCATION LICENSE PLATE FEES			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Education License Plate Fees Fund (IC 9-18-31)			
Total Operating Expense	**141,200**	**141,200**	
ACCREDITATION SYSTEM			
Personal Services	**566,462**	**566,462**	
Other Operating Expense	**283,966**	**283,966**	
SPECIAL EDUCATION (S-5)			
Total Operating Expense	**24,750,000**	**24,750,000**	

The foregoing appropriations for special education are made under IC 20-35-6-2.

SPECIAL EDUCATION EXCISE			
Alcoholic Beverage Excise Tax Funds (IC 20-35-4-4)			
Personal Services	**386,527**	**386,527**	
Augmentation allowed.			
CAREER AND TECHNICAL EDUCATION			
Personal Services	**1,390,117**	**1,390,117**	
Other Operating Expense	**36,828**	**36,828**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
ADVANCED PLACEMENT PROGRAM			
Other Operating Expense	**953,284**	**953,284**	

The above appropriations for the Advanced Placement Program are to provide funding for students of accredited public and nonpublic schools.

PSAT PROGRAM			
Other Operating Expense	**717,449**	**717,449**	

The above appropriations for the PSAT program are to provide funding for students of accredited public and nonpublic schools.

EDUCATION SERVICE CENTERS			
Total Operating Expense	**2,100,000**	**1,000,000**	

No appropriation made for an education service center shall be distributed to the administering school corporation of the center unless each participating school corporation

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

of the center contracts to pay to the center at least three dollars ($3) per student for fiscal year 2009-2010 based on the school corporation's ADM count as reported for school aid distribution in the fall of 2008 and at least three dollars ($3) per student for fiscal year 2010-2011, based on the school corporation's ADM count as reported for school aid distribution beginning in the fall of 2009. Before notification of education service centers of the formula and components of the formula for distributing funds for education service centers, review and approval of the formula and components must be made by the budget agency.

TRANSFER TUITION (STATE EMPLOYEES' CHILDREN AND ELIGIBLE CHILDREN IN MENTAL HEALTH FACILITIES)			
Total Operating Expense	**25,000**	**25,000**	

The foregoing appropriations for transfer tuition (state employees' children and eligible children in mental health facilities) are made under IC 20-26-11-8 and IC 20-26-11-10.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
TEACHERS' SOCIAL SECURITY AND RETIREMENT DISTRIBUTION			
Total Operating Expense	**2,403,792**	**2,403,792**	

The foregoing appropriations shall be distributed by the department of education on a monthly basis and in approximately equal payments to special education cooperatives, area career and technical education schools, and other governmental entities that received state teachers' Social Security distributions for certified education personnel (excluding the certified education personnel funded through federal grants) during the fiscal year beginning July 1, 1992, and ending June 30, 1993, and for the units under the Indiana state teacher's retirement fund, the amount they received during the 2002-2003 state fiscal year for teachers' retirement. If the total amount to be distributed is greater than the total appropriation, the department of education shall reduce each entity's distribution proportionately.

DISTRIBUTION FOR TUITION SUPPORT			
Total Operating Expense	**6,420,765,650**	**6,558,700,000**	

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After July 1, 2009, but before June 30, 2011, the state budget agency shall transfer six hundred ten million dollars ($610,000,000) from the state tuition reserve fund to the state general fund to support the foregoing appropriations. The $610,000,000 represents the monies under Section 14002(a) of ARRA used to restore state support and fund the CY 2009 tuition support distribution pursuant to the school funding formula contained in HEA 1001-2007.

The foregoing appropriations for distribution for tuition support are to be distributed for tuition support, special education programs, career and technical education programs, honors grants, and the primetime program in accordance with a statute enacted for this purpose during the 2009 session of the general assembly.

If the above appropriations for distribution for tuition support are more than are required under this SECTION, any excess shall revert to the general fund.

The above appropriations for tuition support shall be made each calendar year under a schedule set by the budget agency and approved by the governor. However, the schedule

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shall provide for at least twelve (12) payments, that one (1) payment shall be made at least every forty (40) days, and the aggregate of the payments in each calendar year shall equal the amount required under the statute enacted for the purpose referred to above.

DISTRIBUTION FOR SUMMER SCHOOL			
Other Operating Expense	**18,360,000**	**18,360,000**	

It is the intent of the 2009 general assembly that the above appropriations for summer school shall be the total allowable state expenditure for such program. Therefore, if the expected disbursements are anticipated to exceed the total appropriation for that state fiscal year, then the department of education shall reduce the distributions proportionately.

EARLY INTERVENTION PROGRAM AND READING DIAGNOSTIC ASSESSMENT			
Total Operating Expense	**4,720,000**	**4,720,000**	

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The above appropriation for the early intervention program may be used for grants to local school corporations for grant proposals for early intervention programs.

The foregoing appropriations may be used by the department for the reading diagnostic assessment and subsequent remedial programs or activities. The reading diagnostic assessment program, as approved by the board, is to be made available on a voluntary basis to all Indiana public and nonpublic school first and second grade students upon the approval of the governing body of school corporations. The board shall determine how the funds will be distributed for the assessment and related remediation. The department or its representative shall provide progress reports on the assessment as requested by the board and the education roundtable.

SCHOOL CIRCUIT BREAKER REPLACEMENT CREDITS		
Total Operating Expense	**38,000,000**	**27,000,000**

The above appropriations for school circuit breaker replacement credits replace the appropriations in HEA 1001-2008, SECTION 857.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
ADULT EDUCATION DISTRIBUTION			
Total Operating Expense	**14,000,000**	**14,000,000**	

It is the intent of the 2009 general assembly that the above appropriations for adult education shall be the total allowable state expenditure for such program. Therefore, if the expected disbursements are anticipated to exceed the total appropriation for a state fiscal year, the department of education shall reduce the distributions proportionately.

NATIONAL SCHOOL LUNCH PROGRAM			
Total Operating Expense	**5,400,000**	**5,400,000**	
MARION COUNTY DESEGREGATION COURT ORDER			
Total Operating Expense	**18,000,000**	**18,000,000**	

The foregoing appropriations for court ordered desegregation costs are made pursuant to order No. IP 68-C-225-S of the United States District Court for the Southern District of Indiana. If the sums herein appropriated are insufficient to enable the state

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to meet its obligations, then there are hereby appropriated from the state general fund such further sums as may be necessary for such purpose.

TEXTBOOK REIMBURSEMENT			
Total Operating Expense	**39,000,000**	**39,000,000**	

Before a school corporation or an accredited nonpublic school may receive a distribution under the textbook reimbursement program, the school corporation or accredited nonpublic school shall provide to the department the requirements established in IC 20-33-5-2. The department shall provide to the family and social services administration (FSSA) all data required for FSSA to meet the data collection reporting requirement in 45 CFR 265. Family and social services administration, division of family resources, shall apply all qualifying expenditures for the textbook reimbursement program toward Indiana's maintenance of effort under the federal Temporary Assistance to Needy Families (TANF) program (45 CFR 260 et seq.).

The foregoing appropriations for textbook reimbursement include the appropriation of the

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common school fund interest balance. The remainder of the above appropriations are provided from the state general fund.

FULL-DAY KINDERGARTEN		
Total Operating Expense	**58,500,000**	**58,500,000**

The above appropriations for full day kindergarten are available to school corporations and charter schools that apply to the department of education for funding of full day kindergarten. The amount available to a school corporation or charter school equals the amount appropriated divided by the total full day kindergarten enrollment of all participating school corporations and charter schools (as defined in IC 20-43-1-11) for the current year, and then multiplied by the school corporation's or charter school's full day kindergarten enrollment (as defined in IC 20-43-1-11) for the current year. However, a school corporation or charter school may not receive more than $2,500 dollars per student for full day kindergarten. A school corporation or charter school that is awarded a grant must provide to the department of education a financial report stating how the funds were spent. Any unspent funds at the end

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of the biennium must be returned to the state by the school corporation or charter school.

To provide full day kindergarten programs, a school corporation or charter school that determines there is inadequate space to offer a program in the school corporation's or charter school's existing facilities may offer the program in any suitable space located within the geographic boundaries of the school corporation or, in the case of a charter school, a location that is in the general vicinity of the charter school's existing facilities. A full day kindergarten program offered by a school corporation or charter school must meet the academic standards and other requirements of IC 20.

A school corporation or charter school that receives a grant must meet the academic standards and other requirements of IC 20.

In awarding grants from the above appropriations, the department of education may not refuse to make a grant to a school corporation or reduce the award that would otherwise be made to the school corporation because the school corporation used federal

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grants or loans, including Title I grants, to fund part or all of the school corporation's full day kindergarten program in a school year before the school year in which the grant will be given or because the school corporation intends to use federal grants or loans, including Title I grants, to fund part of the school corporation's full day kindergarten program in a school year in which the grant will be given.

The state board and department shall provide support to school corporations and charter schools in the development and implementation of child centered and learning focused programs using the following methods:

(1) Targeting professional development funds to provide teachers in kindergarten through grade 3 education in:

(A) scientifically proven methods of teaching reading;

(B) the use of data to guide instruction; and

(C) the use of age appropriate literacy and mathematics assessments.

(2) Making uniform, predictively valid, observational assessments that:

(A) provide frequent information concerning the student's progress to the student's teacher; and

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(B) measure the student's progress in literacy;			
available to teachers in kindergarten through grade 3. Teachers shall monitor students participating in a program, and the school corporation or charter school shall report the results of the assessments to the parents of a child completing an assessment and to the department.			
(3) Undertaking a longitudinal study of students in programs in Indiana to determine the achievement levels of the students in kindergarten and later grades.			
The school corporation or charter school may use any funds otherwise allowable under state and federal law, including the school corporation's general fund, any funds available to the charter school, or voluntary parent fees, to provide full day kindergarten programs.			
TESTING AND REMEDIATION			
Total Operating Expense	**39,000,000**	**39,000,000**	
Prior to notification of local school corporations of the formula and components			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

of the formula for distributing funds for remediation, review and approval of the formula and components shall be made by the budget agency.

The above appropriation for testing and remediation shall be used by school corporations to provide remediation programs for students who attend public and nonpublic schools. For purposes of tuition support, these students are not to be counted in the average daily membership. Of the above appropriation for testing and remediation, $500,000 each year shall be used for ACT/SAT test preparation.

GRADUATION EXAM REMEDIATION			
Other Operating Expense	**4,958,910**	**4,958,910**	

Prior to notification of local school corporations of the formula and components of the formula for distributing funds for graduation exam remediation, review and approval of the formula and components shall be made by the budget agency.

SPECIAL EDUCATION PRESCHOOL			
Total Operating Expense	**19,200,000**	**0**	

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

The above appropriations shall be distributed to guarantee a minimum of $2,750 per child enrolled in special education preschool programs. It is the intent of the 2009 general assembly that the above appropriations for special education preschool shall be the total allowable expenditure for such program. Therefore, if the expected disbursements are anticipated to exceed the total appropriation for that state fiscal year, then the department of education shall reduce the distributions proportionately.

NON-ENGLISH SPEAKING PROGRAM			
Other Operating Expense	**6,965,055**	**6,965,055**	

The above appropriations for the Non-English Speaking Program are for pupils who have a primary language other than English and limited English proficiency, as determined by using a standard proficiency examination that has been approved by the department of education.

The grant amount is two hundred dollars ($200) per pupil. It is the intent of the

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2009 general assembly that the above appropriations for the Non-English Speaking Program shall be the total allowable state expenditure for the program. If the expected distributions are anticipated to exceed the total appropriations for the state fiscal year, the department of education shall reduce each school corporation's distribution proportionately.

GIFTED AND TALENTED EDUCATION PROGRAM			
Personal Services		**148,024**	**148,024**
Other Operating Expense		**12,788,157**	**12,788,157**
DISTRIBUTION FOR ADULT VOCATIONAL EDUCATION			
Total Operating Expense		**250,000**	**250,000**

The distribution for adult career and technical education programs shall be made in accordance with the state plan for vocational education.

PRIMETIME

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Personal Services	**202,136**	**202,136**	
Other Operating Expense	**32,053**	**32,053**	
DRUG FREE SCHOOLS			
Personal Services	**46,203**	**46,203**	
Other Operating Expense	**20,451**	**20,451**	
PROFESSIONAL DEVELOPMENT DISTRIBUTION			
Other Operating Expense	**5,500,000**	**5,500,000**	

The foregoing appropriation for professional development distribution includes schools defined under IC 20-31-2-8.

ALTERNATIVE EDUCATION			
Total Operating Expense	**6,580,319**	**6,580,319**	

The above appropriation includes funding to provide $5,000 for each child attending a charter school operated by an accredited hospital specializing in the treatment of alcohol or drug abuse. This funding is in addition to tuition support for the

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
charter school.			

The foregoing appropriation for alternative education may be used for dropout prevention defined under IC 20-20-37.

SENATOR DAVID C. FORD EDUCATIONAL TECHNOLOGY PROGRAM (IC 20-20-13)			
Build Indiana Fund (IC 4-30-17)			
Total Operating Expense	**3,809,965**	**3,809,965**	

Of the above appropriations for the Senator David C. Ford Educational Technology Program, $825,000 shall be allocated each year to the buddy system. The department shall use the remaining funds to make grants to school corporations to promote student learning through the use of technology. Notwithstanding distribution guidelines in IC 20-20-13, the department shall develop guidelines for distribution of the grants. Up to $200,000 may be used each year to support the operation of the office of the special assistant to the superintendent of public instruction for technology.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
PROFESSIONAL STANDARDS DIVISION			
From the General Fund			
	2,882,513	**2,882,513**	
From the Professional Standards Fund (IC 20-28-2-8)			
	1,000,000	**1,000,000**	
Augmentation allowed.			

The amounts specified from the General Fund and the Professional Standards Fund are for the following purposes:

Personal Services	**2,243,571**	**2,243,571**
Other Operating Expense	**1,638,942**	**1,638,942**

The above appropriations for the Professional Standards Division do not include funds to pay stipends for mentor teachers.

FOR THE INDIANA STATE TEACHERS' RETIREMENT FUND

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
POSTRETIREMENT PENSION INCREASES			
Other Operating Expense	**58,190,084**	**60,517,687**	

The appropriations for postretirement pension increases are made for those benefits and adjustments provided in IC 5-10.4 and IC 5-10.2-5.

TEACHERS' RETIREMENT FUND DISTRIBUTION			
Other Operating Expense	**618,616,164**	**643,780,810**	
Augmentation allowed.			

If the amount actually required under the pre-1996 account of the teachers' retirement fund for actual benefits for the Post Retirement Pension Increases that are funded on a "pay as you go" basis plus the base benefits under the pre-1996 account of the teachers' retirement fund is:

(1) greater than the above appropriations for a year, after notice to the governor and the budget agency of the deficiency, the above appropriation for the year shall be augmented from the general fund. Any augmentation shall

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be included in the required pension stabilization calculation under IC 5-10.4; or (2) less than the above appropriations for a year, the excess shall be retained in the general fund. The portion of the benefit funded by the annuity account and the actuarially funded Post Retirement Pension Increases shall not be part of this calculation.			
C. OTHER EDUCATION			
FOR THE EDUCATION EMPLOYMENT RELATIONS BOARD			
Personal Services	**587,688**	**587,688**	
Other Operating Expense	**52,720**	**52,720**	
FOR THE STATE LIBRARY			
Personal Services	**2,589,615**	**2,589,615**	
Other Operating Expense	**850,689**	**850,689**	
STATEWIDE LIBRARY SERVICES			
Total Operating Expense	**1,593,503**	**1,593,503**	

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The foregoing appropriations for statewide library services will be used to provide services to libraries across the state. These services may include, but will not be limited to, programs including Wheels, I*Ask, and professional development. The state library shall identify statewide library services that are to be provided by a vendor. Those services identified by the library shall be procured through a competitive process using one (1) or more requests for proposals covering the service.

LIBRARY SERVICES FOR THE BLIND - ELECTRONIC NEWSLINES		
Other Operating Expense	**36,400**	**36,400**
ACADEMY OF SCIENCE		
Total Operating Expense	**8,811**	**8,811**
FOR THE ARTS COMMISSION		
Personal Services	**418,557**	**418,557**
Other Operating Expense	**2,783,811**	**2,783,811**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
The foregoing appropriation to the arts commission includes $325,000 each year to provide grants under IC 4-23-2.5 to:			
(1) the arts organizations that have most recently qualified for general operating support as major arts organizations as determined by the arts commission; and			
(2) the significant regional organizations that have most recently qualified for general operating support as mid-major arts organizations, as determined by the arts commission and its regional re-granting partners.			
FOR THE HISTORICAL BUREAU			
Personal Services	**361,055**	**361,055**	
Other Operating Expense	**10,479**	**10,479**	
HISTORICAL MARKER PROGRAM			
Total Operating Expense			**25,444**
FOR THE COMMISSION ON PROPRIETARY EDUCATION			
Personal Services	**299,783**	**299,783**	

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Other Operating Expense	**22,040**	**22,040**	

SECTION 10. [EFFECTIVE JULY 1, 2009]

DISTRIBUTIONS

FOR THE AUDITOR OF STATE

HEA 1001 (2008) HOMESTEAD CREDITS

Total Operating Expense	**110,000,000**	**40,000,000**

The above appropriations are for additional homestead credits for property taxes paid in 2009 and 2010. ARRA(b) funds determined by the budget agency to be available shall be used to make the distributions.

GAMING TAX

Total Operating Expense	**139,753,902**	**139,753,902**

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SECTION 11. [EFFECTIVE JULY 1, 2009]

The following allocations of federal funds are available for vocational and technical education under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq. for Vocational and Technical Education) (20 U.S.C. 2371 for Tech Prep Education). These funds shall be received by the department of workforce development, commission on vocational and technical education, and shall be allocated by the budget agency after consultation with the commission on vocational and technical education, the department of education, the commission for higher education, and the department of correction. Funds shall be allocated to these agencies in accordance with the allocations specified below:

STATE PROGRAMS AND LEADERSHIP	**2,557,290**	**2,557,290**
SECONDARY VOCATIONAL PROGRAMS	**14,318,661**	**14,318,661**
POSTSECONDARY VOCATIONAL PROGRAMS		

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
	8,202,039	**8,202,039**	
TECHNOLOGY - PREPARATION EDUCATION			
	2,463,650	**2,463,650**	

SECTION 12. [EFFECTIVE JULY 1, 2009]

In accordance with IC 22-4.1-13, the budget agency, with the advice of the commission on vocational and technical education and the budget committee, may augment or reduce an allocation of federal funds made under SECTION 11 of this act.

SECTION 13. [EFFECTIVE JULY 1, 2009]

Utility bills for the month of June, travel claims covering the period June 16 to June 30, payroll for the period of the last half of June, any interdepartmental bills for supplies or services for the month of June, and any other miscellaneous expenses incurred during the period June 16 to June 30 shall be charged to the appropriation for the succeeding year. No interdepartmental bill shall be recorded as a refund

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of expenditure to any current year allotment account for supplies or services rendered or delivered at any time during the preceding June period.

SECTION 14. [EFFECTIVE JULY 1, 2009]

The budget agency, under IC 4-10-11, IC 4-12-1-13, and IC 4-13-1, in cooperation with the Indiana department of administration, may fix the amount of reimbursement for traveling expenses (other than transportation) for travel within the limits of Indiana. This amount may not exceed actual lodging and miscellaneous expenses incurred. A person in travel status, as defined by the state travel policies and procedures established by the Indiana department of administration and the budget agency, is entitled to a meal allowance not to exceed during any twenty-four (24) hour period the standard meal allowances established by the federal Internal Revenue Service.

All appropriations provided by this act or any other statute, for traveling and hotel expenses for any department, officer, agent, employee, person, trustee, or commissioner, are to be used only for travel within the state of Indiana, unless those expenses

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are incurred in traveling outside the state of Indiana on trips that previously have received approval as required by the state travel policies and procedures established by the Indiana department of administration and the budget agency. With the required approval, a reimbursement for out-of-state travel expenses may be granted in an amount not to exceed actual lodging and miscellaneous expenses incurred. A person in travel status is entitled to a meal allowance not to exceed during any twenty-four (24) hour period the standard meal allowances established by the federal Internal Revenue Service for properly approved travel within the continental United States and a minimum of $50 during any twenty-four (24) hour period for properly approved travel outside the continental United States. However, while traveling in Japan, the minimum meal allowance shall not be less than $90 for any twenty-four (24) hour period. While traveling in Korea and Taiwan, the minimum meal allowance shall not be less than $85 for any twenty-four (24) hour period. While traveling in Singapore, China, Great Britain, Germany, the Netherlands, and France, the minimum meal allowance shall not be less than $65 for any twenty-four (24) hour period.

In the case of the state supported institutions of postsecondary education, approval

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for out-of-state travel may be given by the chief executive officer of the institution, or the chief executive officer's authorized designee, for the chief executive officer's respective personnel.

Before reimbursing overnight travel expenses, the auditor of state shall require documentation as prescribed in the state travel policies and procedures established by the Indiana department of administration and the budget agency. No appropriation from any fund may be construed as authorizing the payment of any sum in excess of the standard mileage rates for personally owned transportation equipment established by the federal Internal Revenue Service when used in the discharge of state business. The Indiana department of administration and the budget agency may adopt policies and procedures relative to the reimbursement of travel and moving expenses of new state employees and the reimbursement of travel expenses of prospective employees who are invited to interview with the state.

SECTION 15. [EFFECTIVE JULY 1, 2009]

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Notwithstanding IC 4-10-11-2.1, the salary per diem of members of boards, commissions, and councils who are entitled to a salary per diem is $50 per day. However, members of boards, commissions, or councils who receive an annual or a monthly salary paid by the state are not entitled to the salary per diem provided in IC 4-10-11-2.1.

SECTION 16. [EFFECTIVE JULY 1, 2009]

No payment for personal services shall be made by the auditor of state unless the payment has been approved by the budget agency or the designee of the budget agency.

SECTION 17. [EFFECTIVE JULY 1, 2009]

No warrant for operating expenses, capital outlay, or fixed charges shall be issued to any department or an institution unless the receipts of the department or institution have been deposited into the state treasury for the month. However, if a department or an institution has more than $10,000 in daily receipts, the receipts shall be deposited into the state treasury daily.

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SECTION 18. [EFFECTIVE JULY 1, 2009]

In case of loss by fire or any other cause involving any state institution or department, the proceeds derived from the settlement of any claim for the loss shall be deposited in the state treasury, and the amount deposited is hereby reappropriated to the institution or department for the purpose of replacing the loss. If it is determined that the loss shall not be replaced, any funds received from the settlement of a claim shall be deposited into the state general fund.

SECTION 19. [EFFECTIVE JULY 1, 2009]

If an agency has computer equipment in excess of the needs of that agency, then the excess computer equipment may be sold under the provisions of surplus property sales, and the proceeds of the sale or sales shall be deposited in the state treasury. The amount so deposited is hereby reappropriated to that agency for other operating expenses of the then current year, if approved by the director of the budget agency.

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SECTION 20. [EFFECTIVE JULY 1, 2009]

If any state penal or benevolent institution other than the Indiana state prison, Pendleton correctional facility, or Putnamville correctional facility shall, in the operation of its farms, produce products or commodities in excess of the needs of the institution, the surplus may be sold through the division of industries and farms, the director of the supply division of the Indiana department of administration, or both. The proceeds of any such sale or sales shall be deposited in the state treasury. The amount deposited is hereby reappropriated to the institution for expenses of the then current year if approved by the director of the budget agency. The exchange between state penal and benevolent institutions of livestock for breeding purposes only is hereby authorized at valuations agreed upon between the superintendents or wardens of the institutions. Capital outlay expenditures may be made from the institutional industries and farms revolving fund if approved by the budget agency and the governor.

SECTION 21. [EFFECTIVE JULY 1, 2009]

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This act does not authorize any rehabilitation and repairs to any state buildings, nor does it allow that any obligations be incurred for lands and structures, without the prior approval of the budget director or the director's designee. This SECTION does not apply to contracts for the state universities supported in whole or in part by state funds.

SECTION 22. [EFFECTIVE JULY 1, 2009]

If an agency has an annual appropriation fixed by law, and if the agency also receives an appropriation in this act for the same function or program, the appropriation in this act supersedes any other appropriations and is the total appropriation for the agency for that program or function.

SECTION 23. [EFFECTIVE JULY 1, 2009]

The balance of any appropriation or funds heretofore placed or remaining to the credit

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of any division of the state of Indiana, and any appropriation or funds provided in this act placed to the credit of any division of the state of Indiana, the powers, duties, and functions whereof are assigned and transferred to any department for salaries, maintenance, operation, construction, or other expenses in the exercise of such powers, duties, and functions, shall be transferred to the credit of the department to which such assignment and transfer is made, and the same shall be available for the objects and purposes for which appropriated originally.

SECTION 24. [EFFECTIVE JULY 1, 2009]

The director of the division of procurement of the Indiana department of administration, or any other person or agency authorized to make purchases of equipment, shall not honor any requisition for the purchase of an automobile that is to be paid for from any appropriation made by this act or any other act, unless the following facts are shown to the satisfaction of the commissioner of the Indiana department of administration or the commissioner's designee:
(1) In the case of an elected state officer, it shall be shown that the duties of

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the office require driving about the state of Indiana in the performance of official duty.
(2) In the case of department or commission heads, it shall be shown that the statutory duties imposed in the discharge of the office require traveling a greater distance than one thousand (1,000) miles each month or that they are subject to official duty call at all times.
(3) In the case of employees, it shall be shown that the major portion of the duties assigned to the employee require travel on state business in excess of one thousand (1,000) miles each month, or that the vehicle is identified by the agency as an integral part of the job assignment.

In computing the number of miles required to be driven by a department head or an employee, the distance between the individual's home and office or designated official station is not to be considered as a part of the total. Department heads shall annually submit justification for the continued assignment of each vehicle in their department, which shall be reviewed by the commissioner of the Indiana department of administration, or the commissioner's designee. There shall be an insignia permanently affixed on

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

each side of all state owned cars, designating the cars as being state owned. However, this requirement does not apply to state owned cars driven by elected state officials or to cases where the commissioner of the Indiana department of administration or the commissioner's designee determines that affixing insignia on state owned cars would hinder or handicap the persons driving the cars in the performance of their official duties.

SECTION 25. [EFFECTIVE JULY 1, 2009]

When budget agency approval or review is required under this act, the budget agency may refer to the budget committee any budgetary or fiscal matter for an advisory recommendation. The budget committee may hold hearings and take any actions authorized by IC 4-12-1-11, and may make an advisory recommendation to the budget agency.

SECTION 26. [EFFECTIVE JULY 1, 2009]

The governor of the state of Indiana is solely authorized to accept on behalf of

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

the state any and all federal funds available to the state of Indiana. Federal funds received under this SECTION are appropriated for purposes specified by the federal government, subject to allotment by the budget agency. The provisions of this SECTION and all other SECTIONS concerning the acceptance, disbursement, review, and approval of any grant, loan, or gift made by the federal government or any other source to the state or its agencies and political subdivisions shall apply, notwithstanding any other law.

SECTION 27. [EFFECTIVE JULY 1, 2009]

Federal funds received as revenue by a state agency or department are not available to the agency or department for expenditure until allotment has been made by the budget agency under IC 4-12-1-12(d).

SECTION 28. [EFFECTIVE JULY 1, 2009]

A contract or an agreement for personal services or other services may not be entered

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

into by any agency or department of state government without the approval of the budget agency or the designee of the budget director.

SECTION 29. [EFFECTIVE JULY 1, 2009]

Except in those cases where a specific appropriation has been made to cover the payments for any of the following, the auditor of state shall transfer, from the personal services appropriations for each of the various agencies and departments, necessary payments for Social Security, public employees' retirement, health insurance, life insurance, and any other similar payments directed by the budget agency.

SECTION 30. [EFFECTIVE JULY 1, 2009]

Subject to SECTION 25 of this act as it relates to the budget committee, the budget agency with the approval of the governor may withhold allotments of any or all appropriations contained in this act for the 2009-2011 biennium, if it is considered necessary to do so in order to prevent a deficit financial situation.

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

SECTION 31. [EFFECTIVE JULY 1, 2009]

CONSTRUCTION

For the 2009-2011 biennium, the following amounts, from the funds listed as follows, are hereby appropriated to provide for the construction, reconstruction, rehabilitation, repair, purchase, rental, and sale of state properties, capital lease rentals, and the purchase and sale of land, including equipment for such properties and other projects as specified.

State General Fund - Lease Rentals
328,620,484
State General Fund - Construction
90,662,916
State Police Building Commission Fund (IC 9-29-1-4)
3,200,000

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Law Enforcement Academy Building Fund (IC 5-2-1-13(a))	**330,727**		
Cigarette Tax Fund (IC 6-7-1-29.1)	**3,600,000**		
Veterans' Home Building Fund (IC 10-17-9-7)	**5,449,777**		
Postwar Construction Fund (IC 7.1-4-8-1)	**37,462,844**		
Regional Health Care Construction Account (IC 4-12-8.5)	**21,489,259**		
Build Indiana Fund (IC 4-30-17)	**2,400,000**		
State Highway Fund (IC 8-23-9-54)	**25,000,000**		
ARRA State Fiscal Stabilization Fund (Section 14002(b))	**21,000,000**		

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
TOTAL	**539,216,007**		

The allocations provided under this SECTION are made from the state general fund, unless specifically authorized from other designated funds by this act. The budget agency, with the approval of the governor, in approving the allocation of funds pursuant to this SECTION, shall consider, as funds are available, allocations for the following specific uses, purposes, and projects:

A. GENERAL GOVERNMENT

FOR THE SENATE	
Remodeling	**260,000**
FOR THE STATE BUDGET AGENCY	
Health and Safety Contingency Fund	**5,000,000**
Aviation Technology Center	**2,471,771**
Airport Facilities Lease	**45,301,441**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Stadium Lease Rental			**82,000,000**
DEPARTMENT OF ADMINISTRATION - PROJECTS			
Preventive Maintenance			**7,841,835**
Repair and Rehabilitation			**2,935,000**
DEPARTMENT OF ADMINISTRATION - LEASES			
General Fund			
Lease - Government Center North			**27,872,783**
Lease - Government Center South			**34,073,925**
Lease - State Museum			**14,579,033**
Lease - McCarty Street Warehouse			**1,509,375**
Lease - Parking Garages			**10,428,265**
Lease - Toxicology Lab			**10,593,099**
Lease - Wabash Valley Correctional			**36,517,566**
Lease - Miami Correctional			**29,364,180**
Lease - Pendleton Juvenile Correctional			**10,217,237**
Lease - New Castle Correctional			**23,691,809**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Postwar Construction Fund (IC 7.1-4-8-1)			
Lease - Rockville Correctional			**10,783,470**
Regional Health Care Construction Account (IC 4-12-8.5)			
Lease - Evansville State Hospital			**5,462,562**
Lease - Southeast Regional Treatment			**10,358,654**
Lease - Logansport State Hospital			**5,668,043**
INDIANA FINANCE AUTHORITY			
ARRA State Fiscal Stabilization Fund (Section 14002(b))			
Muscatatuck Urban Training Center Infrastructure			**2,000,000**
B. PUBLIC SAFETY			
(1) LAW ENFORCEMENT			
INDIANA STATE POLICE			
State Police Building Commission Fund (IC 9-29-1-4)			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Preventive Maintenance			**1,015,000**
Repair and Rehabilitation			**2,185,000**
LAW ENFORCEMENT TRAINING BOARD			
Law Enforcement Academy Building Fund (IC 5-2-1-13(a))			
Preventive Maintenance			**330,727**
ADJUTANT GENERAL			
Preventive Maintenance			**250,000**
Land Acquisition			**4,000,000**
ARRA State Fiscal Stabilization Fund (Section 14002(b))			
Renovation for Youth Challenge Program			**2,000,000**

(2) CORRECTIONS

DEPARTMENT OF CORRECTION - PROJECTS			
Preventive Maintenance			**76,828**
CORRECTIONAL UNITS			
Preventive Maintenance			**1,438,770**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
STATE PRISON			
Preventive Maintenance			**954,492**
Postwar Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation			**2,298,000**
PENDLETON CORRECTIONAL FACILITY			
Preventive Maintenance			**1,257,064**
Postwar Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation			**3,465,000**
WOMEN'S PRISON			
Preventive Maintenance			**538,832**
Postwar Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation			**291,000**
NEW CASTLE CORRECTIONAL FACILITY			
Preventive Maintenance			**350,388**
Postwar Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation			**365,000**
PUTNAMVILLE CORRECTIONAL FACILITY			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Preventive Maintenance			**864,822**
Postwar Construction Fund (IC 7.1-4-8-1)			
Construct New Fire Station			**250,000**
Repair and Rehabilitation			**1,570,000**
PLAINFIELD EDUCATION RE-ENTRY FACILITY			
Preventive Maintenance			**322,804**
Postwar Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation			**740,000**
INDIANAPOLIS JUVENILE CORRECTIONAL FACILITY			
Preventive Maintenance			**395,510**
Postwar Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation			**212,500**
BRANCHVILLE CORRECTIONAL FACILITY			
Preventive Maintenance			**272,932**
WESTVILLE CORRECTIONAL FACILITY			
Preventive Maintenance			**806,330**
Postwar Construction Fund (IC 7.1-4-8-1)			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Repair and Rehabilitation			**2,300,000**
ROCKVILLE CORRECTIONAL FACILITY			
Preventive Maintenance			**357,296**
PLAINFIELD CORRECTIONAL FACILITY			
Preventive Maintenance			**663,704**
Postwar Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation			**1,054,000**
RECEPTION-DIAGNOSTIC CENTER			
Preventive Maintenance			**214,464**
Postwar Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation			**692,000**
CORRECTIONAL INDUSTRIAL FACILITY			
Preventive Maintenance			**584,172**
Postwar Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation			**1,853,000**
WABASH VALLEY CORRECTIONAL FACILITY			
Preventive Maintenance			**608,820**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Postwar Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation			**160,000**
CHAIN O' LAKES CORRECTIONAL FACILITY			
Preventive Maintenance			**76,828**
Postwar Construction Fund (IC 7.1-4-8-1)			
Construct New Maintenance Building			**180,000**
Construct New Dormitory			**320,000**
MADISON CORRECTIONAL FACILITY			
Postwar Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation			**90,000**
MIAMI CORRECTIONAL FACILITY			
Preventive Maintenance			**664,560**
CAMP SUMMIT CORRECTIONAL FACILITY			
Postwar Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation			**470,000**
PENDLETON JUVENILE CORRECTIONAL FACILITY			
Preventive Maintenance			**228,738**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
C. CONSERVATION AND ENVIRONMENT			
DEPARTMENT OF NATURAL RESOURCES - GENERAL ADMINISTRATION			
Preventive Maintenance			**150,000**
Repair and Rehabilitation			**1,000,000**
FISH AND WILDLIFE			
Preventive Maintenance			**2,000,000**
Repair and Rehabilitation			**3,650,000**
FORESTRY			
Preventive Maintenance			**2,000,000**
Repair and Rehabilitation			**4,000,000**
MUSEUMS AND HISTORIC SITES			
Preventive Maintenance			**475,000**
Historic Sites Exhibits			**650,000**
Repair and Rehabilitation			**2,000,000**
NATURE PRESERVES			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Preventive Maintenance			**230,000**
Repair and Rehabilitation			**1,268,542**
OUTDOOR RECREATION			
Preventive Maintenance			**50,000**
Outdoor Rec. SCORP			**40,000**
Repair and Rehabilitation			**473,645**
STATE PARKS AND RESERVOIR MANAGEMENT			
Preventive Maintenance			**2,900,000**
Repair and Rehabilitation			**20,063,689**
State Parks Bond Payments			**917,028**
Falls of the Ohio Lease			**364,000**
Cigarette Tax Fund (IC 6-7-1-29.1)			
Preventive Maintenance			**3,600,000**
DIVISION OF WATER			
Preventive Maintenance			**125,000**
Div. of Water Flood Plain Mapping			**400,000**
Repair and Rehabilitation			**2,425,000**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
ELKHART RIVER			
Flood Control			**400,000**
ENFORCEMENT			
Preventive Maintenance			**250,000**
STATE MUSEUM			
Preventive Maintenance			**762,500**
ENTOMOLOGY			
Repair and Rehabilitation			**1,000,000**
WAR MEMORIALS COMMISSION			
Preventive Maintenance			**1,234,000**
IWM Fire Suppression/Material Abatement			**300,000**
Indiana War Memorial ADA Access			**250,000**
Repair and Rehabilitation			**192,000**
LITTLE CALUMET RIVER BASIN COMMISSION			
ARRA State Fiscal Stabilization Fund (Section 14002(b))			
Repair and Rehabilitation			**14,000,000**
KANKAKEE RIVER BASIN COMMISSION			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Repair and Rehabilitation			**1,000,000**

D. TRANSPORTATION

DEPARTMENT OF TRANSPORTATION
State Highway Fund (IC 8-23-9-54)

Buildings and Grounds			**25,000,000**

The above appropriations for highway buildings and grounds may be used for land acquisition, site development, construction and equipping of new highway facilities and for maintenance, repair, and rehabilitation of existing state highway facilities after review by the budget committee.

AIRPORT DEVELOPMENT
Build Indiana Fund (IC 4-30-17)

Airport Development			**2,400,000**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*

The foregoing allocation for the Indiana department of transportation is for airport development and shall be used for the purpose of assisting local airport authorities and local units of governments in matching available federal funds under the airport improvement program and for matching federal grants for airport planning and for the other airport studies. Matching grants of aid shall be made in accordance with the approved annual capital improvements program of the Indiana department of transportation and with the approval of the governor and the budget agency.

The above appropriation for airport development includes $200,000 for the Lawrence County Board of Aviation Commissioners for an airport improvement project.

E. FAMILY AND SOCIAL SERVICES, HEALTH, AND VETERANS' AFFAIRS

(1) FAMILY AND SOCIAL SERVICES ADMINISTRATION

EVANSVILLE PSYCHIATRIC CHILDREN'S CENTER	
Preventive Maintenance	**45,000**

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Postwar Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation			**287,660**
EVANSVILLE STATE HOSPITAL			
Preventive Maintenance			**500,000**
Postwar Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation			**360,000**
MADISON STATE HOSPITAL			
Preventive Maintenance			**971,409**
Repair and Rehabilitation			**956,800**
LOGANSPORT STATE HOSPITAL			
Preventive Maintenance			**963,144**
Repair and Rehabilitation			**1,486,700**
Postwar Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation			**3,000,000**
RICHMOND STATE HOSPITAL			
Preventive Maintenance			**1,210,724**
Postwar Construction Fund (IC 7.1-4-8-1)			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
Repair and Rehabilitation			**2,403,700**
LARUE CARTER MEMORIAL HOSPITAL			
Preventive Maintenance			**1,863,118**
(2) PUBLIC HEALTH			
SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED			
Preventive Maintenance			**565,714**
Postwar Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation			**2,288,013**
SCHOOL FOR THE DEAF			
Preventive Maintenance			**565,714**
Postwar Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation			**2,029,501**
(3) VETERANS' AFFAIRS			

	FY 2009-2010 Appropriation	*FY 2010-2011 Appropriation*	*Biennial Appropriation*
INDIANA VETERANS' HOME			
Veterans' Home Building Fund (IC 10-17-9-7)			
Preventive Maintenance			**1,500,000**
Repair and Rehabilitation			**3,949,777**
ARRA State Fiscal Stabilization Fund (Section 14002(b))			
Repair and Rehabilitation			**3,000,000**

SECTION 32. [EFFECTIVE JULY 1, 2009]

The budget agency may employ one (1) or more architects or engineers to inspect construction, rehabilitation, and repair projects covered by the appropriations in this act or previous acts.

SECTION 33. [EFFECTIVE UPON PASSAGE]

If any part of a construction or rehabilitation and repair appropriation made by this act or any previous acts has not been allotted or encumbered before the expiration

of two (2) biennia, the budget agency may determine that the balance of the appropriation is not available for allotment. The appropriation may be terminated, and the balance may revert to the fund from which the original appropriation was made.

SECTION 34. [EFFECTIVE UPON PASSAGE]

The budget agency may retain balances in the mental health fund at the end of any fiscal year to ensure there are sufficient funds to meet the service needs of the developmentally disabled and the mentally ill in any year.

SECTION 35. [EFFECTIVE JULY 1, 2009]

If the budget director determines at any time during the biennium that the executive branch of state government cannot meet its statutory obligations due to insufficient funds in the general fund, then notwithstanding IC 4-10-18, the budget agency, with the approval of the governor and after review by the budget committee, may transfer from the counter-cyclical revenue and economic stabilization fund to the general fund any additional amount necessary to maintain a positive balance in the general fund.

SECTION 36. [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]

To the extent permitted by federal law the budget agency shall use funds under Section 14002(a) of the American Recovery and Reinvestment Act of 2009 to restore state operating support for institutions of higher education to the fiscal year 2009 appropriation (base level) as shown below for each institution. The amounts listed below may be used for operating expenses or repair and rehabiliation.

	FY 2008-2009	FY 2009-2010	FY 2010-2011
Indiana University - Bloomington Campus	**2,022,022**	**7,293,604**	**11,532,110**
Indiana University - Regional Campuses			
East	**83,221**	**343,453**	**426,132**
Kokomo	**108,175**	**407,892**	**471,460**
Northwest	**180,613**	**817,520**	**1,111,784**
South Bend	**232,360**	**1,078,727**	**1,463,089**
Southeast	**208,488**	**846,567**	**1,002,086**
Indiana Univ.-Purdue Univ. at Indianapolis			

Health Divisions	**1,244,347**	**8,465,818**	**10,259,242**
Indiana Univ.-Purdue Univ. at Indianapolis			
General Academic Divisions	**833,116**	**2,996,957**	**3,078,936**
Abilene Network Operations Center	**8,673**	**34,692**	**34,692**
Spinal Cord and Head Injury Research Center	**5,461**	**0**	**0**
Institute - Study of Developmental Disabilities	**25,807**	**103,227**	**103,227**
Geological Survey	**32,316**	**129,260**	**129,260**
Local Government Advisory Commission	**589**	**2,356**	**2,356**
Purdue University - West Lafayette	**2,620,338**	**13,980,564**	**20,914,733**
Purdue University - Regional Campuses			
Calumet	**282,127**	**1,184,418**	**1,461,903**
North Central	**119,698**	**122,080**	**0**
Indiana Univ.-Purdue Univ. at Ft. Wayne	**384,498**	**1,070,904**	**632,809**
Purdue University			
Animal Disease Diagnostic Laboratory System	**35,935**	**143,738**	**143,738**

Statewide Technology	**67,021**	**268,081**	**268,081**
County Agricultural Extension Educators	**75,361**	**301,442**	**301,442**
Agricultural Research & Extension-Crossroads	**75,406**	**301,623**	**301,623**
Center for Paralysis Research	**5,444**	**21,773**	**21,773**
University-Based Business Assistance	**19,678**	**78,710**	**78,710**
Indiana State University	**769,112**	**4,468,353**	**5,374,882**
Nursing Program	**2,500**	**10,000**	**10,000**
University of Southern Indiana	**403,875**	**1,343,207**	**1,215,064**
Historic New Harmony	**5,765**	**23,060**	**23,060**
Ball State University	**1,303,813**	**4,851,792**	**5,198,416**
Entrepreneurial College	**10,000**	**40,000**	**40,000**
Academy for Science, Math, and Humanities	**44,514**	**178,077**	**178,077**
Vincennes University	**389,672**	**1,546,631**	**1,776,604**
IVY Tech Community College	**1,624,151**	**0**	**0**
VALPO Nursing Partnership	**1,047**	**4,187**	**4,187**

Funds shall be distributed in one (1) or more installments after June 30, 2009, and before July 1, 2011, on a schedule determined by the budget agency after review by the budget committee. The above amounts may be adjusted to reflect the actual amount of federal funds available.

SECTION 37. [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]

To the extent permitted by federal law the budget agency shall use funds under Section 14002(a) of the American Recovery and Reinvestment Act of 2009 to restore repair and rehabilitation funding for institutions of higher education to the fiscal year 2009 appropriation (base level) as shown below for each institution. The amounts listed below may be used for repair and rehabilitation.

	FY 2008-2009	Biennium
Indiana University - R & R	12,601,282	18,936,965
Purdue University - R & R	9,888,659	14,860,487
Indiana State University - R & R	2,340,990	3,517,995
University of Southern Indiana - R & R	560,963	843,004
Ball State University - R & R	3,363,151	5,054,079

Vincennes University - R & R	**1,136,484**	**1,707,886**
IVY Tech Community College - R & R	**1,143,521**	**1,718,461**

Funds shall be distributed in one (1) or more installments after June 30, 2009, and before July 1, 2011, on a schedule determined by the budget agency after review by the budget committee. The review and approval requirements contained in IC 21-33-3-6 shall apply to the use of the funds authorized under this SECTION. The above amounts may be adjusted to reflect the actual amount of federal funds available.

(continued next page)

SECTION 38. [EFFECTIVE JULY 1, 2009] **(a) On or before July 15, 2010, the budget agency shall calculate whether receipts from actual tax collections for the state fiscal year ending June 30, 2010, exceed the May 27, 2009, adjusted state revenue forecast for that state fiscal year. If actual receipts for the state fiscal year ending June 30, 2010, exceed the May 27, 2009, adjusted state revenue forecast for that state fiscal year, fifty percent (50%) of the excess revenue is appropriated to the department of education to be used as a special one (1) time tuition support distribution. Any funds distributed under this SECTION shall be used to increase the foundation amount for each school corporation eligible for a tuition support distribution. The budget agency and the department of education may exceed the calendar year tuition support maximum distribution contained in IC 20-43-2-2 as necessary to implement this SECTION.**

(b) This SECTION expires June 30, 2011.

SECTION 39. [EFFECTIVE JULY 1, 2009] **The governor shall cause reversions of:**

(1) twenty-five million dollars ($25,000,000) to be made from state general fund appropriations to non-public safety agencies and programs in the state fiscal year ending June 30, 2010; and

(2) twenty-five million dollars ($25,000,000) to be made from state general fund appropriations to non-public safety agencies and programs in the state fiscal year ending June 30, 2011.

SECTION 40. [EFFECTIVE JULY 1, 2009] **The trustees of the following institutions may issue and sell bonds under IC 21-34, subject to the approvals required by IC 21-33-3, for the following projects if the sum of principal costs of any bond issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed the total authority listed below for that institution:**

Purdue University	
Life Sciences Laboratory Renovations	**10,000,000**
Medical School Renovations	**12,000,000**
Vincennes University	
Davis Hall	**850,000**
P.E. Building	**5,000,000**
Indiana State University	

Federal Building 20,000,000
Indiana University
Northwest Regional Campus
Tamarack Hall 33,000,000
Ivy Tech Community College
Gary Campus 20,000,000
University of Southern Indiana
Teacher Theatre Replacement Project 15,000,000
Indiana University
Life Sciences Laboratory Renovations 10,000,000
Indiana University Southeast
Education and Technology Building 22,000,000
Indiana University Purdue University at Indianapolis
Life Sciences Laboratory Renovations 10,000,000
Ivy Tech Community College
Anderson Campus 20,000,000
Bloomington Campus 20,000,000
Warsaw Campus 10,100,000
Ball State University
Central Campus Rehabilitation 19,700,000
Indiana University Purdue University Fort Wayne
Northeast Indiana Innovation Center 10,000,000

Of the above authorization for medical school renovations, a maximum of six million dollars ($6,000,000) is eligible for fee replacement. Of the above authorization for the Indiana State University Federal Building project, only ten million dollars ($10,000,000) is eligible for fee replacement. Of the above authorization for the University of Southern Indiana Teacher Theatre Replacement Project, only eight million dollars ($8,000,000) is eligible for fee replacement.

SECTION 41. [EFFECTIVE JULY 1, 2009] **The trustees of the following institutions may issue and sell bonds under IC 21-34, subject to the approvals required by IC 21-33-3, for the following projects if the sum of principal costs of any bond issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed the total authority listed below for that institution:**

Indiana University Purdue University at Indianapolis
Neurosciences Building 33,000,000
Indiana University Bloomington

Cyber Infrastructure 35,700,000
Purdue University
North Central Campus
Student Services Complex 30,000,000
Except as provided by this SECTION, the above projects are eligible for fee replacement after July 1, 2011. Only sixteen million dollars ($16,000,000) of the Indiana University Bloomington Cyber Infrastructure project and twenty-three million dollars ($23,000,000) of the Indiana University Purdue University at Indianapolis Neurosciences Building project are eligible for fee replacement after July 1, 2011. Only twenty-three million seven hundred thousand dollars ($23,700,000) of the Purdue University North Central Campus Student Services Complex is eligible for fee replacement after July 1, 2011.

SECTION 42. [EFFECTIVE JULY 1, 2009] **The trustees of the following institutions may issue and sell bonds under IC 21-34, subject to the approvals required under IC 21-33-3, to provide funds for the acquisition, renovation, expansion, and improvements for the following projects (including all related and subordinate components of the following projects) and may undertake the project if the total costs financed by the bond issue, excluding any amount necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, do not exceed the total authority listed below for that institution:**

Purdue University
Lafayette Campus
Student Fitness and Wellness Center 98,000,000
Indiana University Purdue University at Fort Wayne
Parking Garage 16,800,000
The foregoing projects are not eligible for fee replacement appropriations in any year.

SECTION 43. [EFFECTIVE JULY 1, 2009] **The trustees of the following institution may issue and sell bonds under IC 21-34, subject to the approvals required under IC 21-33-3, for the following project if the principal costs of any bonds issued, excluding any amount necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed twenty million dollars ($20,000,000):**

Purdue University West Lafayette -- Drug Discovery Facility

The foregoing project is not eligible for fee replacement appropriations in any year.

SECTION 44. [EFFECTIVE UPON PASSAGE] **(a) The trustees of the following institutions may issue and sell bonds under IC 21-34, subject to the approvals required by IC 21-33-3, for the following projects if the sum of principal costs of any bond issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed the total authority listed below for that institution:**

Indiana State University - Life Sciences/Chemistry Laboratory Renovations & Chiller	**14,800,000**
Ball State University - Central Campus Academic Project, Phase I & Utilities	**33,000,000**
Ivy Tech - Elkhart Phase I	**4,000,000**

(b) Except for an additional four million dollars ($4,000,000) authorized for Ivy Tech - Elkhart Phase I, the authorizations under this SECTION are a restatement of and are not in addition to the authorizations under P.L.234-2007, SECTION 179. The four million dollars ($4,000,000) authorized for Ivy Tech - Elkhart Phase I is in addition to sixteen million dollars ($16,000,000) authorized under P.L.234-2007, SECTION 179.

SECTION 45. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding SECTION 244 of HEA 1001-2005, the trustees of Purdue University may, subject to the approvals required by IC 21-33-3, issue and sell bonds under IC 21-34 for the following project if the sum of principal costs of any bond issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed the total authority listed below:**

Purdue University North Central Campus Parking Garage No. 1	**$8,000,000**

(b) The authorization under this SECTION is a restatement of and is not in addition to the authorization under P.L.234-2007, SECTION 186. However, the foregoing project is not eligible for fee replacement appropriations in any year.

SECTION 46. [EFFECTIVE JULY 1, 2009] **There is appropriated three million dollars ($3,000,000) to the Indiana finance authority from the tobacco master settlement agreement fund (IC 4-12-1-14.3) to carry out architectural and engineering work for a building for a trauma care center in the city of Gary, beginning**

July 1, 2009, and ending June 30, 2010. Any unencumbered amount remaining from this appropriation at the end of a state fiscal year remains available in subsequent state fiscal years for the purposes for which it is appropriated. Money appropriated under this SECTION may be released after review by the budget committee.

SECTION 47. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "ARRA" refers to the federal American Recovery and Reinvestment Act of 2009.**

(b) As used in this SECTION, "Title I" refers to Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(c) With respect to ARRA funds that are specifically designated for subgrants to local education agencies based on Title I or incentive grants, the following apply:

(1) The governor and the department of education may take any actions necessary to qualify the state for the ARRA funds related to Title I. If permitted by the ARRA, school corporations shall submit plans to the department of education for approval before spending the ARRA funds related to Title I.

(2) To the extent it does not conflict with federal law or rules or guidelines that would make Indiana ineligible to receive ARRA funds related to Title I, the ARRA funds must be used to support Title I eligible students for the following:

(A) Repair and rehabilitation of facilities.

(B) Upgrading technology or equipment.

(C) Training or professional development.

(D) Summer school or other remediation programs and purposes for which the expenses are one (1) time in nature and do not increase the base operating expenses of schools to a level that would be difficult to maintain.

(d) The department of education shall review the use of all Title I expenditures to ensure the proper use of Title I funds under federal laws and regulations.

SECTION 48. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "ARRA" refers to the federal American Recovery and Reinvestment Act of 2009.**

(b) With respect to ARRA funds under Division A, Title VIII of the ARRA for special education, the following apply:

(1) The governor and the department of education may take any actions necessary to qualify the state for the ARRA funds

under Division A, Title VIII of the ARRA. If permitted by the ARRA, school corporations shall submit plans to the department of education for approval before spending the ARRA funds under Division A, Title VIII of the ARRA.

(2) To the extent it does not conflict with federal law or rules or guidelines that would make Indiana ineligible to receive ARRA funds under Division A, Title VIII of the ARRA, the ARRA funds must be used to support special education students for the following:

(A) Repair and rehabilitation of facilities.

(B) Upgrading technology or equipment, including adaptive technology.

(C) Training or professional development.

(D) Programs and purposes for which the expenses are one (1) time in nature and do not increase the base operating expenses of school corporations to a level that would be difficult to maintain.

(c) The department of education shall review the use of all special education to ensure the proper use of special education funds under federal laws and regulations.

SECTION 49. IC 4-4-11.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE OCTOBER 1, 2008 (RETROACTIVE)]: Sec. 1. As used in this chapter, "bond" means any:

(1) bond or mortgage credit certificate for which it is necessary to procure volume under the volume cap under Section 146 of the Internal Revenue Code; **or**

(2) bond or other obligation for which a special volume cap is authorized under a federal act.

SECTION 50. IC 4-4-11-15.6, AS ADDED BY P.L.214-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 15.6. In addition to the powers listed in section 15 of this chapter, the authority may:

(1) issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to acquire obligations issued by any entity authorized to acquire, finance, construct, or lease capital improvements under IC 5-1-17; ~~and~~

(2) issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to acquire any obligations issued by the northwest Indiana regional development authority established by IC 36-7.5-2-1; **and**

(3) after December 31, 2009, issue bonds under terms and

conditions determined by the authority and use the proceeds of the bonds to acquire any obligations issued by either the commuter rail service board established under IC 8-24-5 or the regional demand and scheduled bus service board established under IC 8-24-6.

SECTION 51. IC 4-4-11.5-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE OCTOBER 1, 2008 (RETROACTIVE)]: **Sec. 13.5. As used in this chapter, "special volume cap" means the maximum dollar amount of bonds that may be allocated to the state under the authority of a federal act. The special volume cap is in addition to the volume cap as defined in section 14 of this chapter.**

SECTION 52. IC 4-4-11.5-19.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE OCTOBER 1, 2008 (RETROACTIVE)]: **Sec. 19.5. The IFA shall determine the allocation of any special volume cap in accordance with the federal act authorizing the special volume cap.**

SECTION 53. IC 4-10-18-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The state board of finance may lend money from the fund to entities listed in subsections (e) through ~~(j)~~ **(k)** for the purposes specified in those subsections.

(b) An entity must apply for the loan before May 1, 1989, in a form approved by the state board of finance. As part of the application, the entity shall submit a plan for its use of the loan proceeds and for the repayment of the loan. Within sixty (60) days after receipt of each application, the board shall meet to consider the application and to review its accuracy and completeness and to determine the need for the loan. The board shall authorize a loan to an entity that makes an application if the board approves its accuracy and completeness and determines that there is a need for the loan and an adequate method of repayment.

(c) The state board of finance shall determine the terms of each loan, which must include the following:

(1) The duration of the loan, which must not exceed twelve (12) years.

(2) The repayment schedule of the loan, which must provide that no payments are due during the first two (2) years of the loan.

(3) A variable rate of interest to be determined by the board and adjusted annually. The interest rate must be the greater of:

(A) five percent (5%); or

(B) two-thirds (2/3) of the interest rate for fifty-two (52) week United States Treasury bills on the anniversary date of the loan, but not to exceed ten percent (10%).

(4) The amount of the loan or loans, which may not exceed the maximum amounts established for the entity by this section.

(5) Any other conditions specified by the board.

(d) An entity may borrow money under this section by adoption of an ordinance or a resolution and, as set forth in IC 5-1-14, may use any source of revenue to repay a loan under this section. This section constitutes complete authority for the entity to borrow from the fund. If an entity described in subsection (i) fails to make any repayments of a loan, the amount payable shall be withheld by the auditor of state from any other money payable to the consolidated city. If any other entity described in this section fails to make any repayments of a loan, the amount payable shall be withheld by the auditor of state from any other money payable to the entity. The amount withheld shall be transferred to the fund to the credit of the entity.

(e) A loan under this section may be made to a city located in a county having a population of more than twenty-four thousand (24,000) but less than twenty-five thousand (25,000) for the city's waterworks facility. The amount of the loan may not exceed one million six hundred thousand dollars ($1,600,000).

(f) A loan under this section may be made to a city the territory of which is included in part within the Lake Michigan corridor (as defined in IC 14-13-3-2) for a marina development project. As a part of its application under subsection (b), the city must include the following:

(1) Written approval by the Lake Michigan marina development commission of the project to be funded by the loan proceeds.

(2) A written determination by the commission of the amount needed by the city, for the project and of the amount of the maximum loan amount under this subsection that should be lent to the city.

The maximum amount of loans available for all cities that are eligible for a loan under this subsection is eight million six hundred thousand dollars ($8,600,000).

(g) A loan under this section may be made to a county having a population of more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000) for use by the airport authority in the county for the construction of runways. The amount of

the loan may not exceed seven million dollars ($7,000,000). The county may lend the proceeds of its loan to an airport authority for the public purpose of fostering economic growth in the county.

(h) A loan under this section may be made to a city having a population of more than fifty-nine thousand (59,000) but less than fifty-nine thousand seven hundred (59,700) for the construction of parking facilities. The amount of the loan may not exceed three million dollars ($3,000,000).

(i) A loan or loans under this section may be made to a consolidated city, a local public improvement bond bank, or any board, authority, or commission of the consolidated city, to fund economic development projects under IC 36-7-15.2-5 or to refund obligations issued to fund economic development projects. The amount of the loan may not exceed thirty million dollars ($30,000,000).

(j) A loan under this section may be made to a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000) for extension of airport runways. The amount of the loan may not exceed three hundred thousand dollars ($300,000).

(k) A loan under this section may be made to Covington Community School Corporation to refund the amount due on a tax anticipation warrant loan. The amount of the loan may not exceed two million seven hundred thousand dollars ($2,700,000), to be paid back from any source of money that is legally available to the school corporation. Notwithstanding subsection (b), the school corporation must apply for the loan before June 30, 2010. Notwithstanding subsection (c), repayment of the loan shall be made in equal installments over five (5) years with the first installment due not more than six (6) months after the date loan proceeds are received by the school corporation.

~~(k)~~ **(l)** IC 6-1.1-20 does not apply to a loan made by an entity under this section.

~~(l)~~ **(m)** As used in this section, "entity" means a governmental entity authorized to obtain a loan under subsections (e) through ~~(j).~~ **(k).**

SECTION 54. IC 4-13-1-4, AS AMENDED BY P.L.1-2006, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. The department shall, subject to this chapter, do the following:

(1) Execute and administer all appropriations as provided by law, and execute and administer all provisions of law that impose

duties and functions upon the executive department of government, including executive investigation of state agencies supported by appropriations and the assembly of all required data and information for the use of the executive department and the legislative department.

(2) Supervise and regulate the making of contracts by state agencies.

(3) Perform the property management functions required by IC 4-20.5-6.

(4) Assign office space and storage space for state agencies in the manner provided by IC 4-20.5-5.

(5) Maintain and operate the following for state agencies:

(A) Central duplicating.

(B) Printing.

(C) Machine tabulating.

(D) Mailing services.

(E) Centrally available supplemental personnel and other essential supporting services.

The department may require state agencies to use these general services in the interests of economy and efficiency. The general services rotary fund is established through which these services may be rendered to state agencies. The budget agency shall determine the amount for the general services rotary fund.

(6) Control and supervise the acquisition, operation, maintenance, and replacement of state owned vehicles by all state agencies. The department may establish and operate, in the interest of economy and efficiency, a motor vehicle pool, and may finance the pool by a rotary fund. The budget agency shall determine the amount to be deposited in the rotary fund.

(7) Promulgate and enforce rules relative to the travel of officers and employees of all state agencies when engaged in the performance of state business. These rules may allow reimbursement for travel expenses by any of the following methods:

(A) Per diem.

(B) For expenses necessarily and actually incurred.

(C) Any combination of the methods in clauses (A) and (B).

The rules must require the approval of the travel by the commissioner and the head of the officer's or employee's department prior to payment.

(8) Administer IC 4-13.6.

(9) Prescribe the amount and form of certified checks, deposits, or bonds to be submitted in connection with bids and contracts when not otherwise provided for by law.

(10) Rent out, with the approval of the governor, any state property, real or personal:

(A) not needed for public use; or

(B) for the purpose of providing services to the state or employees of the state;

the rental of which is not otherwise provided for or prohibited by law. Property may not be rented out under this subdivision for a term exceeding ten (10) years at a time. However, if property is rented out for a term of more than four (4) years, the commissioner must make a written determination stating the reasons that it is in the best interests of the state to rent property for the longer term. This subdivision does not include the power to grant or issue permits or leases to explore for or take coal, sand, gravel, stone, gas, oil, or other minerals or substances from or under the bed of any of the navigable waters of the state or other lands owned by the state.

(11) Have charge of all central storerooms, supply rooms, and warehouses established and operated by the state and serving more than one (1) agency.

(12) Enter into contracts and issue orders for printing as provided by IC 4-13-4.1.

(13) Sell or dispose of surplus property under IC 5-22-22, or if advantageous, to exchange or trade in the surplus property toward the purchase of other supplies, materials, or equipment, and to make proper adjustments in the accounts and inventory pertaining to the state agencies concerned.

(14) With respect to power, heating, and lighting plants owned, operated, or maintained by any state agency:

(A) inspect;

(B) regulate their operation; and

(C) recommend improvements to those plants to promote economical and efficient operation.

(15) Administer, determine salaries, and determine other personnel matters of the department of correction ombudsman bureau established by IC 4-13-1.2-3.

(16) Adopt rules to establish and implement a "Code Adam"

safety protocol as described in IC 4-20.5-6-9.2.

(17) Adopt policies and standards for making state owned property reasonably available to be used free of charge as locations for making motion pictures.

(18) Administer, determine salaries, and determine other personnel matters of the department of child services ombudsman established by IC 4-13-19-3.

SECTION 55. IC 4-13-19 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 19. Department of Child Services Ombudsman

Sec. 1. As used in this chapter, "child" means a person who:

(1) is less than eighteen (18) years of age;

(2) is at least eighteen (18) years of age at the time a complaint is made but was less than eighteen (18) years of age at the time of the alleged act or omission that is the subject of the complaint; or

(3) is at least eighteen (18) years of age but has been under the continuing jurisdiction of a juvenile court based upon an informal adjustment, child in need of services action under IC 31-34, or termination of parental rights action under IC 31-35 since becoming eighteen (18) years of age.

Sec. 2. As used in this chapter, "ombudsman" means:

(1) the person appointed by the governor to serve as ombudsman; or

(2) an employee or other individual approved by the office of the department of child services ombudsman to act in the capacity of ombudsman;

to receive, investigate, and resolve complaints that allege the department of child services, by an action or omission, failed to protect the physical or mental health or safety of any child or failed to follow specific laws, rules, or written policies.

Sec. 3. The office of department of child services ombudsman is established as a separate bureau within the department. The ombudsman appointed by the governor shall report directly to the commissioner. The ombudsman appointed by the governor must be an attorney licensed to practice law in Indiana or a social worker with at least a master's degree. The ombudsman appointed by the governor must have significant experience or education in child development and child advocacy, including at least two (2) years experience working with child abuse and neglect.

Sec. 4. (a) The governor shall appoint the ombudsman. The ombudsman serves at the pleasure of the governor. An individual may not be appointed as ombudsman if the individual has been employed by the department of child services at any time during the preceding twelve (12) months. The governor shall appoint a successor ombudsman not later than thirty (30) days after a vacancy occurs in the position of the ombudsman.

(b) The office of the department of child services ombudsman may employ technical experts and other employees to carry out the purposes of this chapter. However, the office of the department of child services ombudsman may not hire an individual to serve as an ombudsman if the individual has been employed by the department of child services during the preceding twelve (12) months.

(c) The ombudsman and any other person employed or authorized by the ombudsman:

(1) are subject to the same criminal history and background checks, to be performed by the department of child services, that are required for department of child services family case managers; and

(2) are subject to the same disqualification for employment criteria as department of child services family case managers.

Sec. 5. (a) The office of the department of child services ombudsman may receive, investigate, and attempt to resolve a complaint alleging that the department of child services, by an action or omission occurring on or after January 11, 2005, failed to protect the physical or mental health or safety of any child or failed to follow specific laws, rules, or written policies.

(b) The office of the department of child services ombudsman may also do the following:

(1) Take action, including the establishing of a program of public education, to secure and ensure the legal rights of children.

(2) Periodically review relevant policies and procedures with a view toward the safety and welfare of children.

(3) When appropriate, refer a person making a report of child abuse or neglect to the department of child services and, if appropriate, to an appropriate law enforcement agency.

(4) Recommend changes in procedures for investigating reports of abuse and neglect and overseeing the welfare of children who are under the jurisdiction of a juvenile court.

(5) Make the public aware of the services of the ombudsman, the purpose of the office, and information concerning contacting the office.

(6) Examine policies and procedures and evaluate the effectiveness of the child protection system, specifically the respective roles of the department of child services, the court, the medical community, service providers, guardians ad litem, court appointed special advocates, and law enforcement agencies.

(7) Review and make recommendations concerning investigative procedures and emergency responses contained in the report prepared under section 10 of this chapter.

(c) Upon request of the office of the department of child services ombudsman, the local child protection team shall assist the office of the department of child services ombudsman by:

(1) investigating and making recommendations on a matter; or

(2) redacting or revising any report to be prepared for the complainant so that confidentiality laws are maintained.

If a local child protection team was involved in an initial investigation, a different local child protection team may assist in the investigation under this subsection.

(d) At the end of an investigation of a complaint, the office of the department of child services ombudsman shall provide an appropriate report as follows:

(1) If the complainant is a parent, guardian, custodian, court appointed special advocate, guardian ad litem, or court, the ombudsman may provide the same report to the complainant and the department of child services.

(2) If the complainant is not a person described in subdivision (1), the ombudsman shall provide a redacted version of its findings to the complainant stating in general terms that the actions of the department of child services were or were not appropriate.

(e) The department of child services ombudsman shall provide a copy of the report and recommendations to the department of child services. The office of the department of child services ombudsman may not disclose to:

(1) a complainant;

(2) another person who is not a parent, guardian, or custodian of the child who was subject of the department of child

services' action or omission; or

(3) the court, court appointed special advocate, or guardian ad litem of the child in a case that was filed as a child in need of services or a termination of parental rights action;

any information that the department of child services could not, by law, reveal to the complainant, parent, guardian, custodian, person, court, court appointed special advocate, or guardian ad litem.

(f) If, after reviewing a complaint or conducting an investigation and considering the response of an agency, facility, or program and any other pertinent material, the office of the department of child services ombudsman determines that the complaint has merit or the investigation reveals a problem, the ombudsman may recommend that the agency, facility, or program:

(1) consider the matter further;

(2) modify or cancel its actions;

(3) alter a rule, order, or internal policy; or

(4) explain more fully the action in question.

(g) At the office of the department of child services ombudsman's request, the agency, facility, or program shall, within a reasonable time, inform the office of the department of child services ombudsman about the action taken on the recommendation or the reasons for not complying with it.

(h) The office of the department of child services ombudsman may not investigate the following:

(1) A complaint from an employee of the department of child services that relates to the employee's employment relationship with the department of child services.

(2) A complaint challenging a department of child services substantiation of abuse or neglect that is currently the subject of a pending administrative review procedure before the exhaustion of administrative remedies provided by law, rule, or written policy. Investigation of any such complaint received shall be stayed until the administrative remedy has been exhausted. However, if the administrative process is not completed or terminated within six (6) months after initiation of the administrative process, the office of child services ombudsman may proceed with its investigation.

(i) If the office of the department of child services ombudsman does not investigate a complaint, the office of the department of child services ombudsman shall notify the complainant of the

decision not to investigate and the reasons for the decision.

Sec. 6. (a) The office of the department of child services ombudsman shall be given appropriate access to department of child services records of a child who is the subject of a complaint that is filed under this chapter.

(b) A state or local government agency or entity that has records that are relevant to a complaint or an investigation conducted by an ombudsman shall provide the ombudsman with access to the records.

(c) A person is immune from:

(1) civil or criminal liability; and

(2) actions taken under:

(A) a professional disciplinary procedure; or

(B) procedures related to the termination or imposition of penalties under a contract dealing with an employee or contractor of the department of child services;

for the release or disclosure of records to the ombudsman under this chapter, unless the release or disclosure constitutes gross negligence or willful or wanton misconduct.

(d) Information or records of a state or local government agency provided to the office of the department of child services ombudsman may not be disclosed to the complainant or others if confidential under laws, rules, or regulations governing the state or local government agency that provided the information or records.

Sec. 7. The office of the department of child services ombudsman shall do the following:

(1) Establish procedures to receive and investigate complaints.

(2) Establish physical, technological, and administrative access controls for all information maintained by the office of the department of child services ombudsman.

(3) Except as necessary to investigate and resolve a complaint, ensure that the identity of a complainant will not be disclosed without:

(A) the complainant's written consent; or

(B) a court order.

Sec. 8. The office of the department of child services ombudsman may adopt rules under IC 4-22-2 necessary to carry out this chapter.

Sec. 9. An ombudsman is not personally liable for the good faith performance of the ombudsman's official duties.

Sec. 10. (a) The office of the department of child services ombudsman shall prepare a report each year on the operations of the office.

(b) The office of the department of child services ombudsman shall include the following information in the annual report required under subsection (a):

(1) The office of the department of child services ombudsman's activities.

(2) The general status of children in Indiana, including:

(A) the health and education of children; and

(B) the administration or implementation of programs for children.

(3) Any other issues, concerns, or information concerning children.

(c) A copy of the report shall be provided to the following:

(1) The governor.

(2) The legislative council.

(3) The Indiana department of administration.

(4) The department of child services.

A report provided under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

(d) A copy of the report shall be posted on the department of child services' Internet web site and on any Internet web site maintained by the office of the department of child services ombudsman.

(e) An initial report summarizing the activities of the department of child services ombudsman shall be completed by no later than December 1, 2009, and a copy of the report shall be posted on the department of child services' Internet web site and on any Internet web site maintained by the office of the department of child services ombudsman, and shall be provided to the following:

(1) The governor.

(2) The legislative council.

(3) The Indiana department of administration.

(4) The department of child services.

A report provided under this subsection to the legislative council must be in an electronic format under IC 5-14-6. This subsection expires December 31, 2009.

Sec. 11. (a) A person who:

(1) except as provided in subsection (b), intentionally

interferes with or prevents the completion of the work of an ombudsman;

(2) knowingly offers compensation to an ombudsman in an effort to affect the outcome of an investigation or a potential investigation;

(3) knowingly or intentionally retaliates against another person who provides information to an ombudsman; or

(4) knowingly or intentionally threatens an ombudsman, a person who has filed a complaint, or a person who provides information to an ombudsman, because of an investigation or potential investigation;

commits interference with the office of the department of child services ombudsman, a Class A misdemeanor.

(b) Expungement of records held by the department of child services that occurs by statutory mandate, judicial order or decree, administrative review or process, automatic operation of the Indiana Child Welfare Information System (ICWIS) computer system, or in the normal course of business shall not be considered intentional interference or prevention for the purposes of subsection (a).

Sec. 12. The Indiana department of administration shall provide and maintain office space for the office of the department of child services ombudsman.

SECTION 56. IC 4-20.5-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. **(a) Except as provided in subsection (b),** "property" means real property or an interest in real property, including the following:

(1) Any ownership interest in real property.

(2) A leasehold.

(3) A right-of-way.

(4) An easement, including a utility easement.

The term does not include personal property or an interest in personal property.

(b) For purposes of IC 4-20.5-22, "property" means any ownership interest in real property.

SECTION 57. IC 4-31-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. **Subject to section 14 of this chapter,** the commission may:

(1) adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement this article, including rules that prescribe:

(A) the forms of wagering that are permitted;
(B) the number of races;
(C) the procedures for wagering;
(D) the wagering information to be provided to the public;
(E) fees for the issuance and renewal of:
(i) permits under IC 4-31-5;
(ii) satellite facility licenses under IC 4-31-5.5; and
(iii) licenses for racetrack personnel and racing participants under IC 4-31-6;
(F) investigative fees;
(G) fines and penalties; and
(H) any other regulation that the commission determines is in the public interest in the conduct of recognized meetings and wagering on horse racing in Indiana;

(2) appoint employees in the manner provided by IC 4-15-2 and fix their compensation, subject to the approval of the budget agency under IC 4-12-1-13;
(3) enter into contracts necessary to implement this article; and
(4) receive and consider recommendations from an advisory development committee established under IC 4-31-11.

SECTION 58. IC 4-31-3-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14. The commission may not do the following:**

(1) Impose, charge, or collect by rule a fee that is not authorized by this article on any party to a proposed transfer of an ownership interest in a permit issued under IC 4-31-5.
(2) Make the commission's approval of a proposed transfer of an ownership interest in a permit issued under IC 4-31-5 contingent upon the payment of any amount that is not authorized by this article.

SECTION 59. IC 4-33-4-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) A licensed owner or any other person must apply for and receive the commission's approval before:

(1) an owner's license is:
(A) transferred;
(B) sold; or
(C) purchased; or
(2) a voting trust agreement or other similar agreement is

established with respect to the owner's license.

(b) **Subject to section 24 of this chapter,** the commission shall adopt rules governing the procedure a licensed owner or other person must follow to take an action under subsection (a). The rules must specify that a person who obtains an ownership interest in a license must meet the criteria of this article and any rules adopted by the commission. A licensed owner may transfer an owner's license only in accordance with this article and rules adopted by the commission.

(c) A licensed owner or any other person may not:

(1) lease;

(2) hypothecate; or

(3) borrow or loan money against;

an owner's license.

(d) A transfer fee is imposed on a licensed owner who purchases or otherwise acquires a controlling interest, as determined under the rules of the commission, in a second owner's license. The fee is equal to two million dollars ($2,000,000). The commission shall collect and deposit a fee imposed under this subsection in the state general fund.

SECTION 60. IC 4-33-4-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 24. The commission may not do the following:**

(1) Impose by rule a fee that is not authorized by this article on any party to a proposed transfer of an ownership interest in a riverboat owner's license or an operating permit.

(2) Make the commission's approval of a proposed transfer of an ownership interest in a riverboat owner's license or an operating permit contingent upon the payment of any amount that is not authorized by this article.

SECTION 61. IC 4-35-4-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13. The commission may not do the following:**

(1) Impose, charge, or collect by rule a fee that is not authorized by this article on any party to a proposed transfer of an ownership interest in a license issued under IC 4-35-5.

(2) Make the commission's approval of a proposed transfer of an ownership interest in a license issued under IC 4-35-5 contingent upon the payment of any amount that is not authorized by this article.

SECTION 62. IC 4-20.5-22 IS ADDED TO THE INDIANA CODE

AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 22. Planting Grasses and Other Plants for Energy Production

Sec. 1. This chapter does not apply to a lease under IC 8-23-24.5.

Sec. 2. The intent of this chapter is to encourage the use of property owned by the state to promote the growth and harvesting of vegetation to be used as fuels and other energy products.

Sec. 3. As used in this chapter, "agency " has the meaning set forth in IC 4-20.5-1-3. The term includes a state institution.

Sec. 4. As used in this chapter, "vegetation" refers to grasses or other plants that are suitable for processing into fuels or other energy products. The term does not include grasses or other plants that may be used to feed livestock.

Sec. 5. To the extent permitted by federal law and when consistent with public safety, an agency may enter into leases with appropriate persons for the persons to plant, maintain, and harvest vegetation on state property owned or maintained by the agency for use in production of energy.

Sec. 6. A lease under this chapter must provide for the following:

(1) The lessee is responsible for planting, maintaining, and harvesting the vegetation at the lessee's cost.

(2) The lessee becomes the owner of the vegetation when harvested.

(3) The harvested vegetation must be used for the production of fuels or other energy products.

(4) The lease must include limitations on the height of any vegetation that is grown.

Sec. 7. A lease under this chapter may provide for the following:

(1) Any term of the lease that the agency considers best to implement the intent of this chapter, but not for more than four (4) years.

(2) For the lease of parcels of sizes that the agency considers the best to implement the intent of this chapter.

(3) Any other provisions that the agency considers useful to implement the intent of this chapter.

Sec. 8. The agency shall award a lease under this chapter to the responsive and responsible bidder who submits the highest bid for the particular lease.

SECTION 63. IC 5-1-14-10, AS AMENDED BY P.L.146-2008,

SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) If an issuer has issued obligations under a statute that establishes a maximum term or repayment period for the obligations, notwithstanding that statute, the issuer may continue to make payments of principal, interest, or both, on the obligations after the expiration of the term or period if principal or interest owed to owners of the obligations remains unpaid.

(b) This section does not authorize the use of revenues or funds to make payments of principal and interest other than those revenues or funds that were pledged for the payments before the expiration of the term or period.

(c) Except as otherwise provided by this section, **IC 16-22-8-43,** IC 36-7-12-27, ~~or~~ IC 36-7-14-25.1, **or IC 36-9-13-30 (but only with respect to any bonds issued under IC 36-9-13-30 that are secured by a lease entered into by a political subdivision organized and existing under IC 16-22-8),** the maximum term or repayment period for obligations issued after June 30, 2008, that are wholly or partially payable from ad valorem property taxes, special benefit taxes on property, or tax increment revenues derived from property taxes may not exceed:

(1) the maximum applicable period under federal law, for obligations that are issued to evidence loans made or guaranteed by the federal government or a federal agency;

(2) twenty-five (25) years, for obligations that are wholly or partially payable from tax increment revenues derived from property taxes; or

(3) twenty (20) years**,** for obligations that are not described in subdivision (1), or (2), and are wholly or partially payable from ad valorem property taxes or special benefit taxes on property.

SECTION 64. IC 5-1-14-16, AS ADDED BY P.L.146-2008, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) This section applies to obligations that are:

(1) issued after June 30, 2008, by a local issuing body; and

(2) payable from ad valorem property taxes, special benefit taxes on property, or tax increment revenues derived from property taxes;

including obligations that are issued under a statute that permits the bonds to be issued without complying with any other law or otherwise expressly exempts the bonds from the requirements of this section.

(b) An agreement for the issuance of obligations must provide for the payment of principal and interest on the obligations in nearly equal payment amounts and at regular designated intervals over the maximum term of the obligations except to the extent that:

(1) interest for a particular repayment period has been paid from the proceeds of the obligations under section 6 of this chapter; or

(2) the local issuing body authorizes a different payment schedule to:

(A) maintain substantially equal payments, in the aggregate, in any period in which the local issuing body pays the interest and principal on outstanding obligations;

(B) provide for the payment of principal on the obligations in amounts and at intervals that will produce an aggregate amount of principal payments greater than or equal to the aggregate amount that would otherwise be paid as of the same date;

(C) provide for level principal payments over the term of the obligations, in order to reduce total interest costs; ~~or~~

(D) with respect to obligations wholly or partially payable from tax increment revenues derived from property taxes, provide for the payment of principal and interest in varying amounts over the term of the obligations as necessary due to the variation in the amount of tax increment revenues available for those payments; **or**

(E) provide for a repayment schedule that will result in the same or a lower amount of interest being paid on obligations that would be issued using nearly equal payment amounts.

SECTION 65. IC 5-10-8-2.2, AS AMENDED BY P.L.3-2008, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.2. (a) As used in this section, "dependent" means a natural child, stepchild, or adopted child of a public safety employee who:

(1) is less than eighteen (18) years of age;

(2) is at least eighteen (18) years of age and has a physical or mental disability (using disability guidelines established by the Social Security Administration); or

(3) is at least eighteen (18) and less than twenty-three (23) years of age and is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or

university.

(b) As used in this section, "public safety employee" means a full-time firefighter, police officer, county police officer, or sheriff.

(c) This section applies only to local unit public employers and their public safety employees.

(d) A local unit public employer may provide programs of group health insurance for its active and retired public safety employees through one (1) of the following methods:

(1) By purchasing policies of group insurance.

(2) By establishing self-insurance programs.

(3) By electing to participate in the local unit group of local units that offer the state employee health plan under section 6.6 of this chapter.

(4) If the local unit public employer is a school corporation, by electing to provide the coverage through a state employee health plan under section 6.7 of this chapter.

A local unit public employer may provide programs of group insurance other than group health insurance for the local unit public employer's active and retired public safety employees by purchasing policies of group insurance and by establishing self-insurance programs. However, the establishment of a self-insurance program is subject to the approval of the unit's fiscal body.

(e) A local unit public employer may pay a part of the cost of group insurance for its active and retired public safety employees. However, a local unit public employer that provides group life insurance for its active and retired public safety employees shall pay a part of the cost of that insurance.

(f) A local unit public employer may not cancel an insurance contract under this section during the policy term of the contract.

(g) After June 30, 1989, a local unit public employer that provides a group health insurance program for its active public safety employees shall also provide a group health insurance program to the following persons:

(1) Retired public safety employees.

(2) Public safety employees who are receiving disability benefits under IC 36-8-6, IC 36-8-7, IC 36-8-7.5, IC 36-8-8, or IC 36-8-10.

(3) Surviving spouses and dependents of public safety employees who die while in active service or after retirement.

(h) A public safety employee who is retired or has a disability and is eligible for group health insurance coverage under subsection (g)(1)

or (g)(2):

(1) may elect to have the person's spouse, dependents, or spouse and dependents covered under the group health insurance program at the time the person retires or becomes disabled;

(2) must file a written request for insurance coverage with the employer within ninety (90) days after the person retires or begins receiving disability benefits; and

(3) must pay an amount equal to the total of the employer's and the employee's premiums for the group health insurance for an active public safety employee (however, the employer may elect to pay any part of the person's premiums).

(i) Except as provided in IC 36-8-6-9.7(f), IC 36-8-6-10.1(h), IC 36-8-7-12.3(g), IC 36-8-7-12.4(j), IC 36-8-7.5-13.7(h), IC 36-8-7.5-14.1(i), IC 36-8-8-13.9(d), IC 36-8-8-14.1(h), and IC 36-8-10-16.5 for a surviving spouse or dependent of a public safety employee who dies in the line of duty, a surviving spouse or dependent who is eligible for group health insurance under subsection (g)(3):

(1) may elect to continue coverage under the group health insurance program after the death of the public safety employee;

(2) must file a written request for insurance coverage with the employer within ninety (90) days after the death of the public safety employee; and

(3) must pay the amount that the public safety employee would have been required to pay under this section for coverage selected by the surviving spouse or dependent (however, the employer may elect to pay any part of the surviving spouse's or dependents' premiums).

(j) The eligibility for group health insurance under this section for a public safety employee who is retired or has a disability ends on the earlier of the following:

(1) When the public safety employee becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program for active public safety employees.

(k) A surviving spouse's eligibility for group health insurance under this section ends on the earliest of the following:

(1) When the surviving spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the unit providing the insurance terminates the health insurance program for active public safety employees.

(3) The date of the surviving spouse's remarriage.

(4) When health insurance becomes available to the surviving spouse through employment.

(l) A dependent's eligibility for group health insurance under this section ends on the earliest of the following:

(1) When the dependent becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the unit providing the insurance terminates the health insurance program for active public safety employees.

(3) When the dependent no longer meets the criteria set forth in subsection (a).

(4) When health insurance becomes available to the dependent through employment.

(m) A public safety employee who is on leave without pay is entitled to participate for ninety (90) days in any group health insurance program maintained by the local unit public employer for active public safety employees if the public safety employee pays an amount equal to the total of the employer's and the employee's premiums for the insurance. However, the employer may pay all or part of the employer's premium for the insurance.

(n) A local unit public employer may provide group health insurance for retired public safety employees or their spouses not covered by subsections (g) through (l) and may provide group health insurance that contains provisions more favorable to retired public safety employees and their spouses than required by subsections (g) through (l). A local unit public employer may provide group health insurance to a public safety employee who is on leave without pay for a longer period than required by subsection (m), and may continue to pay all or a part of the employer's premium for the insurance while the employee is on leave without pay.

SECTION 66. IC 5-10-8-2.6, AS AMENDED BY P.L.1-2005, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.6. (a) This section applies only to local unit public employers and their employees. This section does not apply to public safety employees, surviving spouses, and dependents covered by section 2.2 of this chapter.

(b) A public employer may provide programs of group insurance for its employees and retired employees. The public employer may, however, exclude part-time employees and persons who provide services to the unit under contract from any group insurance coverage

that the public employer provides to the employer's full-time employees. A public employer may provide programs of group health insurance under this section through one (1) of the following methods:

(1) By purchasing policies of group insurance.

(2) By establishing self-insurance programs.

(3) By electing to participate in the local unit group of local units that offer the state employee health plan under section 6.6 of this chapter.

(4) If the local unit public employer is a school corporation, by electing to provide the coverage through a state employee health plan under section 6.7 of this chapter.

A public employer may provide programs of group insurance other than group health insurance under this section by purchasing policies of group insurance and by establishing self-insurance programs. However, the establishment of a self-insurance program is subject to the approval of the unit's fiscal body.

(c) A public employer may pay a part of the cost of group insurance, but shall pay a part of the cost of group life insurance for local employees. A public employer may pay, as supplemental wages, an amount equal to the deductible portion of group health insurance as long as payment of the supplemental wages will not result in the payment of the total cost of the insurance by the public employer.

(d) An insurance contract for local employees under this section may not be canceled by the public employer during the policy term of the contract.

(e) After June 30, 1986, a public employer shall provide a group health insurance program under subsection (g) to each retired employee:

(1) whose retirement date is:

(A) after May 31, 1986, for a retired employee who was a teacher (as defined in IC 20-18-2-22) for a school corporation; or

(B) after June 30, 1986, for a retired employee not covered by clause (A);

(2) who will have reached fifty-five (55) years of age on or before the employee's retirement date but who will not be eligible on that date for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.;

(3) who will have completed twenty (20) years of creditable employment with a public employer on or before the employee's

retirement date, ten (10) years of which must have been completed immediately preceding the retirement date; and

(4) who will have completed at least fifteen (15) years of participation in the retirement plan of which the employee is a member on or before the employee's retirement date.

(f) A group health insurance program required by subsection (e) must be equal in coverage to that offered active employees and must permit the retired employee to participate if the retired employee pays an amount equal to the total of the employer's and the employee's premiums for the group health insurance for an active employee and if the employee, within ninety (90) days after the employee's retirement date, files a written request with the employer for insurance coverage. However, the employer may elect to pay any part of the retired employee's premiums.

(g) A retired employee's eligibility to continue insurance under subsection (e) ends when the employee becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq., or when the employer terminates the health insurance program. A retired employee who is eligible for insurance coverage under subsection (e) may elect to have the employee's spouse covered under the health insurance program at the time the employee retires. If a retired employee's spouse pays the amount the retired employee would have been required to pay for coverage selected by the spouse, the spouse's subsequent eligibility to continue insurance under this section is not affected by the death of the retired employee. The surviving spouse's eligibility ends on the earliest of the following:

(1) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program.

(3) Two (2) years after the date of the employee's death.

(4) The date of the spouse's remarriage.

(h) This subsection does not apply to an employee who is entitled to group insurance coverage under IC 20-28-10-2(b). An employee who is on leave without pay is entitled to participate for ninety (90) days in any group health insurance program maintained by the public employer for active employees if the employee pays an amount equal to the total of the employer's and the employee's premiums for the insurance. However, the employer may pay all or part of the employer's premium for the insurance.

(i) A public employer may provide group health insurance for

retired employees or their spouses not covered by subsections (e) through (g) and may provide group health insurance that contains provisions more favorable to retired employees and their spouses than required by subsections (e) through (g). A public employer may provide group health insurance to an employee who is on leave without pay for a longer period than required by subsection (h), and may continue to pay all or a part of the employer's premium for the insurance while the employee is on leave without pay.

SECTION 67. IC 5-10-8-6.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6.7. (a) As used in this section, "state employee health plan" means a:**

(1) self-insurance program established under section 7(b) of this chapter; or

(2) contract with a prepaid health care delivery plan entered into under section 7(c) of this chapter;

to provide group health coverage for state employees.

(b) The state personnel department shall allow a school corporation to elect to provide coverage of health care services for active and retired employees of the school corporation under any state employee health plan. If a school corporation elects to provide coverage of health care services for active and retired employees of the school corporation under a state employee health plan, it must provide coverage for all active and retired employees of the school corporation under the state employee health plan (other than any employees covered by an Indiana comprehensive health insurance association policy) if coverage was provided for these employees under the prior policies.

(c) The following apply if a school corporation elects to provide coverage for active and retired employees of the school corporation under subsection (b):

(1) The state shall not pay any part of the cost of the coverage.

(2) The coverage provided to an active or retired school corporation employee under this section must be the same as the coverage provided to an active or retired state employee under the state employee health plan.

(3) Notwithstanding sections 2.2 and 2.6 of this chapter:

(A) the school corporation shall pay for the coverage provided to an active or retired school corporation employee under this section an amount not more than the amount paid by the state for coverage provided to an

active or retired state employee under the state employee health plan; and

(B) an active or retired school corporation employee shall pay for the coverage provided to the active or retired school corporation employee under this section an amount that is at least equal to the amount paid by an active or retired state employee for coverage provided to the active or retired state employee under the state employee health plan.

(4) The school corporation shall pay any administrative costs of the school corporation's participation in the state employee health plan.

(5) The school corporation shall provide the coverage elected under subsection (b) for a period of at least three (3) years beginning on the date the coverage of the school corporation employees under the state employee health plan begins.

(d) The state personnel department shall provide an enrollment period at least every thirty (30) days for a school corporation that elects to provide coverage under subsection (b).

(e) The state personnel department may adopt rules under IC 4-22-2 to implement this section.

(f) Neither this section nor a school corporation's election to participate in a state employee health plan as provided in this section impairs the rights of an exclusive representative of the certificated or noncertificated employees of the school corporation to collectively bargain all matters related to school employee health insurance programs and benefits.

(g) This subsection applies to school corporations that do not elect to provide coverage of health care services for active and retired employees of the school corporation under a state employee health plan as provided in this section. The department of education, with the assistance of the state personnel department, shall for each year after 2010 calculate the difference between:

(1) the total cost to be paid by a school corporation for the year to provide coverage of health care services; minus

(2) the total cost the school corporation would have paid for the year to provide coverage of health care services if the school corporation had elected to provide coverage under a state employee health plan in the preceding year as provided in this section.

(h) If the result of the calculation for a school corporation under

subsection (g) is positive, for contracts entered into or renewed after 2010 to provide coverage for health care services:

(1) the school corporation's employees shall pay the pro rata difference; and

(2) the school corporation may not pay the difference on behalf of the school corporation's employees from any funds of the school corporation.

SECTION 68. IC 5-10-8-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.5. (a) The retiree health benefit trust fund is established to provide funding for a retiree health benefit plan developed under IC 5-10-8.5.**

(b) The trust fund shall be administered by the budget agency. The expenses of administering the trust fund shall be paid from money in the trust fund. The trust fund consists of cigarette tax revenues deposited in the fund under IC 6-7-1-28.1(7) and other appropriations, revenues, or transfers to the trust fund under IC 4-12-1.

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

(d) The trust fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the trust fund by the state board of finance, the budget agency, or any other state agency.

(e) The trust fund shall be established and administered in a manner that complies with Internal Revenue Code requirements concerning health reimbursement arrangement (HRA) trusts. Contributions by the state to the trust fund are irrevocable. All assets held in the trust fund must be held for the exclusive benefit of participants of the retiree health benefit plan developed under IC 5-10-8.5 and their beneficiaries. All assets in the trust fund:

(1) are dedicated exclusively to providing benefits to participants of the plan and their beneficiaries according to the terms of the plan; and

(2) are exempt from levy, sale, garnishment, attachment, or other legal process.

(f) Money in the trust fund does not revert to the state general fund at the end of any state fiscal year.

(g) The money in the trust fund is appropriated to the budget agency for providing the retiree health benefit plan developed

under IC 5-10-8.5.

SECTION 69. IC 5-10-8.5-15, AS ADDED BY P.L.44-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) A participant's employer shall make contributions annually to the account on behalf of the participant. The amount of the contribution each fiscal year must equal the following, based on the participant's age on the last day of the calendar year that is in the fiscal year in which the contribution is made:

Participant's Age in Years	Annual Contribution Amount
Less than 30	~~$500~~ **$450**
At least 30, but less than 40	~~$800~~ **$720**
At least 40, but less than 50	~~$1,100~~ **$990**
At least 50	~~$1,400~~ **$1,260**

(b) The budget agency shall determine by rule the date on which the contributions are credited to participants' subaccounts.

SECTION 70. IC 5-10.2-2-11, AS AMENDED BY P.L.1-2009, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) Based on the actuarial investigation and valuation in section 9 of this chapter, each board shall determine:

(1) the normal contribution for the employer, which is the amount necessary to fund the pension portion of the retirement benefit;

(2) the rate of normal contribution;

(3) the unfunded accrued liability of the public employees' retirement fund, the pre-1996 account, and the 1996 account, which is the excess of total accrued liability over the fund's or account's total assets, respectively; and

(4) the rates of contribution for the state expressed as a proportion of compensation of members, which would be necessary to:

(A) amortize the unfunded accrued liability of the state for thirty (30) years or for a shorter time period requested by the budget agency or the governor; and

(B) prevent the state's unfunded accrued liability from increasing.

(b) Based on the information in subsection (a), each board may determine, in its sole discretion, contributions and contribution rates for individual employers or for a group of employers.

(c) The board's determinations under subsection (a):

(1) are subject to ~~section~~ **sections** 1.5 **and 11.5** of this chapter; and

(2) for an employer making a contribution to the Indiana state

teachers' retirement fund, may not include an amount for a retired member of the Indiana state teachers' retirement fund for whom the employer may not make contributions during the member's period of reemployment as provided under IC 5-10.2-4-8(d).

SECTION 71. IC 5-10.2-2-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001 (RETROACTIVE)]: **Sec. 11.5. (a) As used in this section, "Vincennes University" refers to the state educational institution established under IC 21-25-2.**

(b) Notwithstanding section 11 of this chapter or any other law, Vincennes University is not required to make employer contributions to the Indiana state teachers' retirement fund at any time for the employment during the period July 1, 2001, through June 30, 2009, of Vincennes University's employees who are members of the Indiana state teachers' retirement fund and are covered by the Indiana state teachers' retirement fund pre-1996 account.

(c) This subsection applies to employer contributions made by Vincennes University to the Indiana state teachers' retirement fund on account of the employment after June 30, 2009, of Vincennes University's employees who are members of the Indiana state teachers' retirement fund and are covered by the Indiana state teachers' retirement fund pre-1996 account. Notwithstanding section 11 of this chapter or any other law, Vincennes University is required to pay only the following employer contributions to the Indiana state teachers' retirement fund for those employees for the specified years:

(1) For the year beginning July 1, 2009, fifteen percent (15%) of the employer contribution otherwise determined for Vincennes University.

(2) For the year beginning July 1, 2010, twenty percent (20%) of the employer contribution otherwise determined for Vincennes University.

(3) For the year beginning July 1, 2011, twenty-five percent (25%) of the employer contribution otherwise determined for Vincennes University.

(4) For the year beginning July 1, 2012, thirty-five percent (35%) of the employer contribution otherwise determined for Vincennes University.

(5) For the year beginning July 1, 2013, fifty percent (50%) of the employer contribution otherwise determined for

Vincennes University.

(6) For the year beginning July 1, 2014, seventy-five percent (75%) of the employer contribution otherwise determined for Vincennes University.

(7) For each year beginning after June 30, 2015, one hundred percent (100%) of the employer contribution otherwise determined for Vincennes University.

Payments made according to this subsection shall be considered payment in full of employer contributions.

SECTION 72. IC 5-10.2-2-12.5, AS ADDED BY P.L.165-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12.5. (a) This section applies to reports, records, and contributions submitted after December 31, 2009, by an employer.

(b) As used in this section, "electronic funds transfer" has the meaning set forth in IC 4-8.1-2-7(f).

(c) Except as provided in subsection (e), an employer shall submit through the use of electronic funds transfer:

(1) the employer contributions determined under ~~section~~ **sections** 11 **and 11.5** of this chapter; and

(2) contributions paid by or on behalf of a member under IC 5-10.3-7-9 or IC 5-10.4-4-11.

(d) Except as provided in subsection (e), an employer shall submit in a uniform format through a secure connection over the Internet or through other electronic means specified by the board the reports and records described in:

(1) IC 5-10.3-7-12.5, for the public employees' retirement fund; or

(2) IC 5-10.4-7-6, for the Indiana state teachers' retirement fund.

(e) An employer that is unable to comply with either subsection (c) or (d), or both, may request that the board grant a waiver of the requirement of subsection (c) or (d), or both. The employer must:

(1) state the reason for requesting the waiver;

(2) provide a date, not to exceed two (2) years from the date the employer is first subject to either the electronic funds transfer requirement or the electronic reporting requirement of this section, by which the employer agrees to comply with the requirement of subsection (c) or (d), or both; and

(3) sign and verify the waiver form.

(f) The board may:

(1) grant the employer's request for a waiver; and

(2) specify the date by which the employer is required to comply with the electronic funds transfer requirement or the electronic reporting requirement, or both.

(g) The board shall establish a waiver form consistent with this section.

(h) The board may establish or amend its rules or policies as necessary to administer this section.

SECTION 73. IC 5-10.4-7-6, AS AMENDED BY P.L.165-2009, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) As used in this section, "net contributions" means the gross amount of a member's contributions minus any refund paid or due a teacher.

(b) Not later than January 15, April 15, July 15, and October 15 of each year or an alternate due date established by the rules of the board, the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall make an employer report as provided in section 7 of this chapter, on a form furnished by the board, to the board accompanied by a warrant for payment of:

(1) the total net contributions to the fund made for or by the members in the preceding three (3) months; and

(2) **subject to IC 5-10.2-2-11.5,** the employer contributions as required by section 11 of this chapter.

(c) Amendatory reports to correct errors or omissions may be required and made.

(d) After December 31, 2009, the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall submit:

(1) the employer report described in section 7 of this chapter in a uniform format through a secure connection over the Internet or through other electronic means specified by the board in accordance with IC 5-10.2-2-12.5; and

(2) the:

(A) employer contributions; and

(B) contributions paid by or on behalf of a member;

described in subsection (b) by electronic funds transfer in accordance with IC 5-10.2-2-12.5.

SECTION 74. IC 5-10.3-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. The pension relief fund may be used only for making payments to cities, counties, towns,

and townships, referred to as "units of local government" in this chapter, having pension funds established under IC 18-1-12, IC 19-1-18, IC 19-1-24, IC 19-1-25-4, IC 19-1-30, IC 19-1-37, or IC 19-1-44 **(all before their repeal).** Payments received by the units may be used only for:

(1) pension payments **from a pension fund listed in this section; or**

(2) withdrawals under section 6 of this chapter.

SECTION 75. IC 5-10.3-11-6, AS AMENDED BY P.L.146-2008, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The state board shall maintain separate accounts for each unit of local government for purposes of this section. The accounts are separate and distinct accounts within the public employees' retirement fund and the pension relief fund.

(b) A unit of local government may do the following:

(1) Make deposits at any time to the separate account established for the unit under this section.

(2) Withdraw once each year from the unit's separate account all or a part of the balance in the account to pay pension benefits under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5.

(3) Direct the state board at any time to pay from the unit's separate account all or a part of either or both of the following:

(A) The unit's employer contributions under IC 36-8-8-6.

(B) The contributions paid by the unit for a member under IC 36-8-8-8(a).

SECTION 76. IC 5-11-10-1, AS AMENDED BY P.L.2-2007, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 1. (a) This section applies to the state and its political subdivisions. However, this section does not apply to the following:

(1) A state educational institution, including Ivy Tech Community College **of Indiana.**

(2) A municipality (as defined in IC 36-1-2-11).

(3) A county.

(4) An airport authority operating in a consolidated city.

(5) A capital improvements board of managers operating in a consolidated city.

(6) A board of directors of a public transportation corporation operating in a consolidated city.

(7) A municipal corporation organized under IC 16-22-8-6.

(8) A public library.

(9) A library services authority.

(10) A hospital organized under IC 16-22 or a hospital organized under IC 16-23.

(11) A school corporation (as defined in IC 36-1-2-17).

(12) A regional water or sewer district organized under IC 13-26 or under IC 13-3-2 (before its repeal).

(13) A municipally owned utility (as defined in IC 8-1-2-1).

(14) A board of an airport authority under IC 8-22-3.

(15) A conservancy district.

(16) A board of aviation commissioners under IC 8-22-2.

(17) A public transportation corporation under IC 36-9-4.

(18) A commuter transportation district under IC 8-5-15.

(19) A solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).

(20) A county building authority under IC 36-9-13.

(21) A soil and water conservation district established under IC 14-32.

(22) The northwestern Indiana regional planning commission established by IC 36-7-7.6-3.

(23) The commuter rail service board established under IC 8-24-5.

(24) The regional demand and scheduled bus service board established under IC 8-24-6.

(b) No warrant or check shall be drawn by a disbursing officer in payment of any claim unless the same has been fully itemized and its correctness properly certified to by the claimant or some authorized person in the claimant's behalf, and filed and allowed as provided by law.

(c) The certificate provided for in subsection (b) is not required for:

(1) claims rendered by a public utility for electric, gas, steam, water, or telephone services, the charges for which are regulated by a governmental body;

(2) a warrant issued by the auditor of state under IC 4-13-2-7(b);

(3) a check issued by a special disbursing officer under IC 4-13-2-20(g); or

(4) a payment of fees under IC 36-7-11.2-49(b) or IC 36-7-11.3-43(b).

(d) The disbursing officer shall issue checks or warrants for all

claims which meet all of the requirements of this section. The disbursing officer does not incur personal liability for disbursements:

(1) processed in accordance with this section; and

(2) for which funds are appropriated and available.

(e) The certificate provided for in subsection (b) must be in the following form:

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

SECTION 77. IC 5-11-10-1.6, AS AMENDED BY P.L.169-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 1.6. (a) As used in this section, "governmental entity" refers to any of the following:

(1) A municipality (as defined in IC 36-1-2-11).

(2) A school corporation (as defined in IC 36-1-2-17), including a school extracurricular account.

(3) A county.

(4) A regional water or sewer district organized under IC 13-26 or under IC 13-3-2 (before its repeal).

(5) A municipally owned utility that is subject to IC 8-1.5-3 or IC 8-1.5-4.

(6) A board of an airport authority under IC 8-22-3.

(7) A board of aviation commissioners under IC 8-22-2.

(8) A conservancy district.

(9) A public transportation corporation under IC 36-9-4.

(10) A commuter transportation district under IC 8-5-15.

(11) The state.

(12) A solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).

(13) A levee authority established under IC 14-27-6.

(14) A county building authority under IC 36-9-13.

(15) A soil and water conservation district established under IC 14-32.

(16) The northwestern Indiana regional planning commission established by IC 36-7-7.6-3.

(17) The commuter rail service board established under IC 8-24-5.

(18) The regional demand and scheduled bus service board established under IC 8-24-6.

(b) As used in this section, "claim" means a bill or an invoice

submitted to a governmental entity for goods or services.

(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless:

(1) there is a fully itemized invoice or bill for the claim;

(2) the invoice or bill is approved by the officer or person receiving the goods and services;

(3) the invoice or bill is filed with the governmental entity's fiscal officer;

(4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and

(5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim.

This subsection does not prohibit a school corporation, with prior approval of the board having jurisdiction over allowance of payment of the claim, from making payment in advance of receipt of services as allowed by guidelines developed under IC 20-20-13-10. This subsection does not prohibit a municipality from making meal expense advances to a municipal employee who will be traveling on official municipal business if the municipal fiscal body has adopted an ordinance allowing the advance payment, specifying the maximum amount that may be paid in advance, specifying the required invoices and other documentation that must be submitted by the municipal employee, and providing for reimbursement from the wages of the municipal employee if the municipal employee does not submit the required invoices and documentation.

(d) The fiscal officer of a governmental entity shall issue checks or warrants for claims by the governmental entity that meet all of the requirements of this section. The fiscal officer does not incur personal liability for disbursements:

(1) processed in accordance with this section; and

(2) for which funds are appropriated and available.

(e) The certification provided for in subsection (c)(4) must be on a form prescribed by the state board of accounts.

SECTION 78. IC 5-13-10.5-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18. (a) As used in this section, "capital improvement board" refers to a capital improvement board established under IC 36-10-9.**

(b) To qualify for an investment under this section, the capital

improvement board must apply to the treasurer of state in the form and manner required by the treasurer. As part of the application, the capital improvement board shall submit a plan for its use of the investment proceeds and for the repayment of the capital improvement board's obligation to the treasurer. Within sixty (60) days after receipt of each application, the treasurer shall consider the application and review its accuracy and completeness.

(c) If the capital improvement board makes an application under subsection (b) and the treasurer approves the accuracy and completeness of the application and determines that there is an adequate method of payment for the capital improvement board's obligations, the treasurer of state shall invest or reinvest funds that are held by the treasurer and that are available for investment in obligations issued by the capital improvement board for the purposes of the capital improvement board in calendar years 2009, 2010, and 2011. The investment may not exceed nine million dollars ($9,000,000) per calendar year for 2009, 2010, and 2011.

(d) The treasurer of state shall determine the terms of each investment and the capital improvement board's obligation, which must include the following:

(1) The duration of the capital improvement board's obligation, which must be for a term of ten (10) years with an option for the capital improvement board to pay its obligation to the treasurer early without penalty.

(2) The repayment schedule of the capital improvement board's obligation, which must provide that no payments are due before January 1, 2013.

(3) A rate of interest to be determined by the treasurer.

(4) The amount of each investment, which may not exceed the maximum amounts established for the capital improvement board by this section.

(5) Any other conditions specified by the treasurer.

(e) The capital improvement board may issue obligations under this section by adoption of a resolution and, as set forth in IC 5-1-14, may use any source of revenue to satisfy the obligation to the treasurer of state under this section. This section constitutes complete authority for the capital improvement board to issue obligations to the treasurer. If the capital improvement board fails to make any payments on the capital improvement board's obligation to the treasurer, the amount payable shall be withheld by the auditor of state from any other money payable to the capital

improvement board. The amount withheld shall be transferred to the treasurer to the credit of the capital improvement board.

SECTION 79. IC 5-22-21-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) This chapter applies only to personal property owned by a governmental body that is a state agency.

(b) This chapter does not apply to the following:

(1) The sale of timber by the department of natural resources under IC 14-23-4.

(2) The satisfaction of a lien or judgment by a state agency under court proceedings.

(3) The disposition of unclaimed property under IC 32-34-1.

(4) The sale or harvesting of vegetation (as defined in IC 8-23-24.5-3) under IC 8-23-24.5.

(5) The sale or harvesting of vegetation (as defined in IC 4-20.5-22-4) under IC 4-20.5-22.

SECTION 80. IC 5-28-15-10, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2008 (RETROACTIVE)]: Sec. 10. (a) **Subject to subsection (b),** an enterprise zone expires ten (10) years after the day on which it is designated by the board.

(b) In the period beginning December 1, 2008, and ending December 31, 2014, an enterprise zone does not expire under this section if the fiscal body of the municipality in which the enterprise zone is located adopts a resolution renewing the enterprise zone for an additional five (5) years. An enterprise zone may be renewed under this subsection regardless of the number of times the enterprise zone has been renewed under subsections (c) and (d). A municipal fiscal body may adopt a renewal resolution and submit a copy of the resolution to the board:

(1) before August 1, 2009, in the case of an enterprise zone that expired after November 30, 2008, or is scheduled to expire before September 1, 2009; or

(2) at least thirty (30) days before the expiration date of the enterprise zone, in the case of an enterprise zone scheduled to expire after August 31, 2009.

If an enterprise zone is renewed under this subsection after having been renewed under subsection (d), the enterprise zone may not be renewed after the expiration of this final five (5) year period.

(c) The two (2) year period immediately before the day on which the enterprise zone expires is the phaseout period. During the phaseout

period, the board may review the success of the enterprise zone based on the following criteria and may, with the consent of the budget committee, renew the enterprise zone, including all provisions of this chapter, for five (5) years:

(1) Increases in capital investment in the zone.

(2) Retention of jobs and creation of jobs in the zone.

(3) Increases in employment opportunities for residents of the zone.

~~(b)~~ **(d)** If an enterprise zone is renewed under subsection (a), the two (2) year period immediately before the day on which the enterprise zone expires is another phaseout period. During the phaseout period, the board may review the success of the enterprise zone based on the criteria set forth in subsection (a) and, with the consent of the budget committee, may again renew the enterprise zone, including all provisions of this chapter, for a final period of five (5) years. The zone may not be renewed after the expiration of this final five (5) year period.

SECTION 81. IC 5-28-34 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 34. Green Industries Fund

Sec. 1. As used in this chapter, "fund" means the green industries fund established by section 3 of this chapter.

Sec. 2. For the purposes of this chapter, "green industry" means an Indiana business that manufactures products that reduce energy consumption or lower emissions in the market of their intended use, including the following:

(1) Biofuels.

(2) Advanced technology vehicles.

(3) Alternative fuel vehicles and power systems.

(4) Clean diesel technology.

(5) Domestic appliances.

(6) Distributed power generation.

(7) Emission control systems.

(8) Energy monitoring, management, and efficiency.

(9) Fuel cells.

(10) Renewable energy.

(11) Smart grid technology.

(12) Highly insulative building construction products.

(13) Construction products manufactured from at least fifty percent (50%) postconsumer products.

(14) Other sectors determined by the corporation.

Sec. 3. (a) The green industries fund is established. The fund shall be administered by the corporation.

(b) The fund may be used to provide grants and loans to Indiana manufacturing companies for the following purposes:

(1) To strengthen Indiana's economy by focusing investment in advanced manufacturing clusters focused on more energy efficient and environmentally sustainable technologies, processes, and products.

(2) To accelerate job creation through training and education initiatives to enhance the skills and employment prospects of Indiana's workforce in green industries.

(3) To facilitate the redevelopment of Indiana manufacturing sites, facilities, and processes to operate in a more energy efficient and environmentally sustainable manner.

(4) To stimulate the development of technologies, processes and products that reduce energy consumption or lower emissions in the market of their intended use.

(5) To encourage public-private partnerships focused on development of green industries among Indiana manufacturing companies, public or private educational institutions, nonprofit organizations and charitable foundations, research and development organizations, and state agencies.

Sec. 4. (a) An Indiana manufacturing company may apply for one (1) or more grants or loans from the fund.

(b) The corporation shall give priority to applications that meet three (3) or more of the purposes listed in section 3 of this chapter. The corporation shall base the award of a grant or loan on the number and quality of jobs being created, the community's economic need, and the capital investment being made by the applicant.

(c) A grant may not exceed fifty percent (50%) of the applicant's project costs.

SECTION 82. IC 6-1.1-1-3.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **Sec. 3.8. "Civil taxing unit" has the meaning set forth in IC 6-1.1-18.5-1.**

SECTION 83. IC 6-1.1-1-5.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5.4. "Department" refers to the**

department of local government finance.

SECTION 84. IC 6-1.1-1-8.4, AS ADDED BY P.L.146-2008, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 8.4. **(a)** "Inventory" means:

(1) materials held for processing or for use in production;

(2) finished or partially finished goods of a manufacturer or processor; and

(3) property held for sale in the ordinary course of trade or business.

(b) The term includes:

(1) items that qualify as inventory under 50 IAC 4.2-5-1 (as effective December 31, 2008); **and**

(2) subject to subsection (c), a mobile home or manufactured home that:

(A) does not qualify as real property;

(B) is located in a mobile home community;

(C) is unoccupied; and

(D) is owned and held for sale by the owner of the mobile home community.

(c) Subsection (b)(2) applies regardless of whether the mobile home that is held for sale is new or was previously owned.

SECTION 85. IC 6-1.1-4-4, AS AMENDED BY P.L.136-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. ~~(a) A general reassessment, involving a physical inspection of all real property in Indiana, shall begin July 1, 2000, and be the basis for taxes payable in 2003.~~

~~(b)~~ **(a)** A general reassessment, involving a physical inspection of all real property in Indiana, shall begin July 1, ~~2009,~~ **2010,** and each fifth year thereafter. Each reassessment under this subsection:

(1) shall be completed on or before March 1 of the year that succeeds by two (2) years the year in which the general reassessment begins; and

(2) shall be the basis for taxes payable in the year following the year in which the general assessment is to be completed.

~~(c)~~ **(b)** In order to ensure that assessing officials are prepared for a general reassessment of real property, the department of local government finance shall give adequate advance notice of the general reassessment to the assessing officials of each county.

~~(d)~~ **(c)** For a general reassessment that begins on or after July 1, ~~2009,~~ **2010,** the assessed value of real property shall be based on the

estimated true tax value of the property on the assessment date that is the basis for taxes payable in the year following the year in which the general reassessment is to be completed.

SECTION 86. IC 6-1.1-4-4.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.6. (a) If a county assessor fails before July 2 of a particular year to prepare and deliver to the county auditor a complete detailed list of all of the real property listed for taxation in the county as required by IC 6-1.1-5-14 and at least one hundred eighty (180) days have elapsed after the July 1 deadline specified in IC 6-1.1-5-14 for delivering the list, the department of local government finance may develop annual adjustment factors under this section for that year. In developing annual adjustment factors under this section, the department of local government finance shall use data in its possession that is obtained from:**

(1) the county assessor; or

(2) any of the sources listed in the rule, including county or state sales data, government studies, ratio studies, cost and depreciation tables, and other market analyses.

(b) Using the data described in subsection (a), the department of local government finance shall propose to establish annual adjustment factors for the affected tax districts for one (1) or more of the classes of real property. The proposal may provide for the equalization of annual adjustment factors in the affected township or county and in adjacent areas. The department of local government finance shall issue notice and provide opportunity for hearing in accordance with IC 6-1.1-14-4 and IC 6-1.1-14-9, as applicable, before issuing final annual adjustment factors.

(c) The annual adjustment factors finally determined by the department of local government finance after the hearing required under subsection (b) apply to the annual adjustment of real property under section 4.5 of this chapter for:

(1) the assessment date; and

(2) the real property;

specified in the final determination of the department of local government finance.

SECTION 87. IC 6-1.1-4-17, AS AMENDED BY P.L.146-2008, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 17. (a) Subject to the approval of the department of local government finance and the requirements of

section 18.5 of this chapter, a county assessor may employ professional appraisers as technical advisors for assessments in all townships in the county. The department of local government finance may approve employment under this subsection only if the department is a party to the employment contract **and any addendum to the employment contract.**

(b) A decision by a county assessor to not employ a professional appraiser as a technical advisor in a general reassessment is subject to approval by the department of local government finance.

(c) As used in this chapter, "professional appraiser" means an individual or firm that is certified under IC 6-1.1-31.7.

SECTION 88. IC 6-1.1-4-19.5, AS AMENDED BY P.L.146-2008, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 19.5. (a) The department of local government finance shall develop a standard contract or standard provisions for contracts to be used in securing professional appraising services.

(b) The standard contract or contract provisions must contain:

(1) a fixed date by which the professional appraiser or appraisal firm shall have completed all responsibilities under the contract;

(2) a penalty clause under which the amount to be paid for appraisal services is decreased for failure to complete specified services within the specified time;

(3) a provision requiring the appraiser, or appraisal firm, to make periodic reports to the county assessor;

(4) a provision stipulating the manner in which, and the time intervals at which, the periodic reports referred to in subdivision (3) of this subsection are to be made;

(5) a precise stipulation of what service or services are to be provided and what class or classes of property are to be appraised;

(6) a provision stipulating that the contractor will generate complete parcel characteristics and parcel assessment data in a manner and format acceptable to the legislative services agency and the department of local government finance;

(7) a provision stipulating that the legislative services agency and the department of local government finance have unrestricted access to the contractor's work product under the contract; and

(8) a provision stating that the department of local government finance is a party to the contract **and any addendum to the contract.**

The department of local government finance may devise other

necessary provisions for the contracts in order to give effect to this chapter.

(c) In order to comply with the duties assigned to it by this section, the department of local government finance may develop:

(1) one (1) or more model contracts;

(2) one (1) contract with alternate provisions; or

(3) any combination of subdivisions (1) and (2).

The department may approve special contract language in order to meet any unusual situations.

SECTION 89. IC 6-1.1-4-42 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 42. (a) This section applies to assessment dates after January 15, 2010.**

(b) As used in this section, "golf course" means an area of land and yard improvements that are predominately used to play the game of golf. A golf course consists of a series of holes, each consisting of a teeing area, fairway, rough and other hazards, and the green with the pin and cup.

(c) The true tax value of real property regularly used as a golf course is the valuation determined by applying the income capitalization appraisal approach. The income capitalization approach used to determine the true tax value of a golf course must:

(1) incorporate an applicable income capitalization method and appropriate capitalization rates that are developed and used in computations that lead to an indication of value commensurate with the risks for the subject property use;

(2) provide for the uniform and equal assessment of golf courses of similar grade quality and play length; and

(3) exclude the value of personal property, intangible property, and income derived from personal or intangible property.

(d) For assessment dates after January 15, 2010, and before March 1, 2012, a township assessor (if any) or the county assessor shall gather and process information from the owner of a golf course to carry out this section in accordance with the rules adopted by the department of local government finance under IC 4-22-2.

(e) For assessment dates after February 28, 2012, the department of local government finance shall, by rules adopted under IC 4-22-2, establish uniform income capitalization tables and

procedures to be used for the assessment of golf courses. The department of local government finance may rely on analysis conducted by a state educational institution to develop the income capitalization tables and procedures required under this section. Assessing officials shall use the tables and procedures adopted by the department of local government finance to assess, reassess, and annually adjust the assessed value of golf courses.

(f) The department of local government finance may prescribe procedures, forms, and due dates for the collection from the owners or operators of golf courses of the necessary earnings, income, profits, losses, and expenditures data necessary to carry out this section. An owner or operator of a golf course shall comply with the procedures and reporting schedules prescribed by the department of local government finance.

SECTION 90. IC 6-1.1-5.5-2, AS AMENDED BY P.L.144-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) As used in this chapter, "conveyance document" means any of the following:

(1) Any of the following that purports to transfer a real property interest for valuable consideration:

(A) A document.

(B) A deed.

(C) A contract of sale.

(D) An agreement.

(E) A judgment.

(F) A lease that includes the fee simple estate and is for a period in excess of ninety (90) years.

(G) A quitclaim deed serving as a source of title.

(H) Another document presented for recording.

(2) Documents for compulsory transactions as a result of foreclosure or express threat of foreclosure, divorce, court order, condemnation, or probate.

(3) Documents involving the partition of land between tenants in common, joint tenants, or tenants by the entirety.

(b) The term does not include the following:

(1) Security interest documents such as mortgages and trust deeds.

(2) Leases that are for a term of less than ninety (90) years.

(3) Agreements and other documents for mergers, consolidations, and incorporations involving solely nonlisted stock.

(4) Quitclaim deeds not serving as a source of title.

(5) Public utility or governmental easements or rights-of-way.

SECTION 91. IC 6-1.1-5.5-4.7, AS AMENDED BY P.L.228-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.7. (a) The assessment training and administration fund is established for the purpose of receiving fees deposited under section 4 of this chapter. Money in the fund may be used by:

(1) the department of local government finance:

(A) to cover expenses incurred in the development and administration of programs for the training of assessment officials and employees of the department, including the examination and certification program required by IC 6-1.1-35.5; **and**

(B) for data base management expenses; or

(2) the Indiana board to:

(A) conduct appeal activities; or

(B) pay for appeal services.

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

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

SECTION 92. IC 6-1.1-7-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **Sec. 15. (a) This section applies to a mobile home or manufactured home:**

(1) that has deteriorated to a degree that it can no longer provide suitable protection from the elements as to be used as a primary place of residence;

(2) that has little or no value as a structure to be rehabilitated for use as a primary place of residence;

(3) on which personal property tax liability has been imposed in an amount that exceeds the estimated resale value of the mobile home or manufactured home; and

(4) that has been abandoned in a mobile home community licensed under IC 16-41-27.

(b) The holder of the title of a mobile home or manufactured home described in subsection (a) may submit a written request to the county assessor for the county where the mobile home or manufactured home is located requesting that personal property tax liability imposed on the mobile home or manufactured home be

waived. If the county assessor determines that the property that is the subject of the request meets the requirements in subsection (a), the county assessor shall send to the applicant a letter that waives the property taxes, special assessments, interest, penalties, and costs assessed against the property under this article, subject to compliance with subsection (c). The county assessor shall deliver a copy of the letter to the county auditor and the county treasurer.

(c) Upon receipt of a letter waiving property taxes imposed on a mobile home or manufactured home, the holder of the title of the property that is the subject of a letter issued under subsection (b) shall:

(1) deliver a signed statement to the county assessor stating that the mobile home or manufactured home:

(A) will be dismantled or destroyed either at its present site or at a remote site; and

(B) will not be used again as a dwelling or other shelter; and

(2) dismantle or destroy the mobile home or manufactured home and not use the mobile home or manufactured home as a structure after the issuance date of the letter waiving property taxes.

(d) The county auditor shall remove from the tax duplicate the property taxes, special assessments, interest, penalties, and costs for which a waiver is granted under this section.

SECTION 93. IC 6-1.1-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2010]: Sec. 7. (a) The fixed property of a bus company consists of ~~real property and tangible personal property which is located within or on the~~ real property.

(b) A bus company's property which is not described in subsection (a) is indefinite-situs distributable property. This property includes, but is not limited to, buses and other mobile equipment. The department of local government finance shall apportion and distribute the assessed valuation of this property among the taxing districts in or through which the company operates its system. The amount which the department of local government finance shall distribute to a taxing district equals the product of (1) the total assessed valuation of the bus company's indefinite-situs distributable property, multiplied by (2) a fraction, the numerator of which is the company's average daily regularly scheduled passenger vehicle route miles in the taxing district, and the denominator of which is the company's average daily regularly scheduled passenger vehicle route miles in this state.

SECTION 94. IC 6-1.1-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2010]: Sec. 8. (a) The fixed property of an express company consists of real property. ~~and tangible personal property which has a definite situs.~~ The remainder of the express company's property is indefinite-situs distributable property.

(b) The department of local government finance shall apportion and distribute the assessed valuation of an express company's indefinite-situs distributable property among the taxing districts in which the fixed property of the company is located. The amount which the department of local government finance shall distribute to a taxing district equals the product of (1) the total assessed valuation of the express company's indefinite-situs distributable property, multiplied by (2) a fraction, the numerator of which is the value of the company's fixed property which is located in the taxing district, and the denominator of which is the value of the company's fixed property which is located in this state.

SECTION 95. IC 6-1.1-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2010]: Sec. 9. (a) The fixed property of a light, heat, or power company consists of

~~(1) automotive and other mobile equipment;~~

~~(2) office furniture and fixtures;~~

~~(3) other tangible personal property which is not used as part of the company's production plant, transmission system, or distribution system; and~~

~~(4)~~ real property which is not part of the company's right-of-ways, transmission system, or distribution system.

(b) A light, heat, or power company's property which is not described as fixed property in subsection (a) of this section is definite-situs distributable property. This property includes, but is not limited to, turbo-generators, boilers, transformers, transmission lines, distribution lines, and pipe lines.

SECTION 96. IC 6-1.1-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2010]: Sec. 10. (a) The fixed property of a pipe line company consists of

~~(1)~~ real property which is not part of a pipe line or right-of-way of the company. ~~and~~

~~(2) tangible personal property which is not part of the company's distribution system.~~

(b) A pipe line company's property which is not described in subsection (a) is indefinite-situs distributable property. The department

of local government finance shall apportion and distribute the assessed valuation of this property among the taxing districts in which the company's pipe lines are located. The amount which the department of local government finance shall distribute to a taxing district equals the product of (1) the total assessed valuation of the pipe line company's indefinite-situs distributable property, multiplied by (2) a fraction, the numerator of which is the length of the company's pipe lines in the taxing district, and the denominator of which is the length of the company's pipe lines in this state.

SECTION 97. IC 6-1.1-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2010]: Sec. 11. (a) The fixed property of the railroad company consists of real property which is not required for the operation of the railroad. ~~and tangible personal property which is located within or on that real property.~~ The remaining property of the railroad company is distributable property.

(b) A railroad company's definite-situs distributable property consists of the company's:

(1) rights-of-way and road beds;

(2) station and depot grounds;

(3) yards, yard sites, superstructures, turntable, and turnouts;

(4) tracks;

(5) telegraph poles, wires, instruments, and other appliances, which are located on the right-of-ways; and

(6) any other buildings or fixed situs personal property used in the operation of the railroad.

(c) A railroad company's property which is not described in subsection (a) or (b) is indefinite-situs distributable property. This property includes, but is not limited to, rolling stock. The department of local government finance shall apportion and distribute the assessed valuation of this property among the taxing districts in which the railroad company operates its system. The amount which the department of local government finance shall distribute to a taxing district equals the product of (1) the total assessed valuation of the railroad company's indefinite-situs distributable property, multiplied by (2) a fraction, the numerator of which is the relative value of the company's main lines, branch lines, main tracks, second main tracks, and sidetracks, including all leased lines and tracks, which are located in the taxing district, and the denominator of which is the relative value of the company's main lines, branch lines, main tracks, second main tracks, and sidetracks, including all leased lines and tracks, which are

located in this state.

SECTION 98. IC 6-1.1-8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2010]: Sec. 12. (a) The fixed property of a railroad car company consists of real property. ~~and tangible personal property which has a definite situs.~~ The remainder of the railroad car company's property is indefinite-situs distributable property.

(b) The department of local government finance shall assess a railroad car company's indefinite-situs distributable property on the basis of the average number of cars owned or used by the company within this state during the twelve (12) months of the calendar year preceding the year of assessment. The average number of cars within this state equals the product of:

(1) the sum of "M" plus "E"; multiplied by

(2) a fraction, the numerator of which is "N", and the denominator of which is the number two (2).

"M" equals the mileage traveled by the railroad car company's cars in this state divided by the mileage traveled by the company's cars both within and outside this state. "E" equals the earnings generated by the company's cars in this state divided by the earnings generated by the company's cars both within and outside this state. "N" equals the total number of cars owned or used by the company both within and outside this state.

SECTION 99. IC 6-1.1-8-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2010]: Sec. 13. (a) The fixed property of a sleeping car company consists of real property. ~~and tangible personal property which has a definite situs.~~

(b) A sleeping car company's property which is not described in subsection (a) is indefinite-situs distributable property. The department of local government finance shall apportion and distribute the assessed valuation of this property among the taxing districts in or through which the company operates cars. The department of local government finance shall make the apportionment in a manner which it considers fair.

SECTION 100. IC 6-1.1-8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2010]: Sec. 14. (a) The fixed property of a street railway company consists of

~~(1)~~ real property which is not part of the company's tracks or rights-of-way. ~~and~~

~~(2) tangible personal property which is located within or on the~~

~~real property described in subdivision (1).~~

(b) A street railway company's property which is not described in subsection (a) is distributable property. This property includes, but is not limited to:

(1) rights-of-way of the company;

(2) tangible personal property which is located on a right-of-way of the company; and

(3) rolling stock.

(c) The department of local government finance shall apportion and distribute the assessed valuation of a street railway company's indefinite-situs distributable property among the taxing districts in or through which the company operates its system. The amount which the department of local government finance shall distribute to a taxing district equals the product of (1) the total assessed valuation of the street railway company's indefinite-situs distributable property, multiplied by (2) a fraction, the numerator of which is the company's average daily regularly scheduled passenger vehicle route miles in the taxing district, and the denominator of which is the company's average daily regularly scheduled passenger vehicle route miles in this state.

SECTION 101. IC 6-1.1-8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2010]: Sec. 15. (a) The fixed property of a telephone, telegraph, or cable company consists of

~~(1) tangible personal property which is not used as part of the distribution system of the company; and~~

~~(2)~~ real property which is not part of the company's rights-of-way or distribution system.

(b) A telephone, telegraph, or cable company's property which is not described under subsection (a) is indefinite-situs distributable property. The department of local government finance shall apportion and distribute the assessed valuation of this property among the taxing districts in which the company's lines or cables, including laterals, are located. The amount which the department of local government finance shall distribute to a taxing district equals the product of (1) the total assessed valuation of the telephone, telegraph, or cable company's indefinite-situs distributable property, multiplied by (2) a fraction, the numerator of which is the length of the company's lines and cables, including laterals, which are located in the taxing district, and the denominator of which is the length of the company's lines and cables, including laterals, which are located in this state.

SECTION 102. IC 6-1.1-8-17 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE MARCH 1, 2010]: Sec. 17. (a) The fixed property of a water distribution company consists of

~~(1) tangible personal property which is not used as part of the company's distribution system; and~~

~~(2)~~ real property which is not part of the company's rights-of-way or distribution system.

A well, settling basin, or reservoir (except an impounding reservoir) is not fixed property of a water distribution company if it is used to store treated water or water in the process of treatment.

(b) A water distribution company's property which is not described as fixed property under subsection (a) is indefinite-situs distributable property. The department of local government finance shall apportion and distribute the assessed valuation of this property among the taxing districts in which the company's water mains, including feeder and distribution mains, are located. The amount which the department of local government finance shall distribute to a taxing district equals the product of (1) the total assessed valuation of the water distribution company's indefinite-situs distributable property, multiplied by (2) a fraction, the numerator of which is the length of the company's water mains, including feeder and distribution mains, which are located in the taxing district, and the denominator of which is the length of the company's water mains, including feeder and distribution mains, which are located in this state.

SECTION 103. IC 6-1.1-8-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2010]: Sec. 18. For a public utility company which is not within one (1) of the classes of companies whose property is described in sections 6 through 17 of this chapter, the fixed property of the company consists of real property. ~~and tangible personal property.~~ The remainder of the company's property is indefinite-situs distributable property. The department of local government finance shall, in a manner which it considers fair, apportion and distribute the assessed valuation of the company's indefinite-situs distributable property among the taxing districts in which the company operates its system.

SECTION 104. IC 6-1.1-8.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 6. Before

~~(1) January 1, 2004; and~~

~~(2)~~ January 1 of each year ~~that a general reassessment commences under IC 6-1.1-4-4;~~

the county assessor of each qualifying county shall provide the

department of local government finance a list of each industrial facility located in the qualifying county.

SECTION 105. IC 6-1.1-8.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2009 (RETROACTIVE)]: Sec. 11. ~~(a) A taxpayer or the county assessor of the qualifying county in which the industrial facility is located may appeal an assessment by the department of local government finance made under this chapter to the Indiana board. An appeal under this section shall be conducted in the same manner as an appeal under IC 6-1.1-15-4 through IC 6-1.1-15-8. An assessment made under this chapter that is not appealed under this section is a final unappealable order of the department of local government finance.~~

~~(b) The Indiana board shall hold a hearing on the appeal and issue an order within one (1) year after the date the appeal is filed.~~ **(a) The industrial company that owns or uses the industrial facility assessed by the department of local government finance under this chapter may appeal that assessment to the Indiana board. Subject to subsections (b), (c), (d), and (e), the county assessor of the county in which the industrial facility assessed by the department of local government finance is located may appeal that assessment to the Indiana board.**

(b) The county assessor of a qualifying county may not expend public money appealing an assessment under this section unless the following requirements are met before a petition for review is submitted to the Indiana board:

(1) The county assessor submits to the county fiscal body a written estimate of the cost of the appeal.

(2) The county fiscal body adopts a resolution approving the county assessor's proposed expenditure to carry out the appeal.

(3) The total amount of the proposed expenditure is in accordance with an appropriation made by the county fiscal body in the manner provided by law.

(c) Except as otherwise provided in subsections (d) and (e), an appeal under this section shall be conducted in the same manner as an appeal under IC 6-1.1-15-4 through IC 6-1.1-15-8. An assessment made under this chapter that is not appealed under this section is a final unappealable order of the department of local government finance.

(d) With respect to an appeal filed by a county assessor under this section the following apply:

(1) In the petition for review to the Indiana board, the county assessor shall state what the county assessor contends the assessed value of the industrial facility should be and provide substantial evidence in support of that contention. Failure to comply with this requirement results in dismissal of the county assessor's petition for review and no further appeal of the assessment by the county assessor may be taken.

(2) Not later than thirty (30) days after the county assessor files a petition for review in compliance with subdivision (1), the Indiana board shall hold a hearing at which the county assessor must establish a reasonable likelihood of success on any contentions made in the petition for review including, without limitation, the contention required under subdivision (1) regarding the assessed value of the real estate. The industrial company whose industrial facility is the subject of the county assessor's petition for review and the department of local government finance has the right to appear at this hearing and to present testimony, to cross-examine witnesses, and to present evidence regarding the county assessor's contentions.

(3) Not later than thirty (30) days after the hearing held under subdivision (2), the Indiana board shall issue a determination whether the county assessor has established a reasonable likelihood of success on the contentions in the petition for review. If the Indiana board determines that the county assessor has not established a reasonable likelihood of success on the contentions in the petition for review, the county assessor's petition for review shall be dismissed and no further appeal of the assessment by the county assessor may be taken. If the Indiana board determines that the county assessor has established a reasonable likelihood of success on the contentions in the petition for review, the Indiana board's determination does not create the presumption that the county assessor's contentions are valid. A determination by the Indiana board that the county assessor has established a reasonable likelihood of success on the contentions in the petition for review may be appealed to the Indiana tax court as an interlocutory appeal. A party may petition for review by the Indiana supreme court of the Indiana tax court's ruling regarding an interlocutory appeal brought under this subdivision.

(4) The Indiana board shall not hold a hearing on the appeal under IC 6-1.1-15-4 and the county assessor shall not be permitted to conduct discovery under the Indiana board's administrative rules until a determination has been issued under subdivision (3) and:

(A) any interlocutory appeal under subdivision (3) has been ruled on by the Indiana tax court; or

(B) the Indiana supreme court has either rejected a petition for review concerning the Indiana tax court's ruling on the interlocutory appeal or issued a decision regarding the Indiana tax court's ruling on the interlocutory appeal.

(e) On any appeal that has not been dismissed, the Indiana board shall issue an order within one (1) year after:

(1) the taxpayer filed its petition for review;

(2) the issuance of the Indiana board's determination under subsection (d)(3) in the case of an appeal by the county assessor; or

(3) the Indiana tax court or Indiana supreme court rules on a taxpayer's interlocutory appeal under subsection (d)(3) in the case of an appeal by the county assessor;

whichever is latest.

SECTION 106. IC 6-1.1-8.7-8, AS AMENDED BY P.L.219-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2009 (RETROACTIVE)]: Sec. 8. (a) The industrial company that owns or uses the industrial facility assessed **by the department** under this chapter ~~a taxpayer that petitioned for assessment of an industrial facility assessed under this chapter, or~~ **may appeal that assessment to the Indiana board. Subject to subsections (b), (c), (d), and (e),** the county assessor of the county in which the industrial facility is located may appeal an assessment by the department made under this chapter to the Indiana board. ~~An appeal under this section shall be conducted in the same manner as an appeal under IC 6-1.1-15-4 through IC 6-1.1-15-8. An assessment made under this chapter that is not appealed under this section is a final unappealable order of the department.~~

(b) ~~The Indiana board shall hold a hearing on the appeal and issue an order within one (1) year of the date the appeal is filed.~~ **The county assessor of a qualifying county may not expend public money appealing an assessment under this section unless the following requirements are met before a petition for review is submitted to**

the Indiana board:

(1) The county assessor submits to the county fiscal body a written estimate of the cost of the appeal.

(2) The county fiscal body adopts a resolution approving the county assessor's proposed expenditure to carry out the appeal.

(3) The total amount of the proposed expenditure is in accordance with an appropriation made by the county fiscal body in the manner provided by law.

(c) Except as otherwise provided in subsections (d) and (e), an appeal under this section shall be conducted in the same manner as an appeal under IC 6-1.1-15-4 through IC 6-1.1-15-8. An assessment made under this chapter that is not appealed under this section is a final unappealable order of the department.

(d) With respect to an appeal filed by a county assessor under this section the following apply:

(1) In the petition for review to the Indiana board, the county assessor shall state what the county assessor contends the assessed value of the industrial facility should be and provide substantial evidence in support of that contention. Failure to comply with this requirement results in dismissal of the county assessor's petition for review, and no further appeal of the assessment by the county assessor may be taken.

(2) Not later than thirty (30) days after the county assessor files a petition for review in compliance with subdivision (1), the Indiana board shall hold a hearing at which the county assessor must establish a reasonable likelihood of success on any contentions made in the petition for review including, without limitation, the contention required under subdivision (1) regarding the assessed value of the real estate. The industrial company whose industrial facility is the subject of the county assessor's petition for review and the department have the right to appear at this hearing and to present testimony, to cross-examine witnesses, and to present evidence regarding the county assessor's contentions.

(3) Not later than thirty (30) days after the hearing held under subdivision (2), the Indiana board shall issue a determination whether the county assessor has established a reasonable likelihood of success on the contentions in the petition for review. If the Indiana board determines that the county assessor has not established a reasonable likelihood of success

on the contentions in the petition for review, the county assessor's petition for review shall be dismissed, and no further appeal of the assessment by the county assessor may be taken. If the Indiana board determines that the county assessor has established a reasonable likelihood of success on the contentions in the petition for review, the Indiana board's determination does not create the presumption that the county assessor's contentions are valid. A determination by the Indiana board that the county assessor has established a reasonable likelihood of success on the contentions in the petition for review may be appealed to the Indiana tax court as an interlocutory appeal. A party may petition for review by the Indiana supreme court of the Indiana tax court's ruling regarding an interlocutory appeal brought under this subdivision.

(4) The Indiana board shall not hold a hearing on the appeal under IC 6-1.1-15-4 and the county assessor shall not be permitted to conduct discovery under the Indiana board's administrative rules until a determination has been issued under subdivision (3) and:

(A) any interlocutory appeal under subdivision (3) has been ruled on by the Indiana tax court; or

(B) the Indiana supreme court has either rejected a petition for review concerning the Indiana tax court's ruling on the interlocutory appeal or issued a decision regarding the Indiana tax court's ruling on the interlocutory appeal.

(e) On any appeal that has not been dismissed, the Indiana board shall issue an order within one (1) year after:

(1) the taxpayer filed its petition for review;

(2) the issuance of the Indiana board's determination under subsection (d)(3) in the case of an appeal by the county assessor; or

(3) the Indiana tax court or the Indiana supreme court rules on a taxpayer's interlocutory appeal under subsection (d)(3) in the case of an appeal by the county assessor;

whichever is latest.

SECTION 107. IC 6-1.1-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The exemption application referred to in section 3 of this chapter is not required if the exempt property is owned by the United States, the state,

an agency of this state, or a political subdivision (as defined in IC 36-1-2-13). However, this subsection applies only when the property is used, and in the case of real property occupied, by the owner.

(b) The exemption application referred to in section 3 of this chapter is not required if the exempt property is a cemetery:

(1) described by IC 6-1.1-2-7; or

(2) maintained by a township executive under IC 23-14-68.

(c) The exemption application referred to in section 3 of this chapter is not required if the exempt property is owned by the bureau of motor vehicles commission established under IC 9-15-1.

(d) The exemption application referred to in section 3 **or 3.5** of this chapter is not required if:

(1) the exempt property is:

(A) tangible property used for religious purposes described in IC 6-1.1-10-21; ~~or~~

(B) tangible property owned by a church or religious society used for educational purposes described in IC 6-1.1-10-16; ~~and~~ **or**

(C) other tangible property owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes described in IC 6-1.1-10-16;

(2) the exemption application referred to in section 3 **or 3.5** of this chapter was filed properly at least once ~~after the property was designated~~ for a religious use ~~as described in~~ **under** IC 6-1.1-10-21 or an educational, **literary, scientific, religious, or charitable** use ~~as described in~~ **under** IC 6-1.1-10-16; **and**

(3) the property continues to meet the requirements for an exemption under IC 6-1.1-10-16 or IC 6-1.1-10-21.

A change in ownership of property does not terminate an exemption of the property if after the change in ownership the property continues to meet the requirements for an exemption under IC 6-1.1-10-16 or IC 6-1.1-10-21. However, if title to any of the real property subject to the exemption changes or any of the tangible property subject to the exemption is used for a nonexempt purpose after the date of the last properly filed exemption application, ~~this subsection does not apply.~~ **the person that obtained the exemption or the current owner of the property shall notify the county assessor for the county where the tangible property is located of the change in the year that the change occurs. The notice must be in the form prescribed by the department of local**

government finance. If the county assessor discovers that title to property granted an exemption described in IC 6-1.1-10-16 or IC 6-1.1-10-21 has changed, the county assessor shall notify the persons entitled to a tax statement under IC 6-1.1-22-8.1 for the property of the change in title and indicate that the county auditor will suspend the exemption for the property until the persons provide the county assessor with an affidavit, signed under penalties of perjury, that identifies the new owners of the property and indicates that the property continues to meet the requirements for an exemption under IC 6-1.1-10-21 or IC 6-1.1-10-16. Upon receipt of the affidavit, the county assessor shall reinstate the exemption for the years for which the exemption was suspended and each year thereafter that the property continues to meet the requirements for an exemption under IC 6-1.1-10-21 or IC 6-1.1-10-16.

SECTION 108. IC 6-1.1-12-2, AS AMENDED BY P.L.75-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Except as provided in section 17.8 of this chapter and subject to section 45 of this chapter, to qualify for the deduction provided by section 1 of this chapter a statement must be filed under subsection (b) or (c).

(b) **Subject to subsection (c),** to apply for the deduction under section 1 of this chapter **with respect to real property,** the person recording the mortgage, contract, or memorandum **of the contract** with the county recorder may file a written statement with the county recorder containing the information described in subsection (e)(1), (e)(2), (e)(3), (e)(4), (e)(6), (e)(7), and (e)(8). The statement must be prepared on the form prescribed by the department of local government finance and be signed by the property owner or contract purchaser under the penalties of perjury. The form must have a place for the county recorder to insert the record number and page where the mortgage, contract, or memorandum **of the contract** is recorded. Upon receipt of the form and the recording of the mortgage, contract, or memorandum **of the contract,** the county recorder shall insert on the form the record number and page where the mortgage, **contract, or memorandum of the contract** is recorded and forward the completed form to the county auditor. The county recorder may not impose a charge for the county recorder's duties under this subsection. ~~With respect to real property~~ The statement must be ~~filed with the county recorder during~~ **completed and dated in** the **calendar** year for which

the person wishes to obtain the deduction ~~With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed with the county auditor during the twelve (12) months before March 31 of each year for which the individual wishes to obtain the deduction.~~ **and filed with the county recorder on or before January 5 of the immediately succeeding calendar year.**

(c) ~~Alternatively,~~ **With respect to:**

(1) real property as an alternative to a filing under subsection (b); or

(2) a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property;

to apply for a deduction under section 1 of this chapter, a person who desires to claim the deduction may file a statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, mobile home not assessed as real property, or manufactured home not assessed as real property is located. With respect to real property the statement must be ~~filed during~~ **completed and dated in** the **calendar** year for which the person wishes to obtain the deduction **and filed with the county auditor on or before January 5 of the immediately succeeding calendar year.** With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 31 of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. In addition to the statement required by this subsection, a contract buyer who desires to claim the deduction must submit a copy of the recorded contract or recorded memorandum of the contract, which must contain a legal description sufficient to meet the requirements of IC 6-1.1-5, with the first statement that the buyer files under this section with respect to a particular parcel of real property.

(d) Upon receipt of:

(1) the statement under subsection (b); or

(2) the statement under subsection (c) and the recorded contract or recorded memorandum of the contract;

the county auditor shall assign a separate description and identification number to the parcel of real property being sold under the contract.

(e) The statement referred to in subsections (b) and (c) must be

verified under penalties for perjury. The statement must contain the following information:

(1) The balance of the person's mortgage or contract indebtedness on the assessment date of the year for which the deduction is claimed.

(2) The assessed value of the real property, mobile home, or manufactured home.

(3) The full name and complete residence address of the person and of the mortgagee or contract seller.

(4) The name and residence of any assignee or bona fide owner or holder of the mortgage or contract, if known, and if not known, the person shall state that fact.

(5) The record number and page where the mortgage, contract, or memorandum of the contract is recorded.

(6) A brief description of the real property, mobile home, or manufactured home which is encumbered by the mortgage or sold under the contract.

(7) If the person is not the sole legal or equitable owner of the real property, mobile home, or manufactured home, the exact share of the person's interest in it.

(8) The name of any other county in which the person has applied for a deduction under this section and the amount of deduction claimed in that application.

(f) The authority for signing a deduction application filed under this section may not be delegated by the real property, mobile home, or manufactured home owner or contract buyer to any person except upon an executed power of attorney. The power of attorney may be contained in the recorded mortgage, contract, or memorandum of the contract, or in a separate instrument.

(g) A closing agent, as defined in IC 6-1.1-12-43(a)(2), is not liable for any damages claimed by the property owner or contract purchaser because of:

(1) the closing agent's failure to provide the written statement described in subsection (b);

(2) the closing agent's failure to file the written statement described in subsection (b);

(3) any omission or inaccuracy in the written statement described in subsection (b) that is filed with the county recorder by the closing agent; or

(4) any determination made with respect to a property owner's or

contract purchaser's eligibility for the deduction under section 1 of this chapter.

(h) The county recorder may not refuse to record a mortgage, contract, or memorandum because the written statement described in subsection (b):

(1) is not included with the mortgage, contract, or memorandum **of the contract;**

(2) does not contain the signatures required by subsection (b);

(3) does not contain the information described in subsection (e); or

(4) is otherwise incomplete or inaccurate.

SECTION 109. IC 6-1.1-12-17.8, AS AMENDED BY P.L.87-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17.8. (a) An individual who receives a deduction provided under section 1, 9, 11, 13, 14, 16, 17.4, or 37 of this chapter in a particular year and who remains eligible for the deduction in the following year is not required to file a statement to apply for the deduction in the following year. However, for purposes of a deduction under section 37 of this chapter, the county auditor may, in the county auditor's discretion, terminate the deduction for assessment dates after January 15, 2012, if the individual does not comply with the requirement in IC 6-1.1-22-8.1(b)(9), as determined by the county auditor, before January 1, 2013. Before the county auditor terminates the deduction because the taxpayer claiming the deduction did not comply with the requirement in IC 6-1.1-22-8.1(b)(9) before January 1, 2013, the county auditor shall mail notice of the proposed termination of the deduction to:

(1) the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records; or

(2) the last known address of the most recent owner shown in the transfer book.

(b) An individual who receives a deduction provided under section 1, 9, 11, 13, 14, 16, or 17.4 of this chapter in a particular year and who becomes ineligible for the deduction in the following year shall notify the auditor of the county in which the real property, mobile home, or manufactured home for which the individual claims the deduction is located of the individual's ineligibility in the year in which the individual becomes ineligible. An individual who becomes ineligible for a deduction under section 37 of this chapter shall notify the county

auditor of the county in which the property is located in conformity with section 37 of this chapter.

(c) The auditor of each county shall, in a particular year, apply a deduction provided under section 1, 9, 11, 13, 14, 16, 17.4, or 37 of this chapter to each individual who received the deduction in the preceding year unless the auditor determines that the individual is no longer eligible for the deduction.

(d) An individual who receives a deduction provided under section 1, 9, 11, 13, 14, 16, 17.4, or 37 of this chapter for property that is jointly held with another owner in a particular year and remains eligible for the deduction in the following year is not required to file a statement to reapply for the deduction following the removal of the joint owner if:

(1) the individual is the sole owner of the property following the death of the individual's spouse;

(2) the individual is the sole owner of the property following the death of a joint owner who was not the individual's spouse; or

(3) the individual is awarded sole ownership of the property in a divorce decree.

However, for purposes of a deduction under section 37 of this chapter, if the removal of the joint owner occurs before the date that a notice described in IC 6-1.1-22-8.1(b)(9) is sent, the county auditor may, in the county auditor's discretion, terminate the deduction for assessment dates after January 15, 2012, if the individual does not comply with the requirement in IC 6-1.1-22-8.1(b)(9), as determined by the county auditor, before January 1, 2013. Before the county auditor terminates the deduction because the taxpayer claiming the deduction did not comply with the requirement in IC 6-1.1-22-8.1(b)(9) before January 1, 2013, the county auditor shall mail notice of the proposed termination of the deduction to the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records or the last known address of the most recent owner shown in the transfer book.

(e) A trust entitled to a deduction under section 9, 11, 13, 14, 16, 17.4, or 37 of this chapter for real property owned by the trust and occupied by an individual in accordance with section 17.9 of this chapter is not required to file a statement to apply for the deduction, if:

(1) the individual who occupies the real property receives a deduction provided under section 9, 11, 13, 14, 16, 17.4, or 37 of this chapter in a particular year; and

(2) the trust remains eligible for the deduction in the following year.

However, for purposes of a deduction under section 37 of this chapter, the individuals that qualify the trust for a deduction must comply with the requirement in IC 6-1.1-22-8.1(b)(9) before January 1, 2013.

(f) A cooperative housing corporation (as defined in 26 U.S.C. 216) that is entitled to a deduction under section 37 of this chapter in the immediately preceding calendar year for a homestead (as defined in section 37 of this chapter) is not required to file a statement to apply for the deduction for the current calendar year if the cooperative housing corporation remains eligible for the deduction for the current calendar year. However, the county auditor may, in the county auditor's discretion, terminate the deduction for assessment dates after January 15, 2012, if the individual does not comply with the requirement in IC 6-1.1-22-8.1(b)(9), as determined by the county auditor, before January 1, 2013. Before the county auditor terminates a deduction because the taxpayer claiming the deduction did not comply with the requirement in IC 6-1.1-22-8.1(b)(9) before January 1, 2013, the county auditor shall mail notice of the proposed termination of the deduction to:

(1) the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records; or

(2) the last known address of the most recent owner shown in the transfer book.

(g) An individual who:

(1) was eligible for a homestead credit under IC 6-1.1-20.9 (repealed) for property taxes imposed for the March 1, 2007, or January 15, 2008, assessment date; or

(2) would have been eligible for a homestead credit under IC 6-1.1-20.9 (repealed) for property taxes imposed for the March 1, 2008, or January 15, 2009, assessment date if IC 6-1.1-20.9 had not been repealed;

is not required to file a statement to apply for a deduction under section 37 of this chapter if the individual remains eligible for the deduction in the current year. An individual who filed for a homestead credit under IC 6-1.1-20.9 (repealed) for an assessment date after March 1, 2007 (if the property is real property), or after January 1, 2008 (if the property is personal property), shall be treated as an individual who has filed for a deduction under section 37 of this chapter. However, the county

auditor may, in the county auditor's discretion, terminate the deduction for assessment dates after January 15, 2012, if the individual does not comply with the requirement in IC 6-1.1-22-8.1(b)(9), as determined by the county auditor, before January 1, 2013. Before the county auditor terminates the deduction because the taxpayer claiming the deduction did not comply with the requirement in IC 6-1.1-22-8.1(b)(9) before January 1, 2013, the county auditor shall mail notice of the proposed termination of the deduction to the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records, or to the last known address of the most recent owner shown in the transfer book.

(h) If a county auditor terminates a deduction because the taxpayer claiming the deduction did not comply with the requirement in IC 6-1.1-22-8.1(b)(9) before January 1, 2013, the county auditor shall reinstate the deduction if the taxpayer provides proof that the taxpayer is eligible for the deduction and is not claiming the deduction for any other property.

(i) A taxpayer described in section 37(k) of this chapter is not required to file a statement to apply for the deduction provided by section 37 of this chapter for a calendar year beginning after December 31, 2008, if the property owned by the taxpayer remains eligible for the deduction for that calendar year. However, the county auditor may terminate the deduction for assessment dates after January 15, 2012, if the individual residing on the property owned by the taxpayer does not comply with the requirement in IC 6-1.1-22-8.1(b)(9), as determined by the county auditor, before January 1, 2013. Before the county auditor terminates a deduction because the individual residing on the property did not comply with the requirement in IC 6-1.1-22-8.1(b)(9) before January 1, 2013, the county auditor shall mail notice of the proposed termination of the deduction to:

(1) the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records; or

(2) the last known address of the most recent owner shown in the transfer book.

SECTION 110. IC 6-1.1-12-37, AS AMENDED BY P.L.87-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 37. (a) The following definitions apply throughout this section:

(1) "Dwelling" means any of the following:

(A) Residential real property improvements that an individual uses as the individual's residence, including a house or garage.

(B) A mobile home that is not assessed as real property that an individual uses as the individual's residence.

(C) A manufactured home that is not assessed as real property that an individual uses as the individual's residence.

(2) "Homestead" means an individual's principal place of residence:

(A) that is located in Indiana;

(B) that:

(i) the individual owns;

(ii) the individual is buying under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence;

(iii) the individual is entitled to occupy as a tenant-stockholder (as defined in 26 U.S.C. 216) of a cooperative housing corporation (as defined in 26 U.S.C. 216); or

(iv) is a residence described in section 17.9 of this chapter that is owned by a trust if the individual is an individual described in section 17.9 of this chapter; and

(C) that consists of a dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

Except as provided in subsection (k), the term does not include property owned by a corporation, partnership, limited liability company, or other entity not described in this subdivision.

(b) Each year a homestead is eligible for a standard deduction from the assessed value of the homestead for an assessment date. The deduction provided by this section applies to property taxes first due and payable for an assessment date only if an individual has an interest in the homestead described in subsection (a)(2)(B) on:

(1) the assessment date; or

(2) any date in the same year after an assessment date that a statement is filed under subsection (e) or section 44 of this chapter, if the property consists of real property.

Subject to subsection (c), the auditor of the county shall record and make the deduction for the individual or entity qualifying for the deduction.

(c) Except as provided in section 40.5 of this chapter, the total

amount of the deduction that a person may receive under this section for a particular year is the lesser of:

(1) sixty percent (60%) of the assessed value of the real property, mobile home not assessed as real property, or manufactured home not assessed as real property; or

(2) forty-five thousand dollars ($45,000).

(d) A person who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section with respect to that real property, mobile home, or manufactured home.

(e) Except as provided in sections 17.8 and 44 of this chapter and subject to section 45 of this chapter, an individual who desires to claim the deduction provided by this section must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the homestead is located. The statement must include:

(1) the parcel number or key number of the property and the name of the city, town, or township in which the property is located;

(2) the name of any other location in which the applicant or the applicant's spouse owns, is buying, or has a beneficial interest in residential real property;

(3) the names of:

(A) the applicant and the applicant's spouse (if any):

(i) as the names appear in the records of the United States Social Security Administration for the purposes of the issuance of a Social Security card and Social Security number; or

(ii) that they use as their legal names when they sign their names on legal documents;

if the applicant is an individual; or

(B) each individual who qualifies property as a homestead under subsection (a)(2)(B) and the individual's spouse (if any):

(i) as the names appear in the records of the United States Social Security Administration for the purposes of the issuance of a Social Security card and Social Security number; or

(ii) that they use as their legal names when they sign their

names on legal documents;

if the applicant is not an individual; and

(4) either:

(A) the last five (5) digits of the applicant's Social Security number and the last five (5) digits of the Social Security number of the applicant's spouse (if any); or

(B) if the applicant or the applicant's spouse (if any) do not have a Social Security number, any of the following for that individual:

(i) The last five (5) digits of the individual's driver's license number.

(ii) The last five (5) digits of the individual's state identification card number.

(iii) If the individual does not have a driver's license or a state identification card, the last five (5) digits of a control number that is on a document issued to the individual by the federal government and determined by the department of local government finance to be acceptable.

If a form or statement provided to the county auditor under this section, IC 6-1.1-22-8.1, or IC 6-1.1-22.5-12 includes the telephone number or part or all of the Social Security number of a party or other number described in subdivision (4)(B) of a party, the telephone number and the Social Security number or other number described in subdivision (4)(B) included are confidential. The statement may be filed in person or by mail. If the statement is mailed, the mailing must be postmarked on or before the last day for filing. The statement applies for that first year and any succeeding year for which the deduction is allowed. With respect to real property, the ~~person~~ **statement** must ~~file the statement during~~ **be completed and dated in** the **calendar** year for which the person desires to obtain the deduction **and filed with the county auditor on or before January 5 of the immediately succeeding calendar year.** With respect to a mobile home that is not assessed as real property, the person must file the statement during the twelve (12) months before March 31 of the year for which the person desires to obtain the deduction.

(f) If an individual who is receiving the deduction provided by this section or who otherwise qualifies property for a deduction under this section:

(1) changes the use of the individual's property so that part or all of the property no longer qualifies for the deduction under this

section; or

(2) is no longer eligible for a deduction under this section on another parcel of property because:

(A) the individual would otherwise receive the benefit of more than one (1) deduction under this chapter; or

(B) the individual maintains the individual's principal place of residence with another individual who receives a deduction under this section;

the individual must file a certified statement with the auditor of the county, notifying the auditor of the change of use, not more than sixty (60) days after the date of that change. An individual who fails to file the statement required by this subsection is liable for any additional taxes that would have been due on the property if the individual had filed the statement as required by this subsection plus a civil penalty equal to ten percent (10%) of the additional taxes due. The civil penalty imposed under this subsection is in addition to any interest and penalties for a delinquent payment that might otherwise be due. One percent (1%) of the total civil penalty collected under this subsection shall be transferred by the county to the department of local government finance for use by the department in establishing and maintaining the homestead property database under subsection (i) and, to the extent there is money remaining, for any other purposes of the department. This amount becomes part of the property tax liability for purposes of this article.

(g) The department of local government finance shall adopt rules or guidelines concerning the application for a deduction under this section.

(h) This subsection does not apply to property in the first year for which a deduction is claimed under this section if the sole reason that a deduction is claimed on other property is that the individual or married couple maintained a principal residence at the other property on March 1 in the same year in which an application for a deduction is filed under this section or, if the application is for a homestead that is assessed as personal property, on March 1 in the immediately preceding year and the individual or married couple is moving the individual's or married couple's principal residence to the property that is the subject of the application. The county auditor may not grant an individual or a married couple a deduction under this section if:

(1) the individual or married couple, for the same year, claims the deduction on two (2) or more different applications for the

deduction; and

(2) the applications claim the deduction for different property.

(i) The department of local government finance shall provide secure access to county auditors to a homestead property data base that includes access to the homestead owner's name and the numbers required from the homestead owner under subsection (e)(4) for the sole purpose of verifying whether an owner is wrongly claiming a deduction under this chapter or a credit under IC 6-1.1-20.4, IC 6-1.1-20.6, or IC 6-3.5.

(j) The department of local government finance shall work with county auditors to develop procedures to determine whether a property owner that is claiming a standard deduction or homestead credit is not eligible for the standard deduction or homestead credit because the property owner's principal place of residence is outside Indiana.

(k) As used in this section, "homestead" includes property that satisfies each of the following requirements:

(1) The property is located in Indiana and consists of a dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

(2) The property is the principal place of residence of an individual.

(3) The property is owned by an entity that is not described in subsection (a)(2)(B).

(4) The individual residing on the property is a shareholder, partner, or member of the entity that owns the property.

(5) The property was eligible for the standard deduction under this section on March 1, 2009.

(l) If a county auditor terminates a deduction for property described in subsection (k) with respect to property taxes that are:

(1) imposed for an assessment date in 2009; and

(2) first due and payable in 2010;

on the grounds that the property is not owned by an entity described in subsection (a)(2)(B), the county auditor shall reinstate the deduction if the taxpayer provides proof that the property is eligible for the deduction in accordance with subsection (k) and that the individual residing on the property is not claiming the deduction for any other property.

SECTION 111. IC 6-1.1-15-1, AS AMENDED BY P.L.136-2009, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A taxpayer may obtain a review by the county board of a county or township official's action with respect to

either or both of the following:

(1) The assessment of the taxpayer's tangible property.

(2) A deduction for which a review under this section is authorized by any of the following:

(A) IC 6-1.1-12-25.5.

(B) IC 6-1.1-12-28.5.

(C) IC 6-1.1-12-35.5.

(D) IC 6-1.1-12.1-5.

(E) IC 6-1.1-12.1-5.3.

(F) IC 6-1.1-12.1-5.4.

(b) At the time that notice of an action referred to in subsection (a) is given to the taxpayer, the taxpayer shall also be informed in writing of:

(1) the opportunity for a review under this section, including a preliminary informal meeting under subsection (h)(2) with the county or township official referred to in this subsection; and

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

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

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

(1) May 10 of the year; or

(2) forty-five (45) days after the date of the tax statement mailed by the county treasurer, regardless of whether the assessing official changes the taxpayer's assessment.

(e) A change in an assessment made as a result of a notice for

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

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

(1) The name of the taxpayer.

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

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

(g) The filing of a notice under subsection (c) or (d):

(1) initiates a review under this section; and

(2) constitutes a request by the taxpayer for a preliminary informal meeting with the official referred to in subsection (a).

(h) A county or township official who receives a notice for review filed by a taxpayer under subsection (c) or (d) shall:

(1) immediately forward the notice to the county board; and

(2) attempt to hold a preliminary informal meeting with the taxpayer to resolve as many issues as possible by:

(A) discussing the specifics of the taxpayer's assessment or deduction;

(B) reviewing the taxpayer's property record card;

(C) explaining to the taxpayer how the assessment or deduction was determined;

(D) providing to the taxpayer information about the statutes, rules, and guidelines that govern the determination of the assessment or deduction;

(E) noting and considering objections of the taxpayer;

(F) considering all errors alleged by the taxpayer; and

(G) otherwise educating the taxpayer about:

(i) the taxpayer's assessment or deduction;

(ii) the assessment or deduction process; and

(iii) the assessment or deduction appeal process.

(i) Not later than ten (10) days after the informal preliminary meeting, the official referred to in subsection (a) shall forward to the county auditor and the county board the results of the conference on a form prescribed by the department of local government finance that must be completed and signed by the taxpayer and the official. The form must indicate the following:

(1) If the taxpayer and the official agree on the resolution of all assessment or deduction issues in the review, a statement of:

(A) those issues; and

(B) the assessed value of the tangible property or the amount of the deduction that results from the resolution of those issues in the manner agreed to by the taxpayer and the official.

(2) If the taxpayer and the official do not agree on the resolution of all assessment or deduction issues in the review:

(A) a statement of those issues; and

(B) the identification of:

(i) the issues on which the taxpayer and the official agree; and

(ii) the issues on which the taxpayer and the official disagree.

(j) If the county board receives a form referred to in subsection (i)(1) before the hearing scheduled under subsection (k):

(1) the county board shall cancel the hearing;

(2) the county official referred to in subsection (a) shall give notice to the taxpayer, the county board, the county assessor, and the county auditor of the assessment or deduction in the amount referred to in subsection (i)(1)(B); and

(3) if the matter in issue is the assessment of tangible property, the county board may reserve the right to change the assessment under IC 6-1.1-13.

(k) If:

(1) subsection (i)(2) applies; or

(2) the county board does not receive a form referred to in subsection (i) not later than one hundred twenty (120) days after the date of the notice for review filed by the taxpayer under subsection (c) or (d);

the county board shall hold a hearing on a review under this subsection not later than one hundred eighty (180) days after the date of that notice. The county board shall, by mail, give notice of the date, time, and place fixed for the hearing to the taxpayer and the county or township official with whom the taxpayer filed the notice for review. The taxpayer and the county or township official with whom the taxpayer filed the notice for review are parties to the proceeding before the county board. ~~The county assessor is recused from any action the county board takes with respect to an assessment determination by the county assessor.~~

(l) At the hearing required under subsection (k):

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

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

(A) the basis for the assessment or deduction decision; and

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

(m) The official referred to in subsection (a) may not require the taxpayer to provide documentary evidence at the preliminary informal meeting under subsection (h). The county board may not require a taxpayer to file documentary evidence or summaries of statements of testimonial evidence before the hearing required under subsection (k). If the action for which a taxpayer seeks review under this section is the assessment of tangible property, the taxpayer is not required to have an appraisal of the property in order to do the following:

(1) Initiate the review.

(2) Prosecute the review.

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

(o) If the maximum time elapses:

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

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

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

(p) This subsection applies if the assessment for which a notice of review is filed increased the assessed value of the assessed property by more than five percent (5%) over the assessed value finally determined for the immediately preceding assessment date. The county assessor or township assessor making the assessment has the burden of proving that the assessment is correct.

SECTION 112. IC 6-1.1-15-12, AS AMENDED BY P.L.146-2008, SECTION 140, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2009 (RETROACTIVE)]: Sec. 12. (a) Subject to the limitations contained in subsections (c) and (d), a county auditor shall correct errors which are discovered in the tax duplicate for

any one (1) or more of the following reasons:

(1) The description of the real property was in error.

(2) The assessment was against the wrong person.

(3) Taxes on the same property were charged more than one (1) time in the same year.

(4) There was a mathematical error in computing the taxes or penalties on the taxes.

(5) There was an error in carrying delinquent taxes forward from one (1) tax duplicate to another.

(6) The taxes, as a matter of law, were illegal.

(7) There was a mathematical error in computing an assessment.

(8) Through an error of omission by any state or county officer, the taxpayer was not given credit for an exemption or deduction permitted by law.

(b) The county auditor shall correct an error described under subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) when the county auditor finds that the error exists.

(c) If the tax is based on an assessment made or determined by the department of local government finance, the county auditor shall not correct an error described under subsection (a)(6), (a)(7), or (a)(8) until after the correction is either approved by the department of local government finance or ordered by the tax court.

(d) If the tax is not based on an assessment made or determined by the department of local government finance, the county auditor shall correct an error described under subsection (a)(6), (a)(7), or (a)(8) only if the correction is first approved by at least two (2) of the following officials:

(1) The township assessor (if any).

(2) The county auditor.

(3) The county assessor.

If two (2) of these officials do not approve such a correction, the county auditor shall refer the matter to the county board for determination. The county board shall provide a copy of the determination to the taxpayer and to the county auditor.

(e) A taxpayer may appeal a determination of the county board to the Indiana board for a final administrative determination. An appeal under this section shall be conducted in the same manner as appeals under sections 4 through 8 of this chapter. The Indiana board shall send the final administrative determination to the taxpayer, the county auditor, the county assessor, and the township assessor (if any).

(f) If a correction or change is made in the tax duplicate after it is delivered to the county treasurer, the county auditor shall transmit a certificate of correction to the county treasurer. The county treasurer shall keep the certificate as the voucher for settlement with the county auditor.

(g) A taxpayer that files a personal property tax return under IC 6-1.1-3 may not petition under this section for the correction of an error made by the taxpayer on the taxpayer's personal property tax return. If the taxpayer wishes to correct an error made by the taxpayer on the taxpayer's personal property tax return, the taxpayer must instead file an amended personal property tax return under IC 6-1.1-3-7.5.

(h) A taxpayer that files a statement under IC 6-1.1-8-19 may not petition under this section for the correction of an error made by the taxpayer on the taxpayer's statement. If the taxpayer wishes to correct an error made by the taxpayer on the taxpayer's statement, the taxpayer must instead initiate an objection under IC 6-1.1-8-28 or an appeal under IC 6-1.1-8-30.

~~(i) A taxpayer that files a statement under IC 6-1.1-8-23 may not petition under this section for the correction of an error made by the taxpayer on the taxpayer's statement. If the taxpayer wishes to correct an error made by the taxpayer on the taxpayer's statement, the taxpayer must instead file an amended statement not more than six (6) months after the due date of the statement.~~

SECTION 113. IC 6-1.1-17-0.5, AS AMENDED BY P.L.90-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 0.5. (a) For purposes of this section, "assessed value" has the meaning set forth in IC 6-1.1-1-3(a).

(b) The county auditor may exclude and keep separate on the tax duplicate for taxes payable in a calendar year the assessed value of tangible property that meets the following conditions:

(1) The assessed value of the property is at least nine percent (9%) of the assessed value of all tangible property subject to taxation by a taxing unit.

(2) The property is or has been part of a bankruptcy estate that is subject to protection under the federal bankruptcy code.

(3) The owner of the property has discontinued all business operations on the property.

(4) There is a high probability that the taxpayer will not pay

property taxes due on the property in the following year.

(c) This section does not limit, restrict, or reduce in any way the property tax liability on the property.

(d) For each taxing unit located in the county, the county auditor may reduce for a calendar year the taxing unit's assessed value that is certified to the department of local government finance under section 1 of this chapter and used to set tax rates for the taxing unit for taxes first due and payable in the immediately succeeding calendar year. The county auditor may reduce a taxing unit's assessed value under this subsection only to enable the taxing unit to absorb the effects of reduced property tax collections in the immediately succeeding calendar year that are expected to result from any or a combination of the following:

(1) Successful appeals of the assessed value of property located in the taxing unit.

(2) Deductions under IC 6-1.1-12-37 **and IC 6-1.1-12-37.5** that ~~are granted~~ **result from the granting of applications for the standard deduction for the calendar year under IC 6-1.1-12-37 or IC 6-1.1-12-44** after the county auditor certifies assessed value as described in this section.

(3) Deductions that result from the granting of applications for deductions for the calendar year under IC 6-1.1-12-44 after the county auditor certifies assessed value as described in this section.

(4) Reassessments of real property under IC 6-1.1-4-11.5.

Not later than December 31 of each year, the county auditor shall send a certified statement, under the seal of the board of county commissioners, to the fiscal officer of each political subdivision of the county and to the department of local government finance. The certified statement must list any adjustments to the amount of the reduction under this subsection and the information submitted under section 1 of this chapter that are necessary. The county auditor shall keep separately on the tax duplicate the amount of any reductions made under this subsection. The maximum amount of the reduction authorized under this subsection is determined under subsection (e).

(e) The amount of the reduction in a taxing unit's assessed value for a calendar year under subsection (d) may not exceed two percent (2%) of the assessed value of tangible property subject to assessment in the taxing unit in that calendar year.

(f) The amount of a reduction under subsection (d) may not be

offered in a proceeding before the:

(1) county property tax assessment board of appeals;

(2) Indiana board; or

(3) Indiana tax court;

as evidence that a particular parcel has been improperly assessed.

SECTION 114. IC 6-1.1-17-3, AS AMENDED BY P.L.87-2009, SECTION 6, AND AS AMENDED BY P.L.136-2009, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The proper officers of a political subdivision shall formulate its estimated budget and its proposed tax rate and tax levy on the form prescribed by the department of local government finance and approved by the state board of accounts. The political subdivision shall give notice by publication to taxpayers of:

(1) the estimated budget;

(2) the estimated maximum permissible levy;

(3) the current and proposed tax levies of each fund; and

(4) the amounts of excessive levy appeals to be requested.

In the notice, the political subdivision shall also state the time and place at which a public hearing will be held on these items. The notice shall be published twice in accordance with IC 5-3-1 with the first publication at least ten (10) days before the date fixed for the public hearing. Beginning in 2009, the duties required by this subsection must be completed before ~~August~~ **September** 10 of the calendar year. ~~*A political subdivision shall provide the estimated budget and levy information required for the notice under subsection (b) to the county auditor on the schedule determined by the department of local government finance.*~~

~~*(b) Beginning in 2010, except as provided in IC 6-1.1-22-8.1(h), before October 1 of a calendar year, the county auditor shall mail to the last known address of each person liable for any property taxes, as shown on the tax duplicate, or to the last known address of the most recent owner shown in the transfer book, a statement that includes:*~~

~~*(1) the assessed valuation as of the assessment date in the current calendar year of tangible property on which the person will be liable for property taxes first due and payable in the immediately succeeding calendar year and notice to the person of the opportunity to appeal the assessed valuation under IC 6-1.1-15-1(c) (before July 1, 2008) or IC 6-1.1-15-1 (after June 30, 2008),*~~

~~*(2) the amount of property taxes for which the person will be liable to each political subdivision on the tangible property for taxes first due and payable in the immediately succeeding calendar year; taking into account all factors that affect that liability, including:*~~

~~*(A) the estimated budget and proposed tax rate and tax levy formulated by the political subdivision under subsection (a);*~~

~~*(B) any deductions or exemptions that apply to the assessed valuation of the tangible property;*~~

~~*(C) any credits that apply in the determination of the tax liability; and*~~

~~*(D) the county auditor's best estimate of the effects on the tax liability that might result from actions of:*~~

~~*(i) the county board of tax adjustment; or*~~

~~*(ii) the department of local government finance;*~~

~~*(3) a prominently displayed notation that:*~~

~~*(A) the estimate under subdivision (2) is based on the best information available at the time the statement is mailed; and*~~

~~*(B) based on various factors, including potential actions by:*~~

~~*(i) the county board of tax adjustment; or*~~

~~*(ii) the department of local government finance;*~~

~~*it is possible that the tax liability as finally determined will differ substantially from the estimate;*~~

~~*(4) comparative information showing the amount of property taxes for which the person is liable to each political subdivision on the tangible property for taxes first due and payable in the current year; and*~~

~~*(5) the date, time, and place at which the political subdivision will hold a public hearing on the political subdivision's estimated budget and proposed tax rate and tax levy as required under subsection (a).*~~

~~*(c) The department of local government finance shall:*~~

~~*(1) prescribe a form for; and*~~

~~*(2) provide assistance to county auditors in preparing;*~~

~~*statements under subsection (b). Mailing the statement described in subsection (b) to a mortgagee maintaining an escrow account for a person who is liable for any property taxes shall not be construed as compliance with subsection (b).*~~

~~*(d)*~~ *(b)* The board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal) may

conduct the public hearing required under subsection (a):

(1) in any county of the solid waste management district; and

(2) in accordance with the annual notice of meetings published under IC 13-21-5-2.

~~(c)~~ *(c)* The trustee of each township in the county shall estimate the amount necessary to meet the cost of township assistance in the township for the ensuing calendar year. The township board shall adopt with the township budget a tax rate sufficient to meet the estimated cost of township assistance. The taxes collected as a result of the tax rate adopted under this subsection are credited to the township assistance fund.

~~(f)~~ *(d)* This subsection expires January 1, 2009. A county shall adopt with the county budget and the department of local government finance shall certify under section 16 of this chapter a tax rate sufficient to raise the levy necessary to pay the following:

(1) The cost of child services (as defined in IC 12-19-7-1) of the county payable from the family and children's fund.

(2) The cost of children's psychiatric residential treatment services (as defined in IC 12-19-7.5-1) of the county payable from the children's psychiatric residential treatment services fund.

A budget, tax rate, or tax levy adopted by a county fiscal body or approved or modified by a county board of tax adjustment that is less than the levy necessary to pay the costs described in subdivision (1) or (2) shall not be treated as a final budget, tax rate, or tax levy under section 11 of this chapter.

SECTION 115. IC 6-1.1-17-3.5, AS ADDED BY P.L.146-2008, SECTION 148, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3.5. (a) This section does not apply to civil taxing units located in a county in which a county board of tax adjustment reviews budgets, tax rates, and tax levies. This section does not apply to a civil taxing unit that has its proposed budget and proposed property tax levy approved under ~~IC 6-1.1-17-20~~ **section 20 of this chapter** or IC 36-3-6-9.

(b) This section applies to a civil taxing unit other than a county. If a civil taxing unit will impose property taxes due and payable in the ensuing calendar year, the civil taxing unit shall file with the fiscal body of the county in which the civil taxing unit is located:

(1) a statement of the proposed or estimated tax rate and tax levy for the civil taxing unit for the ensuing budget year; and

(2) a copy of the civil taxing unit's proposed budget for the

ensuing budget year.

(c) In the case of a civil taxing unit located in more than one (1) county, the civil taxing unit shall file the information under subsection (b) with the fiscal body of the county in which the greatest part of the civil taxing unit's net assessed valuation is located.

(d) A civil taxing unit must file the information under subsection (b) at least ~~fifteen (15)~~ **forty-five (45)** days before the civil taxing unit fixes its tax rate and tax levy and adopts its budget under this chapter.

(e) A county fiscal body shall **complete the following at least fifteen (15) days before the civil taxing unit fixes its tax rate and tax levy and adopts its budget under this chapter:**

(1) Review any proposed or estimated tax rate or tax levy or proposed budget filed by a civil taxing unit with the county fiscal body under this section. ~~and~~

(2) Issue a nonbinding recommendation to a civil taxing unit regarding the civil taxing unit's proposed or estimated tax rate or tax levy or proposed budget.

(f) The recommendation under subsection (e) must include a comparison of any increase in the civil taxing unit's budget or tax levy to:

(1) the average increase in Indiana nonfarm personal income for the preceding six (6) calendar years and the average increase in nonfarm personal income for the county for the preceding six (6) calendar years; and

(2) increases in the budgets and tax levies of other civil taxing units in the county.

(g) The department of local government finance must provide each county fiscal body with the most recent available information concerning increases in Indiana nonfarm personal income and increases in county nonfarm personal income.

(h) If a civil taxing unit fails to file the information required by subsection (b) with the fiscal body of the county in which the civil taxing unit is located by the time prescribed in subsection (d), the most recent annual appropriations and annual tax levy of that civil taxing unit are continued for the ensuing budget year.

(i) If a county fiscal body fails to complete the requirements of subsection (e) before the deadline in subsection (e) for any civil taxing unit subject to this section, the most recent annual appropriations and annual tax levy of the county are continued for the ensuing budget year.

SECTION 116. IC 6-1.1-17-5, AS AMENDED BY P.L.146-2008,

SECTION 149, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The officers of political subdivisions shall meet each year to fix the budget, tax rate, and tax levy of their respective subdivisions for the ensuing budget year as follows:

(1) The board of school trustees of a school corporation that is located in a city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000), not later than:

(A) the time required in section 5.6(b) of this chapter; or

(B) for budget years beginning before July 1, ~~2010,~~ **2011,** ~~September 30~~ **November 1** if a resolution adopted under section 5.6(d) of this chapter is in effect.

(2) The proper officers of all other political subdivisions, not later than ~~September 30~~ **November 1.**

(3) The governing body of each school corporation (including a school corporation described in subdivision (1)), not later than the time required under section 5.6(b) of this chapter for budget years beginning after June 30, ~~2010.~~ **2011.**

Except in a consolidated city and county and in a second class city, the public hearing required by section 3 of this chapter must be completed at least ten (10) days before the proper officers of the political subdivision meet to fix the budget, tax rate, and tax levy. In a consolidated city and county and in a second class city, that public hearing, by any committee or by the entire fiscal body, may be held at any time after introduction of the budget.

(b) Ten (10) or more taxpayers may object to a budget, tax rate, or tax levy of a political subdivision fixed under subsection (a) by filing an objection petition with the proper officers of the political subdivision not more than seven (7) days after the hearing. The objection petition must specifically identify the provisions of the budget, tax rate, and tax levy to which the taxpayers object.

(c) If a petition is filed under subsection (b), the fiscal body of the political subdivision shall adopt with its budget a finding concerning the objections in the petition and any testimony presented at the adoption hearing.

(d) This subsection does not apply to a school corporation. Each year at least two (2) days before the first meeting ~~after September 20~~ of the county board of tax adjustment held under IC 6-1.1-29-4, a political subdivision shall file with the county auditor:

(1) a statement of the tax rate and levy fixed by the political subdivision for the ensuing budget year;

(2) two (2) copies of the budget adopted by the political subdivision for the ensuing budget year; and

(3) two (2) copies of any findings adopted under subsection (c).

Each year the county auditor shall present these items to the county board of tax adjustment at the board's first meeting under IC 6-1.1-29-4. ~~after September 20 of that year.~~

(e) In a consolidated city and county and in a second class city, the clerk of the fiscal body shall, notwithstanding subsection (d), file the adopted budget and tax ordinances with the county board of tax adjustment within two (2) days after the ordinances are signed by the executive, or within two (2) days after action is taken by the fiscal body to override a veto of the ordinances, whichever is later.

(f) If a fiscal body does not fix the budget, tax rate, and tax levy of the political subdivisions for the ensuing budget year as required under this section, the most recent annual appropriations and annual tax levy are continued for the ensuing budget year.

SECTION 117. IC 6-1.1-17-5.6, AS AMENDED BY P.L.146-2008, SECTION 150, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.6. (a) For budget years beginning before July 1, ~~2010,~~ **2011,** this section applies only to a school corporation that is located in a city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000). For budget years beginning after June 30, ~~2010,~~ **2011,** this section applies to all school corporations. Beginning in ~~2010,~~ **2011,** each school corporation shall adopt a budget under this section that applies from July 1 of the year through June 30 of the following year. In the initial budget adopted by a school corporation in ~~2010~~ **2011** under this section, the first six (6) months of that initial budget must be consistent with the last six (6) months of the budget adopted by the school corporation for calendar year ~~2010.~~ **2011.**

(b) Before February 1 of each year, the officers of the school corporation shall meet to fix the budget for the school corporation for the ensuing budget year, with notice given by the same officers. However, if a resolution adopted under subsection (d) is in effect, the officers shall meet to fix the budget for the ensuing budget year before September 30.

(c) Each year, at least two (2) days before the first meeting ~~after September 20~~ of the county board of tax adjustment held under

IC 6-1.1-29-4, the school corporation shall file with the county auditor:

(1) a statement of the tax rate and tax levy fixed by the school corporation for the ensuing budget year;

(2) two (2) copies of the budget adopted by the school corporation for the ensuing budget year; and

(3) any written notification from the department of local government finance under section 16(i) of this chapter that specifies a proposed revision, reduction, or increase in the budget adopted by the school corporation for the ensuing budget year.

Each year the county auditor shall present these items to the county board of tax adjustment at the board's first meeting ~~after September 20 of that year.~~ **under IC 6-1.1-29-4.**

(d) This subsection does not apply to budget years after June 30, ~~2010.~~ **2011.** The governing body of the school corporation may adopt a resolution to cease using a school year budget year and return to using a calendar year budget year. A resolution adopted under this subsection must be adopted after January 1 and before July 1. The school corporation's initial calendar year budget year following the adoption of a resolution under this subsection begins on January 1 of the year following the year the resolution is adopted. The first six (6) months of the initial calendar year budget for the school corporation must be consistent with the last six (6) months of the final school year budget fixed by the department of local government finance before the adoption of a resolution under this subsection. Notwithstanding any resolution adopted under this subsection, beginning in ~~2010,~~ **2011,** each school corporation shall adopt a budget under this section that applies from July 1 of the year through June 30 of the following year.

(e) A resolution adopted under subsection (d) may be rescinded by a subsequent resolution adopted by the governing body. If the governing body of the school corporation rescinds a resolution adopted under subsection (d) and returns to a school year budget year, the school corporation's initial school year budget year begins on July 1 following the adoption of the rescinding resolution and ends on June 30 of the following year. The first six (6) months of the initial school year budget for the school corporation must be consistent with the last six (6) months of the last calendar year budget fixed by the department of local government finance before the adoption of a rescinding resolution under this subsection.

SECTION 118. IC 6-1.1-17-9, AS AMENDED BY P.L.146-2008, SECTION 154, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The county board of tax adjustment shall complete the duties assigned to it under this chapter on or before ~~October 1st~~ **November 2** of each year, except that in a consolidated city and county and in a county containing a second class city, the duties of this board need not be completed until ~~November~~ **December** 1 of each year.

(b) If the county board of tax adjustment fails to complete the duties assigned to it within the time prescribed in this section or to reduce aggregate tax rates so that they do not exceed the maximum rates permitted under IC 6-1.1-18, the county auditor shall calculate and fix the tax rate within each political subdivision of the county so that the maximum rate permitted under IC 6-1.1-18 is not exceeded.

(c) When the county auditor calculates and fixes tax rates, the county auditor shall send a certificate notice of those rates to each political subdivision of the county. The county auditor shall send these notices within five (5) days after:

(1) publication of the notice required by section 12 of this chapter; **or**

(2) the tax rates are calculated and fixed by the county auditor;

whichever applies.

(d) When the county auditor calculates and fixes tax rates, that action shall be treated as if it were the action of the county board of tax adjustment.

SECTION 119. IC 6-1.1-17-12, AS AMENDED BY P.L.146-2008, SECTION 157, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. ~~As soon as~~ **If** the budgets, tax rates, ~~and~~ **or** tax levies are ~~approved or~~ modified by the county board of tax adjustment **or county auditor,** the county auditor shall within fifteen (15) days **of the modification** prepare a notice of the tax rates to be charged on each one hundred dollars ($100) of assessed valuation for the various funds in each taxing district. The notice shall also inform the taxpayers of the manner in which they may initiate an appeal of **the modification by** the county ~~board's action.~~ **board or county auditor.** The county auditor shall post the notice at the county courthouse and publish it in two (2) newspapers which represent different political parties and which have a general circulation in the county.

SECTION 120. IC 6-1.1-17-13, AS AMENDED BY P.L.228-2005, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]: Sec. 13. (a) Ten (10) or more taxpayers or one (1) taxpayer that owns property that represents at least ten percent (10%) of the taxable assessed valuation in the political subdivision may initiate an appeal from the county board of tax adjustment's ~~action on~~ **or county auditor's modification of** a political subdivision's budget, **tax rate, or tax levy** by filing a statement of their objections with the county auditor. The statement must be filed not later than ten (10) days after the publication of the notice required by section 12 of this chapter. The statement shall specifically identify the provisions of the budget, ~~and~~ **tax rate, or** tax levy to which the taxpayers object. The county auditor shall forward the statement, with the budget, to the department of local government finance.

(b) The department of local government finance shall:

(1) subject to subsection (c), give notice to the first ten (10) taxpayers whose names appear on the petition, or to the taxpayer that owns property that represents at least ten percent (10%) of the taxable assessed valuation in the political subdivision in the case of an appeal initiated by that taxpayer, of the date, time, and location of the hearing on the objection statement filed under subsection (a);

(2) conduct a hearing on the objection; and

(3) after the hearing:

(A) consider the testimony and evidence submitted at the hearing; and

(B) mail the department's:

(i) written determination; and

(ii) written statement of findings;

to the first ten (10) taxpayers whose names appear on the petition, or to the taxpayer that owns property that represents at least ten percent (10%) of the taxable assessed valuation in the political subdivision in the case of an appeal initiated by that taxpayer.

The department of local government finance may hold the hearing in conjunction with the hearing required under IC 6-1.1-17-16.

(c) The department of local government finance shall provide written notice to:

(1) the first ten (10) taxpayers whose names appear on the petition; or

(2) the taxpayer that owns property that represents at least ten percent (10%) of the taxable assessed valuation in the political

subdivision, in the case of an appeal initiated by that taxpayer; at least five (5) days before the date of the hearing.

SECTION 121. IC 6-1.1-17-14, AS AMENDED BY P.L.146-2008, SECTION 158, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. The county auditor shall initiate an appeal to the department of local government finance if the county fiscal body or the county board of tax adjustment reduces

~~(1)~~ a township assistance tax rate below the rate necessary to meet the estimated cost of township assistance.

~~(2) a family and children's fund tax rate below the rate necessary to collect the levy recommended by the department of child services, for property taxes first due and payable before January 1, 2009; or~~

~~(3) a children's psychiatric residential treatment services fund tax rate below the rate necessary to collect the levy recommended by the department of child services, for property taxes first due and payable before January 1, 2009.~~

SECTION 122. IC 6-1.1-17-15, AS AMENDED BY P.L.146-2008, SECTION 159, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. A political subdivision may appeal to the department of local government finance for an increase in its tax rate or tax levy as ~~fixed~~ **modified** by the county board of tax adjustment or the county auditor. To initiate the appeal, the political subdivision must file a statement with the department of local government finance not later than ten (10) days after publication of the notice required by section 12 of this chapter. The legislative body of the political subdivision must authorize the filing of the statement by adopting a resolution. The resolution must be attached to the statement of objections, and the statement must be signed by the following officers:

(1) In the case of counties, by the board of county commissioners and by the president of the county council.

(2) In the case of all other political subdivisions, by the highest executive officer and by the presiding officer of the legislative body.

SECTION 123. IC 6-1.1-17-16, AS AMENDED BY P.L.146-2008, SECTION 160, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) Subject to the limitations and requirements prescribed in this section, the department of local government finance may revise, reduce, or increase a political

subdivision's budget by fund, tax rate, or tax levy which the department reviews under section 8 or 10 of this chapter.

(b) Subject to the limitations and requirements prescribed in this section, the department of local government finance may review, revise, reduce, or increase the budget by fund, tax rate, or tax levy of any of the political subdivisions whose tax rates compose the aggregate tax rate within a political subdivision whose budget, tax rate, or tax levy is the subject of an appeal initiated under this chapter.

(c) Except as provided in subsections (j) and (k), before the department of local government finance reviews, revises, reduces, or increases a political subdivision's budget by fund, tax rate, or tax levy under this section, the department must hold a public hearing on the budget, tax rate, and tax levy. The department of local government finance shall hold the hearing in the county in which the political subdivision is located. The department of local government finance may consider the budgets by fund, tax rates, and tax levies of several political subdivisions at the same public hearing. At least five (5) days before the date fixed for a public hearing, the department of local government finance shall give notice of the time and place of the hearing and of the budgets by fund, levies, and tax rates to be considered at the hearing. The department of local government finance shall publish the notice in two (2) newspapers of general circulation published in the county. However, if only one (1) newspaper of general circulation is published in the county, the department of local government finance shall publish the notice in that newspaper.

(d) Except as provided in subsection (i), IC 20-46, or IC 6-1.1-18.5, the department of local government finance may not increase a political subdivision's budget by fund, tax rate, or tax levy to an amount which exceeds the amount originally fixed by the political subdivision. However, if the department of local government finance determines that IC 5-3-1-2.3(b) applies to the tax rate, tax levy, or budget of the political subdivision, the maximum amount by which the department may increase the tax rate, tax levy, or budget is the amount originally fixed by the political subdivision, and not the amount that was incorrectly published or omitted in the notice described in IC 5-3-1-2.3(b). The department of local government finance shall give the political subdivision written notification specifying any revision, reduction, or increase the department proposes in a political subdivision's tax levy or tax rate. The political subdivision has ~~two (2) weeks~~ **ten (10) calendar days** from the date the political subdivision

receives the notice to provide a written response to the department of local government finance's Indianapolis office. The response may include budget reductions, reallocation of levies, a revision in the amount of miscellaneous revenues, and further review of any other item about which, in the view of the political subdivision, the department is in error. The department of local government finance shall consider the adjustments as specified in the political subdivision's response if the response is provided as required by this subsection and shall deliver a final decision to the political subdivision.

(e) The department of local government finance may not approve a levy for lease payments by a city, town, county, library, or school corporation if the lease payments are payable to a building corporation for use by the building corporation for debt service on bonds and if:

(1) no bonds of the building corporation are outstanding; or

(2) the building corporation has enough legally available funds on hand to redeem all outstanding bonds payable from the particular lease rental levy requested.

(f) The department of local government finance shall certify its action to:

(1) the county auditor;

(2) the political subdivision if the department acts pursuant to an appeal initiated by the political subdivision;

(3) the taxpayer that initiated an appeal under section 13 of this chapter, or, if the appeal was initiated by multiple taxpayers, the first ten (10) taxpayers whose names appear on the statement filed to initiate the appeal; and

(4) a taxpayer that owns property that represents at least ten percent (10%) of the taxable assessed valuation in the political subdivision.

(g) The following may petition for judicial review of the final determination of the department of local government finance under subsection (f):

(1) If the department acts under an appeal initiated by a political subdivision, the political subdivision.

(2) If the department:

(A) acts under an appeal initiated by one (1) or more taxpayers under section 13 of this chapter; or

(B) fails to act on the appeal before the department certifies its action under subsection (f);

a taxpayer who signed the statement filed to initiate the appeal.

(3) If the department acts under an appeal initiated by the county auditor under section 14 of this chapter, the county auditor.

(4) A taxpayer that owns property that represents at least ten percent (10%) of the taxable assessed valuation in the political subdivision.

The petition must be filed in the tax court not more than forty-five (45) days after the department certifies its action under subsection (f).

(h) The department of local government finance is expressly directed to complete the duties assigned to it under this section not later than February 15th of each year for taxes to be collected during that year.

(i) Subject to the provisions of all applicable statutes, the department of local government finance may increase a political subdivision's tax levy to an amount that exceeds the amount originally fixed by the political subdivision if the increase is:

(1) requested in writing by the officers of the political subdivision;

(2) either:

(A) based on information first obtained by the political subdivision after the public hearing under section 3 of this chapter; or

(B) results from an inadvertent mathematical error made in determining the levy; and

(3) published by the political subdivision according to a notice provided by the department.

(j) The department of local government finance shall annually review the budget by fund of each school corporation not later than April 1. The department of local government finance shall give the school corporation written notification specifying any revision, reduction, or increase the department proposes in the school corporation's budget by fund. A public hearing is not required in connection with this review of the budget.

(k) The department of local government finance may hold a hearing under subsection (c) only if the notice required in section 12 of this chapter is published at least ten (10) days before the date of the hearing.

SECTION 124. IC 6-1.1-17-20, AS AMENDED BY P.L.146-2008, SECTION 163, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 20. (a) This section applies

~~(1)~~ to each governing body of a taxing unit that:

(1) is not comprised of a majority of officials who are elected to serve on the governing body; and

(2) ~~if the~~ **either:**

(A) is:

(i) a conservancy district subject to IC 14-33-9;

(ii) a solid waste management district subject to IC 13-21; or

(iii) a fire protection district subject to IC 36-8-11-18; or

(B) has a percentage increase in the proposed budget for the taxing unit for the ensuing calendar year **that** is more than the result of:

~~(A)~~ **(i)** the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the ensuing calendar year; minus

~~(B)~~ **(ii)** one (1).

For purposes of this section, an individual who qualifies to be appointed to a governing body or serves on a governing body because of the individual's status as an elected official of another taxing unit shall be treated as an official who was not elected to serve on the governing body.

(b) As used in this section, "taxing unit" has the meaning set forth in IC 6-1.1-1-21, except that the term does not include:

(1) a school corporation; or

(2) an entity whose tax levies are subject to review and modification by a city-county legislative body under IC 36-3-6-9.

(c) ~~This subsection does not apply to a public library.~~ If:

(1) the assessed valuation of a taxing unit is entirely contained within a city or town; or

(2) the assessed valuation of a taxing unit is not entirely contained within a city or town but the taxing unit was originally established by the city or town;

the governing body shall submit its proposed budget and property tax levy to the city or town fiscal body. The proposed budget and levy shall be submitted at least ~~fourteen (14)~~ **thirty (30)** days before the city or town fiscal body is required to hold budget approval hearings under this chapter.

(d) If subsection (c) does not apply, the governing body of the taxing unit shall submit its proposed budget and property tax levy to the county fiscal body in the county where the taxing unit has the most assessed valuation. The proposed budget and levy shall be submitted

at least ~~fourteen (14)~~ **thirty (30)** days before the county fiscal body is required to hold budget approval hearings under this chapter.

(e) The fiscal body of the city, town, or county (whichever applies) shall review each budget and proposed tax levy and adopt a final budget and tax levy for the taxing unit. The fiscal body may reduce or modify but not increase the proposed budget or tax levy.

(f) If a taxing unit fails to file the information required in subsection (c) or (d), whichever applies, with the appropriate fiscal body by the time prescribed by this section, the most recent annual appropriations and annual tax levy of that taxing unit are continued for the ensuing budget year.

(g) If the appropriate fiscal body fails to complete the requirements of subsection (e) before the adoption deadline in section 5 of this chapter for any taxing unit subject to this section, the most recent annual appropriations and annual tax levy of the city, town, or county, whichever applies, are continued for the ensuing budget year.

SECTION 125. IC 6-1.1-17-20.5, AS ADDED BY P.L.146-2008, SECTION 164, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 20.5. (a) This section applies to the governing body of a taxing unit unless a majority of the governing body is comprised of officials who are elected to serve on the governing body. **For purposes of this section, an individual who qualifies to be appointed to a governing body or serves on a governing body because of the individual's status as an elected official of another taxing unit shall be treated as an official who was not elected to serve on the governing body.**

(b) As used in this section, "taxing unit" has the meaning set forth in IC 6-1.1-1-21, except that the term does not include:

(1) a school corporation; or

(2) an entity whose tax levies are subject to review and modification by a city-county legislative body under IC 36-3-6-9.

(c) If:

(1) the assessed valuation of a taxing unit is entirely contained within a city or town; or

(2) the assessed valuation of a taxing unit is not entirely contained within a city or town but the taxing unit was originally established by the city or town;

the governing body of the taxing unit may not issue bonds or enter into a lease payable in whole or in part from property taxes unless it obtains the approval of the city or town fiscal body.

(d) This subsection applies to a taxing unit not described in subsection (c). The governing body of the taxing unit may not issue bonds or enter into a lease payable in whole or in part from property taxes unless it obtains the approval of the county fiscal body in the county where the taxing unit has the most net assessed valuation.

SECTION 126. IC 6-1.1-18.5-7, AS AMENDED BY P.L.146-2008, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) A civil taxing unit is not subject to the levy limits imposed by section 3 of this chapter for an ensuing calendar year if the civil taxing unit did not adopt an ad valorem property tax levy for the immediately preceding calendar year.

(b) If under subsection (a) a civil taxing unit is not subject to the levy limits imposed under section 3 of this chapter for a calendar year, the civil taxing unit shall refer its proposed budget, ad valorem property tax levy, and property tax rate for that calendar year to ~~the local government tax control board established by section 11 of this chapter before the tax levy is advertised. The local government tax control board shall then review and make a recommendation to~~ the department of local government finance. ~~on the civil taxing unit's budget, ad valorem property tax levy, and property tax rate for that calendar year.~~ The department of local government finance shall make a final determination of the civil taxing unit's budget, ad valorem property tax levy, and property tax rate for that calendar year. However, a civil taxing unit may not impose a property tax levy for a year if the unit did not exist as of March 1 of the preceding year.

SECTION 127. IC 6-1.1-18.5-8, AS AMENDED BY P.L.146-2008, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a civil taxing unit if the civil taxing unit is committed to levy the taxes to pay or fund either:

(1) bonded indebtedness; or

(2) lease rentals under a lease with an original term of at least five (5) years.

(b) Except as provided by subsections (g) and (h), a civil taxing unit must file a petition requesting approval from the department of local government finance to incur bonded indebtedness or execute a lease with an original term of at least five (5) years not later than twenty-four (24) months after the first date of publication of notice of a preliminary determination under IC 6-1.1-20-3.1(2) (as in effect before July 1,

2008), unless the civil taxing unit demonstrates that a longer period is reasonable in light of the civil taxing unit's facts and circumstances. A civil taxing unit must obtain approval from the department of local government finance before the civil taxing unit may:

(1) incur the bonded indebtedness; or

(2) enter into the lease.

~~The department of local government finance may seek recommendations from the local government tax control board established by section 11 of this chapter when determining whether to authorize incurring the bonded indebtedness or the execution of the lease.~~

(c) The department of local government finance shall render a decision within three (3) months after the date it receives a request for approval under subsection (b). However, the department of local government finance may extend this three (3) month period by an additional three (3) months if, at least ten (10) days before the end of the original three (3) month period, the department sends notice of the extension to the executive officer of the civil taxing unit. A civil taxing unit may petition for judicial review of the final determination of the department of local government finance under this section. The petition must be filed in the tax court not more than forty-five (45) days after the department enters its order under this section.

(d) A civil taxing unit does not need approval under subsection (b) to obtain temporary loans made in anticipation of and to be paid from current revenues of the civil taxing unit actually levied and in the course of collection for the fiscal year in which the loans are made.

(e) For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a calendar year does not include that part of its levy that is committed to fund or pay bond indebtedness or lease rentals with an original term of five (5) years in subsection (a).

(f) A taxpayer may petition for judicial review of the final determination of the department of local government finance under this section. The petition must be filed in the tax court not more than thirty (30) days after the department enters its order under this section.

(g) This subsection applies only to bonds, leases, and other obligations for which a civil taxing unit:

(1) after June 30, 2008, makes a preliminary determination as described in IC 6-1.1-20-3.1 or IC 6-1.1-20-3.5 or a decision as

described in IC 6-1.1-20-5; or

(2) in the case of bonds, leases, or other obligations payable from ad valorem property taxes but not described in subdivision (1), adopts a resolution or ordinance authorizing the bonds, lease rental agreement, or other obligations after June 30, 2008.

Notwithstanding any other provision, review by the department of local government finance and approval by the department of local government finance is not required before a civil taxing unit may issue or enter into bonds, a lease, or any other obligation.

(h) This subsection applies after June 30, 2008. Notwithstanding any other provision, review by the department of local government finance and approval by the department of local government finance is not required before a civil taxing unit may construct, alter, or repair a capital project.

SECTION 128. IC 6-1.1-18.5-10, AS AMENDED BY P.L.146-2008, SECTION 174, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 10. (a) ~~Subject to subsection (d),~~ The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a civil taxing unit to be used to fund:

(1) community mental health centers under:

(A) IC 12-29-2-1.2, for only those civil taxing units that authorized financial assistance under IC 12-29-1 before 2002 for a community mental health center as long as the tax levy under this section does not exceed the levy authorized in 2002;

(B) IC 12-29-2-2 through IC 12-29-2-5; and

(C) IC 12-29-2-13; or

(2) community mental retardation and other developmental disabilities centers under IC 12-29-1-1;

to the extent that those property taxes are attributable to any increase in the assessed value of the civil taxing unit's taxable property caused by a general reassessment of real property that took effect after February 28, 1979.

(b) ~~Subject to subsection (d),~~ For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy described in subsection (a).

(c) This subsection applies to property taxes first due and payable after December 31, 2008. Notwithstanding subsections (a) and (b) or

any other law, any property taxes imposed by a civil taxing unit that are exempted by this section from the ad valorem property tax levy limits imposed by section 3 of this chapter may not increase annually by a percentage greater than the result of:

(1) the assessed value growth quotient determined under section 2 of this chapter; minus

(2) one (1).

~~(d) The exemptions under subsections (a) and (b) from the ad valorem property tax levy limits do not apply to a civil taxing unit that did not fund a community mental health center or community mental retardation and other developmental disabilities center in 2008.~~

(d) For a county that:

(1) did not impose an ad valorem property tax levy in 2008 for the county general fund to provide financial assistance under IC 12-29-1 (community mental retardation and other developmental disabilities center) or IC 12-29-2 (community mental health center); and

(2) determines for 2009 or a later calendar year to impose a levy as described in subdivision (1);

the ad valorem property tax levy limits imposed under section 3 of this chapter do not apply to the part of the county's general fund levy that is used in the first calendar year for which a determination is made under subdivision (2) to provide financial assistance under IC 12-29-1 or IC 12-29-2. The department of local government finance shall review a county's proposed budget that is submitted under IC 12-29-1-1 or IC 12-29-2-1.2 and make a final determination of the amount to which the levy limits do not apply under this subsection for the first calendar year for which a determination is made under subdivision (2).

(e) The ad valorem property tax levy limits imposed under section 3 of this chapter do not apply to the county's general fund levy in the amount determined by the department of local government finance under subsection (d) in each calendar year following the calendar year for which the determination under subsection (b) is made.

SECTION 129. IC 6-1.1-18.5-10.5, AS AMENDED BY P.L.146-2008, SECTION 177, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10.5. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a civil taxing unit for fire protection services within a fire protection territory under

IC 36-8-19, if the civil taxing unit is a participating unit in a fire protection territory established before August 1, 2001. For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter on a civil taxing unit that is a participating unit in a fire protection territory established before August 1, 2001, the civil taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed under IC 36-8-19.

(b) This subsection applies to a participating unit in a fire protection territory established under IC 36-8-19 after July 31, 2001. The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a civil taxing unit for fire protection services within a fire protection territory under IC 36-8-19 for the three (3) calendar years in which the participating unit levies a tax to support the territory. For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter for the three (3) calendar years for which the participating unit levies a tax to support the territory, the civil taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed under IC 36-8-19.

(c) This subsection applies to property taxes first due and payable after December 31, 2008. **Except as provided in subsection (d),** notwithstanding subsections (a) and (b) or any other law, any property taxes imposed by a civil taxing unit that are exempted by this section from the ad valorem property tax levy limits imposed by section 3 of this chapter may not increase annually by a percentage greater than the result of:

(1) the assessed value growth quotient determined under section 2 of this chapter; minus

(2) one (1).

(d) The limits specified in subsection (c) do not apply to a civil taxing unit in the first year in which the civil taxing unit becomes a participating unit in a fire protection territory established under IC 36-8-19. In the first year in which a civil taxing unit becomes a participating unit in a fire protection territory, the civil taxing unit shall submit its proposed budget, proposed ad valorem property tax levy, and proposed property tax rate for the fire protection territory to the department of local government finance. The department of local government finance shall make a final determination of the civil taxing unit's budget, ad valorem property tax levy, and property tax rate for the fire protection

territory for that calendar year. In making its determination under this subsection, the department of local government finance shall consider the amount that the civil taxing unit is obligated to provide to meet the expenses of operation and maintenance of the fire protection services within the territory, plus a reasonable operating balance, not to exceed twenty percent (20%) of the budgeted expenses. However, the department of local government finance may not approve under this subsection a property tax levy greater than zero (0) if the civil taxing unit did not exist as of the March 1 assessment date for which the tax levy will be imposed. For purposes of applying subsection (c) to the civil taxing unit's property tax levy for the fire protection territory in subsequent calendar years, the department of local government finance may determine not to consider part or all of the part of the first year property tax levy imposed to establish an operating balance.

SECTION 130. IC 6-1.1-18.5-12, AS AMENDED BY P.L.146-2008, SECTION 179, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) Any civil taxing unit that determines that it cannot carry out its governmental functions for an ensuing calendar year under the levy limitations imposed by section 3 of this chapter may:

(1) before ~~September~~ **October** 20 of the calendar year immediately preceding the ensuing calendar year; or

(2) in the case of a request described in section 16 of this chapter, before December 31 of the calendar year immediately preceding the ensuing calendar year;

appeal to the department of local government finance for relief from those levy limitations. In the appeal the civil taxing unit must state that it will be unable to carry out the governmental functions committed to it by law unless it is given the authority that it is petitioning for. The civil taxing unit must support these allegations by reasonably detailed statements of fact.

(b) The department of local government finance shall ~~promptly deliver to the local government tax control board every appeal petition it receives under subsection (a) and any materials it receives relevant to those appeals. Upon receipt of an appeal petition, the local government tax control board shall~~ immediately proceed to the examination and consideration of the merits of the civil taxing unit's appeal.

(c) In considering an appeal, the ~~local government tax control board~~ **department of local government finance** has the power to conduct

hearings, require any officer or member of the appealing civil taxing unit to appear before it, or require any officer or member of the appealing civil taxing unit to provide the ~~board~~ **department** with any relevant records or books.

(d) If an officer or member:

(1) fails to appear at a hearing ~~of the local government tax control board~~ after having been given written notice ~~from the local government tax control board~~ requiring that person's attendance; or

(2) fails to produce ~~for the local government tax control board's use~~ the books and records that the ~~local government tax control board~~ **department** by written notice required the officer or member to produce;

then the ~~local government tax control board~~ **department** may file an affidavit in the circuit court in the jurisdiction in which the officer or member may be found setting forth the facts of the failure.

(e) Upon the filing of an affidavit under subsection (d), the circuit court shall promptly issue a summons, and the sheriff of the county within which the circuit court is sitting shall serve the summons. The summons must command the officer or member to appear before the ~~local government tax control board~~ **department** to provide information to the ~~local government tax control board~~ **department** or to produce books and records for the ~~local government tax control board's~~ **department's** use, as the case may be. Disobedience of the summons constitutes, and is punishable as, a contempt of the circuit court that issued the summons.

(f) All expenses incident to the filing of an affidavit under subsection (d) and the issuance and service of a summons shall be charged to the officer or member against whom the summons is issued, unless the circuit court finds that the officer or member was acting in good faith and with reasonable cause. If the circuit court finds that the officer or member was acting in good faith and with reasonable cause or if an affidavit is filed and no summons is issued, the expenses shall be charged against the county in which the affidavit was filed and shall be allowed by the proper fiscal officers of that county.

(g) The fiscal officer of a civil taxing unit that appeals under section 16 of this chapter for relief from levy limitations shall immediately file a copy of the appeal petition with the county auditor and the county treasurer of the county in which the unit is located.

SECTION 131. IC 6-1.1-18.5-13, AS AMENDED BY

P.L.146-2008, SECTION 180, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 13. With respect to an appeal filed under section 12 of this chapter, the ~~local government tax control board may recommend~~ **department may find** that a civil taxing unit **should** receive any one (1) or more of the following types of relief:

(1) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if in the judgment of the ~~local government tax control board~~ **department** the increase is reasonably necessary due to increased costs of the civil taxing unit resulting from annexation, consolidation, or other extensions of governmental services by the civil taxing unit to additional geographic areas or persons. With respect to annexation, consolidation, or other extensions of governmental services in a calendar year, if those increased costs are incurred by the civil taxing unit in that calendar year and more than one (1) immediately succeeding calendar year, the unit may appeal under section 12 of this chapter for permission to increase its levy under this subdivision based on those increased costs in any of the following:

(A) The first calendar year in which those costs are incurred.

(B) One (1) or more of the immediately succeeding four (4) calendar years.

(2) A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2008. Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to meet the civil taxing unit's share of the costs of operating a court established by statute enacted after December 31, 1973. Before recommending such an increase, the local government tax control board shall consider all other revenues available to the civil taxing unit that could be applied for that purpose. The maximum aggregate levy increases that the local government tax control board may recommend for a particular court equals the civil taxing unit's estimate of the unit's share of the costs of operating a court for the first full calendar year in which it is in existence. For purposes of this subdivision, costs of operating a court include:

(A) the cost of personal services (including fringe benefits);

(B) the cost of supplies; and

(C) any other cost directly related to the operation of the court.

(3) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the ~~local government tax control board~~ **department** finds that the quotient determined under STEP SIX of the following formula is equal to or greater than one and two-hundredths (1.02):

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property or the initial annual adjustment of the assessed value of real property under IC 6-1.1-4-4.5 does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the sum of the civil taxing unit's total assessed value of all taxable property and:

(i) for a particular calendar year before 2007, the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar year; or

(ii) for a particular calendar year after 2006, the total assessed value of property tax deductions that applied in the unit under IC 6-1.1-12-42 in 2006 **plus for a particular calendar year after 2009, the total assessed value of property tax deductions that applied in the unit under IC 6-1.1-12-37.5 in 2008;**

divided by the sum determined under this STEP for the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

STEP FOUR: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the sum of the total assessed value of all taxable property in all counties and:

(i) for a particular calendar year before 2007, the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar year; or

(ii) for a particular calendar year after 2006, the total

assessed value of property tax deductions that applied in all counties under IC 6-1.1-12-42 in 2006 **plus for a particular calendar year after 2009, the total assessed value of property tax deductions that applied in the unit under IC 6-1.1-12-37.5 in 2008;**

divided by the sum determined under this STEP for the calendar year immediately preceding the particular calendar year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Divide the STEP THREE amount by the STEP FIVE amount.

The civil taxing unit may increase its levy by a percentage not greater than the percentage by which the STEP THREE amount exceeds the percentage by which the civil taxing unit may increase its levy under section 3 of this chapter based on the assessed value growth quotient determined under section 2 of this chapter.

(4) A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2008. Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to pay the costs of furnishing fire protection for the civil taxing unit through a volunteer fire department. For purposes of determining a township's need for an increased levy, the local government tax control board shall not consider the amount of money borrowed under IC 36-6-6-14 during the immediately preceding calendar year. However, any increase in the amount of the civil taxing unit's levy recommended by the local government tax control board under this subdivision for the ensuing calendar year may not exceed the lesser of:

(A) ten thousand dollars ($10,000); or

(B) twenty percent (20%) of:

(i) the amount authorized for operating expenses of a volunteer fire department in the budget of the civil taxing unit for the immediately preceding calendar year; plus

(ii) the amount of any additional appropriations authorized during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department

under this chapter; minus

(iii) the amount of money borrowed under IC 36-6-6-14 during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department.

(5) A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2008. Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter in order to raise revenues for pension payments and contributions the civil taxing unit is required to make under IC 36-8. The maximum increase in a civil taxing unit's levy that may be recommended under this subdivision for an ensuing calendar year equals the amount, if any, by which the pension payments and contributions the civil taxing unit is required to make under IC 36-8 during the ensuing calendar year exceeds the product of one and one-tenth (1.1) multiplied by the pension payments and contributions made by the civil taxing unit under IC 36-8 during the calendar year that immediately precedes the ensuing calendar year. For purposes of this subdivision, "pension payments and contributions made by a civil taxing unit" does not include that part of the payments or contributions that are funded by distributions made to a civil taxing unit by the state.

(6) A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2008. Permission to increase its levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the township's township assistance ad valorem property tax rate is less than one and sixty-seven hundredths cents ($0.0167) per one hundred dollars ($100) of assessed valuation; and

(B) the township needs the increase to meet the costs of providing township assistance under IC 12-20 and IC 12-30-4.

The maximum increase that the board may recommend for a township is the levy that would result from an increase in the township's township assistance ad valorem property tax rate of one and sixty-seven hundredths cents ($0.0167) per one hundred dollars ($100) of assessed valuation minus the township's ad valorem property tax rate per one hundred dollars ($100) of assessed valuation before the increase.

(7) A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2008. Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) the increase has been approved by the legislative body of the municipality with the largest population where the civil taxing unit provides public transportation services; and

(B) the local government tax control board finds that the civil taxing unit needs the increase to provide adequate public transportation services.

The local government tax control board shall consider tax rates and levies in civil taxing units of comparable population, and the effect (if any) of a loss of federal or other funds to the civil taxing unit that might have been used for public transportation purposes. However, the increase that the board may recommend under this subdivision for a civil taxing unit may not exceed the revenue that would be raised by the civil taxing unit based on a property tax rate of one cent ($0.01) per one hundred dollars ($100) of assessed valuation.

(8) A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2008. Permission to a civil taxing unit to increase the unit's levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the civil taxing unit is:

(i) a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000);

(ii) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000);

(iii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

(iv) a city having a population of more than fifteen thousand four hundred (15,400) but less than sixteen thousand six hundred (16,600); or

(v) a city having a population of more than seven thousand (7,000) but less than seven thousand three hundred (7,300); and

(B) the increase is necessary to provide funding to undertake

removal (as defined in IC 13-11-2-187) and remedial action (as defined in IC 13-11-2-185) relating to hazardous substances (as defined in IC 13-11-2-98) in solid waste disposal facilities or industrial sites in the civil taxing unit that have become a menace to the public health and welfare.

The maximum increase that the local government tax control board may recommend for such a civil taxing unit is the levy that would result from a property tax rate of six and sixty-seven hundredths cents ($0.0667) for each one hundred dollars ($100) of assessed valuation. For purposes of computing the ad valorem property tax levy limit imposed on a civil taxing unit under section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular year does not include that part of the levy imposed under this subdivision. In addition, a property tax increase permitted under this subdivision may be imposed for only two (2) calendar years.

(9) A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2008. Permission for a county:

(A) having a population of more than eighty thousand (80,000) but less than ninety thousand (90,000) to increase the county's levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the county needs the increase to meet the county's share of the costs of operating a jail or juvenile detention center, including expansion of the facility, if the jail or juvenile detention center is opened after December 31, 1991;

(B) that operates a county jail or juvenile detention center that is subject to an order that:

(i) was issued by a federal district court; and

(ii) has not been terminated;

(C) that operates a county jail that fails to meet:

(i) American Correctional Association Jail Construction Standards; and

(ii) Indiana jail operation standards adopted by the department of correction; or

(D) that operates a juvenile detention center that fails to meet standards equivalent to the standards described in clause (C) for the operation of juvenile detention centers.

Before recommending an increase, the local government tax

control board shall consider all other revenues available to the county that could be applied for that purpose. An appeal for operating funds for a jail or a juvenile detention center shall be considered individually, if a jail and juvenile detention center are both opened in one (1) county. The maximum aggregate levy increases that the local government tax control board may recommend for a county equals the county's share of the costs of operating the jail or a juvenile detention center for the first full calendar year in which the jail or juvenile detention center is in operation.

(10) A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2008. Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township needs the increase so that the property tax rate to pay the costs of furnishing fire protection for a township, or a portion of a township, enables the township to pay a fair and reasonable amount under a contract with the municipality that is furnishing the fire protection. However, for the first time an appeal is granted the resulting rate increase may not exceed fifty percent (50%) of the difference between the rate imposed for fire protection within the municipality that is providing the fire protection to the township and the township's rate. A township is required to appeal a second time for an increase under this subdivision if the township wants to further increase its rate. However, a township's rate may be increased to equal but may not exceed the rate that is used by the municipality. More than one (1) township served by the same municipality may use this appeal.

(11) A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2008. Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township has been required, for the three (3) consecutive years preceding the year for which the appeal under this subdivision is to become effective, to borrow funds under IC 36-6-6-14 to furnish fire protection for the township or a part of the township. However, the maximum increase in a township's levy that may be allowed under this subdivision is the least of the amounts borrowed under

IC 36-6-6-14 during the preceding three (3) calendar years. A township may elect to phase in an approved increase in its levy under this subdivision over a period not to exceed three (3) years. A particular township may appeal to increase its levy under this section not more frequently than every fourth calendar year.

(12) Permission to a city having a population of more than twenty-nine thousand (29,000) but less than thirty-one thousand (31,000) to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) an appeal was granted to the city under this section to reallocate property tax replacement credits under IC 6-3.5-1.1 in 1998, 1999, and 2000; and

(B) the increase has been approved by the legislative body of the city, and the legislative body of the city has by resolution determined that the increase is necessary to pay normal operating expenses.

The maximum amount of the increase is equal to the amount of property tax replacement credits under IC 6-3.5-1.1 that the city petitioned under this section to have reallocated in 2001 for a purpose other than property tax relief.

(13) A levy increase may be granted under this subdivision only for property taxes first due and payable after December 31, 2008. Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if the civil taxing unit cannot carry out its governmental functions for an ensuing calendar year under the levy limitations imposed by section 3 of this chapter due to a natural disaster, an accident, or another unanticipated emergency.

SECTION 132. IC 6-1.1-18.5-13.5, AS AMENDED BY P.L.224-2007, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13.5. A levy increase may not be granted under this section for property taxes first due and payable after December 31, 2009. With respect to an appeal filed under section 12 of this chapter, ~~the local government tax control board may recommend that~~ the department of local government finance **may** give permission to a town having a population of more than three hundred seventy-five (375) but less than five hundred (500) located in a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400) to increase its levy in excess of the limitations established under section 3 of this

chapter, if the ~~local government tax control board~~ **department** finds that the town needs the increase to pay the costs of furnishing fire protection for the town. However, any increase in the amount of the town's levy ~~recommended by the local government tax control board~~ under this section for the ensuing calendar year may not exceed the greater of:

(1) twenty-five thousand dollars ($25,000); or

(2) twenty percent (20%) of the sum of:

(A) the amount authorized for the cost of furnishing fire protection in the town's budget for the immediately preceding calendar year; plus

(B) the amount of any additional appropriations authorized under IC 6-1.1-18-5 during that calendar year for the town's use in paying the costs of furnishing fire protection.

SECTION 133. IC 6-1.1-18.5-13.6, AS AMENDED BY P.L.146-2008, SECTION 181, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13.6. A levy increase may not be granted under this section for property taxes first due and payable after December 31, 2008. For an appeal filed under section 12 of this chapter, ~~the local government tax control board may recommend that~~ the department of local government finance **may** give permission to a county to increase its levy in excess of the limitations established under section 3 of this chapter if the ~~local government tax control board~~ **department** finds that the county needs the increase to pay for:

(1) a new voting system; or

(2) the expansion or upgrade of an existing voting system;

under IC 3-11-6.

SECTION 134. IC 6-1.1-18.5-14, AS AMENDED BY P.L.146-2008, SECTION 182, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) ~~The local government tax control board may recommend to~~ The department of local government finance **may order** a correction of any advertising error, mathematical error, or error in data made at the local level for any calendar year **if the department finds** that **the error** affects the determination of the limitations established by section 3 of this chapter or the tax rate or levy of a civil taxing unit. The department of local government finance may on its own initiative correct such an advertising error, mathematical error, or error in data for any civil taxing unit.

(b) A correction made under subsection (a) for a prior calendar year

shall be applied to the civil taxing unit's levy limitations, rate, and levy for the ensuing calendar year to offset any cumulative effect that the error caused in the determination of the civil taxing unit's levy limitations, rate, or levy for the ensuing calendar year.

SECTION 135. IC 6-1.1-18.5-15, AS AMENDED BY P.L.146-2008, SECTION 183, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) The department of local government finance, upon ~~receiving a recommendation made~~ **making a finding** under section 13 or 14 of this chapter, shall enter an order ~~adopting, rejecting, or adopting in part and rejecting in part the recommendation of the local government tax control board.~~ **setting forth its final determination.**

(b) A civil taxing unit may petition for judicial review of the final determination made by the department of local government finance under subsection (a). The action must be taken to the tax court under IC 6-1.1-15 in the same manner that an action is taken to appeal a final determination of the Indiana board. The petition must be filed in the tax court not more than forty-five (45) days after the department enters its order under subsection (a).

SECTION 136. IC 6-1.1-18.5-16, AS AMENDED BY P.L.146-2008, SECTION 184, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) A civil taxing unit may request permission from the ~~local government tax control board~~ **department** to impose an ad valorem property tax levy that exceeds the limits imposed by section 3 of this chapter if:

(1) the civil taxing unit experienced a property tax revenue shortfall that resulted from erroneous assessed valuation figures being provided to the civil taxing unit;

(2) the erroneous assessed valuation figures were used by the civil taxing unit in determining its total property tax rate; and

(3) the error in the assessed valuation figures was found after the civil taxing unit's property tax levy resulting from that total rate was finally approved by the department of local government finance.

(b) A civil taxing unit may request permission from the ~~local government tax control board~~ **department** to impose an ad valorem property tax levy that exceeds the limits imposed by section 3 of this chapter if the civil taxing unit experienced a property tax revenue shortfall because of the payment of refunds that resulted from appeals under this article and IC 6-1.5.

(c) If the ~~local government tax control board~~ **department** determines that a shortfall described in subsection (a) or (b) has occurred, ~~it shall recommend to~~ the department of local government finance **may find** that the civil taxing unit **should** be allowed to impose a property tax levy exceeding the limit imposed by section 3 of this chapter. ~~and the department may adopt such recommendation.~~ However, the maximum amount by which the civil taxing unit's levy may be increased over the limits imposed by section 3 of this chapter equals the remainder of the civil taxing unit's property tax levy for the particular calendar year as finally approved by the department of local government finance minus the actual property tax levy collected by the civil taxing unit for that particular calendar year.

(d) Any property taxes collected by a civil taxing unit over the limits imposed by section 3 of this chapter under the authority of this section may not be treated as a part of the civil taxing unit's maximum permissible ad valorem property tax levy for purposes of determining its maximum permissible ad valorem property tax levy for future years.

(e) If the department of local government finance authorizes an excess tax levy under this section, it shall take appropriate steps to insure that the proceeds are first used to repay any loan made to the civil taxing unit for the purpose of meeting its current expenses.

SECTION 137. IC 6-1.1-18.5-17, AS AMENDED BY P.L.219-2007, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) As used in this section, "levy excess" means the part of the ad valorem property tax levy actually collected by a civil taxing unit, for taxes first due and payable during a particular calendar year, that exceeds the civil taxing unit's ad valorem property tax levy, as approved by the department of local government finance under IC 6-1.1-17. The term does not include delinquent ad valorem property taxes collected during a particular year that were assessed for an assessment date that precedes the assessment date for the current year in which the ad valorem property taxes are collected.

(b) A civil taxing unit's levy excess is valid and may not be contested on the grounds that it exceeds the civil taxing unit's levy limit for the applicable calendar year. However, the civil taxing unit shall deposit, except as provided in subsections (h) and (i), its levy excess in a special fund to be known as the civil taxing unit's levy excess fund.

(c) The chief fiscal officer of a civil taxing unit may invest money in the civil taxing unit's levy excess fund in the same manner in which

money in the civil taxing unit's general fund may be invested. However, any income derived from investment of the money shall be deposited in and becomes a part of the levy excess fund.

(d) The department of local government finance shall require a civil taxing unit to include the amount in its levy excess fund in the civil taxing unit's budget fixed under IC 6-1.1-17.

(e) Except as provided by subsection (f), a civil taxing unit may not spend any money in its levy excess fund until the expenditure of the money has been included in a budget that has been approved by the department of local government finance under IC 6-1.1-17. For purposes of fixing its budget and for purposes of the ad valorem property tax levy limits imposed under this chapter, a civil taxing unit shall treat the money in its levy excess fund that the department of local government finance permits it to spend during a particular calendar year as part of its ad valorem property tax levy for that same calendar year.

(f) A civil taxing unit may transfer money from its levy excess fund to its other funds to reimburse those funds for amounts withheld from the civil taxing unit as a result of refunds paid under IC 6-1.1-26.

(g) Subject to the limitations imposed by this section, a civil taxing unit may use money in its levy excess fund for any lawful purpose for which money in any of its other funds may be used.

(h) If the amount that would, notwithstanding this subsection, be deposited in the levy excess fund of a civil taxing unit for a particular calendar year is less than one hundred dollars ($100), no money shall be deposited in the levy excess fund of the unit for that year.

(i) This subsection applies only to a civil taxing unit that:

(1) has a levy excess for a particular calendar year;

(2) in the preceding calendar year experienced a shortfall in property tax collections below the civil taxing unit's property tax levy approved by the department of local government finance under IC 6-1.1-17; and

(3) did not receive permission from the ~~local government tax control board~~ **department** to impose, because of the shortfall in property tax collections in the preceding calendar year, a property tax levy that exceeds the limits imposed by section 3 of this chapter.

The amount that a civil taxing unit subject to this subsection must transfer to the civil taxing unit's levy excess fund in the calendar year in which the excess is collected shall be reduced by the amount of the

civil taxing unit's shortfall in property tax collections in the preceding calendar year (but the reduction may not exceed the amount of the civil taxing unit's levy excess).

SECTION 138. IC 6-1.1-18.5-21, AS ADDED BY P.L.114-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. A civil taxing unit may determine that the ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to all or part of the ad valorem property taxes imposed to repay a loan under **either or both of the following:**

(1) IC 6-1.1-21.3.

(2) IC 6-1.1-21.9.

SECTION 139. IC 6-1.1-19-1, AS AMENDED BY P.L.146-2008, SECTION 185, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. ~~The following definitions apply throughout~~ **As used in** this chapter,

~~(1)~~ "appeal" refers to an appeal taken to the department of local government finance by or in respect of a school corporation under any of the following:

~~(A)~~ **(1)** IC 6-1.1-17.

~~(B)~~ **(2)** IC 20-43.

~~(2) "Tax control board" means the school property tax control board established by section 4.1 of this chapter.~~

SECTION 140. IC 6-1.1-19-3, AS AMENDED BY P.L.146-2008, SECTION 186, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. ~~(a)~~ When an appeal is taken to the department of local government finance, the department may exercise the powers described in IC 6-1.1-17 to revise, change, or increase the budget, tax levy, or tax rate of the appellant school corporation.

~~(b) The department of local government finance may not exercise any of the powers described in subsection (a) until it receives, regarding the appellant school corporation's budget, tax levy, or tax rate, the recommendation of the tax control board.~~

SECTION 141. IC 6-1.1-19-7, AS AMENDED BY P.L.2-2006, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. ~~(a) Any recommendation that is to be made by the tax control board to the department of local government finance under any law that applies to the appeal must be made at the time prescribed in this chapter.~~

~~(b) If a time for making a recommendation is not prescribed in this~~

~~chapter, the recommendation must be made at a time that permits the department of local government finance to complete the duties of the department that are set forth in IC 6-1.1-17 within the time allowed by law for the completion of the duties or within the additional time that is reasonably necessary for the department of local government finance and the tax control board to complete the duties set forth in this chapter.~~

~~(c)~~ **(a)** A tax levy is not invalid because of the failure of ~~either the tax control board or~~ the department of local government finance to complete its duties within the time or time limits provided by this chapter or any other law.

~~(d)~~ **(b)** Subject to this chapter, the department of local government finance may

~~(1) accept, reject, or accept in part and reject in part any recommendation of the tax control board that is made to the department of local government finance under this chapter; and~~

~~(2)~~ make any order that is consistent with IC 6-1.1-17.

~~(e)~~ **(c)** A school corporation may petition for judicial review of the final determination of the department of local government finance. ~~under subsection (d).~~ The petition must be filed in the tax court not more than forty-five (45) days after the department enters its order. ~~under subsection (d).~~

SECTION 142. IC 6-1.1-20-1.9, AS AMENDED BY P.L.146-2008, SECTION 190, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.9. **(a)** As used in this chapter, "registered voter" means the following:

(1) In the case of a petition under section 3.1 of this chapter to initiate a petition and remonstrance process, an individual who is registered to vote in the political subdivision on the date the ~~proper officers of the political subdivision publish notice under section 3.1(b)(2) of this chapter of a preliminary determination by the political subdivision to issue bonds or enter into a lease.~~ **county voter registration board makes the determination under section 3.1(b)(8) of this chapter regarding whether persons who signed the petition are registered voters.**

(2) In the case of:

(A) a petition under section 3.2 of this chapter in favor of the proposed debt service or lease payments; or

(B) a remonstrance under section 3.2 of this chapter against the proposed debt service or lease payments;

an individual who is registered to vote in the political subdivision on the date ~~that is thirty (30) days after the notice of the applicability of the petition and remonstrance process is published under section 3.2(b)(1) of this chapter.~~ **the county voter registration board makes the determination under section 3.2(b)(5) of this chapter regarding whether persons who signed the petition or remonstrance are registered voters.**

(3) In the case of a petition under section 3.5 of this chapter requesting the application of the local public question process under section 3.6 of this chapter concerning proposed debt service or lease payments, an individual who is registered to vote in the political subdivision on the date the county voter registration board makes the determination under section 3.5(b)(8) of this chapter regarding whether persons who signed the petition are registered voters.

~~(3)~~ **(b) As used in this chapter,** in the case of ~~a~~ **an election on a** public question held under section 3.6 of this chapter, **"eligible voter" means** an individual who:

(1) is ~~registered to vote in the political subdivision on the date that is thirty (30) days before the date of~~ **eligible to vote in** the election in **the political subdivision in** which the public question will be held, **as determined under IC 3; and**

(2) resides within the boundaries of the political subdivision for which the public question is being considered.

SECTION 143. IC 6-1.1-20-3.1, AS AMENDED BY P.L.146-2008, SECTION 191, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. (a) This section applies only to the following:

(1) A controlled project (as defined in section 1.1 of this chapter as in effect June 30, 2008) for which the proper officers of a political subdivision make a preliminary determination in the manner described in subsection (b) before July 1, 2008.

(2) An elementary school building, middle school building, or other school building for academic instruction that:

(A) is a controlled project;

(B) will be used for any combination of kindergarten through grade 8;

(C) will not be used for any combination of grade 9 through grade 12; and

(D) will not cost more than ten million dollars ($10,000,000).

(3) A high school building or other school building for academic instruction that:

(A) is a controlled project;

(B) will be used for any combination of grade 9 through grade 12;

(C) will not be used for any combination of kindergarten through grade 8; and

(D) will not cost more than twenty million dollars ($20,000,000).

(4) Any other controlled project that:

(A) is not a controlled project described in subdivision (1), (2), or (3); and

(B) will not cost the political subdivision more than the lesser of the following:

(i) Twelve million dollars ($12,000,000).

(ii) An amount equal to one percent (1%) of the total gross assessed value of property within the political subdivision on the last assessment date, if that amount is at least one million dollars ($1,000,000).

(b) A political subdivision may not impose property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project without completing the following procedures:

(1) The proper officers of a political subdivision shall:

(A) publish notice in accordance with IC 5-3-1; and

(B) send notice by first class mail to any organization that delivers to the officers, before January 1 of that year, an annual written request for such notices;

of any meeting to consider adoption of a resolution or an ordinance making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on a preliminary determination before adoption of the resolution or ordinance.

(2) When the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease for a controlled project, the officers shall give notice of the preliminary determination by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in subdivision (1)(B).

(3) A notice under subdivision (2) of the preliminary

determination of the political subdivision to issue bonds or enter into a lease for a controlled project must include the following information:

(A) The maximum term of the bonds or lease.

(B) The maximum principal amount of the bonds or the maximum lease rental for the lease.

(C) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.

(D) The purpose of the bonds or lease.

(E) A statement that any owners of real property within the political subdivision or registered voters residing within the political subdivision who want to initiate a petition and remonstrance process against the proposed debt service or lease payments must file a petition that complies with subdivisions (4) and (5) not later than thirty (30) days after publication in accordance with IC 5-3-1.

(F) With respect to bonds issued or a lease entered into to open:

(i) a new school facility; or

(ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;

the estimated costs the school corporation expects to incur annually to operate the facility.

(G) A statement of whether the school corporation expects to appeal for a new facility adjustment (as defined in IC 20-45-1-16 before January 1, 2009) for an increased maximum permissible tuition support levy to pay the estimated costs described in clause (F).

(H) The political subdivision's current debt service levy and rate and the estimated increase to the political subdivision's debt service levy and rate that will result if the political subdivision issues the bonds or enters into the lease.

(4) After notice is given, a petition requesting the application of a petition and remonstrance process may be filed by the lesser of:

(A) one hundred (100) persons who are either owners of real property within the political subdivision or registered voters residing within the political subdivision; or

(B) five percent (5%) of the registered voters residing within the political subdivision.

(5) The state board of accounts shall design and, upon request by the county voter registration office, deliver to the county voter registration office or the county voter registration office's designated printer the petition forms to be used solely in the petition process described in this section. The county voter registration office shall issue to an owner or owners of real property within the political subdivision or a registered voter residing within the political subdivision the number of petition forms requested by the owner or owners or the registered voter. Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of real property or registered voters;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and

(D) govern the closing date for the petition period.

Persons requesting forms may be required to identify themselves as owners of real property or registered voters and may be allowed to pick up additional copies to distribute to other property owners or registered voters. Each person signing a petition must indicate whether the person is signing the petition as a registered voter within the political subdivision or is signing the petition as the owner of real property within the political subdivision. A person who signs a petition as a registered voter must indicate the address at which the person is registered to vote. A person who signs a petition as a real property owner must indicate the address of the real property owned by the person in the political subdivision.

(6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county voter registration office under subdivision (7).

(7) Each petition must be filed with the county voter registration office not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

(8) The county voter registration office shall determine whether each person who signed the petition is a registered voter. The county voter registration office shall not more than fifteen (15)

business days after receiving a petition forward a copy of the petition to the county auditor. Not more than ten (10) business days after receiving the copy of the petition, the county auditor shall provide to the county voter registration office a statement verifying:

(A) whether a person who signed the petition as a registered voter but is not a registered voter, as determined by the county voter registration office, is the owner of real property in the political subdivision; and

(B) whether a person who signed the petition as an owner of real property within the political subdivision does in fact own real property within the political subdivision.

(9) The county voter registration office shall not more than ten (10) business days after receiving the statement from the county auditor under subdivision (8) make the final determination of the number of petitioners that are registered voters in the political subdivision and, based on the statement provided by the county auditor, the number of petitioners that own real property within the political subdivision. Whenever the name of an individual who signs a petition form as a registered voter contains a minor variation from the name of the registered voter as set forth in the records of the county voter registration office, the signature is presumed to be valid, and there is a presumption that the individual is entitled to sign the petition under this section. Except as otherwise provided in this chapter, in determining whether an individual is a registered voter, the county voter registration office shall apply the requirements and procedures used under IC 3 to determine whether a person is a registered voter for purposes of voting in an election governed by IC 3. However, an individual is not required to comply with the provisions concerning providing proof of identification to be considered a registered voter for purposes of this chapter. A person is entitled to sign a petition only one (1) time in a particular petition and remonstrance process under this chapter, regardless of whether the person owns more than one (1) parcel of real property within the subdivision and regardless of whether the person is both a registered voter in the political subdivision and the owner of real property within the political subdivision. Notwithstanding any other provision of this section, if a petition is presented to the county voter registration office within ~~thirty-five (35)~~ **forty-five (45)** days before an

election, the county voter registration office may defer acting on the petition, and the time requirements under this section for action by the county voter registration office do not begin to run until five (5) days after the date of the election.

(10) The county voter registration office must file a certificate and each petition with:

(A) the township trustee, if the political subdivision is a township, who shall present the petition or petitions to the township board; or

(B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

within thirty-five (35) business days of the filing of the petition requesting a petition and remonstrance process. The certificate must state the number of petitioners that are owners of real property within the political subdivision and the number of petitioners who are registered voters residing within the political subdivision.

If a sufficient petition requesting a petition and remonstrance process is not filed by owners of real property or registered voters as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or lease to be entered into.

SECTION 144. IC 6-1.1-20-3.2, AS AMENDED BY P.L.146-2008, SECTION 192, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 3.2. (a) This section applies only to controlled projects described in section 3.1(a) of this chapter.

(b) If a sufficient petition requesting the application of a petition and remonstrance process has been filed as set forth in section 3.1 of this chapter, a political subdivision may not impose property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project without completing the following procedures:

(1) The proper officers of the political subdivision shall give notice of the applicability of the petition and remonstrance process by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in section 3.1(b)(1)(B) of this chapter.

A notice under this subdivision must include a statement that any

owners of real property within the political subdivision or registered voters residing within the political subdivision who want to petition in favor of or remonstrate against the proposed debt service or lease payments must file petitions and remonstrances in compliance with subdivisions (2) through (4) not earlier than thirty (30) days or later than sixty (60) days after publication in accordance with IC 5-3-1.

(2) Not earlier than thirty (30) days or later than sixty (60) days after the notice under subdivision (1) is given:

(A) petitions (described in subdivision (3)) in favor of the bonds or lease; and

(B) remonstrances (described in subdivision (3)) against the bonds or lease;

may be filed by an owner or owners of real property within the political subdivision or a registered voter residing within the political subdivision. Each signature on a petition must be dated, and the date of signature may not be before the date on which the petition and remonstrance forms may be issued under subdivision (3). A petition described in clause (A) or a remonstrance described in clause (B) must be verified in compliance with subdivision (4) before the petition or remonstrance is filed with the county voter registration office under subdivision (4).

(3) The state board of accounts shall design and, upon request by the county voter registration office, deliver to the county voter registration office or the county voter registration office's designated printer the petition and remonstrance forms to be used solely in the petition and remonstrance process described in this section. The county voter registration office shall issue to an owner or owners of real property within the political subdivision or a registered voter residing within the political subdivision the number of petition or remonstrance forms requested by the owner or owners or the registered voter. Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of real property or registered voters;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature;

(D) govern the closing date for the petition and remonstrance

period; and

(E) apply to the carrier under section 10 of this chapter.

Persons requesting forms may be required to identify themselves as owners of real property or registered voters and may be allowed to pick up additional copies to distribute to other property owners or registered voters. Each person signing a petition or remonstrance must indicate whether the person is signing the petition or remonstrance as a registered voter within the political subdivision or is signing the petition or remonstrance as the owner of real property within the political subdivision. A person who signs a petition or remonstrance as a registered voter must indicate the address at which the person is registered to vote. A person who signs a petition or remonstrance as a real property owner must indicate the address of the real property owned by the person in the political subdivision. The county voter registration office may not issue a petition or remonstrance form earlier than twenty-nine (29) days after the notice is given under subdivision (1). The county voter registration office shall certify the date of issuance on each petition or remonstrance form that is distributed under this subdivision.

(4) The petitions and remonstrances must be verified in the manner prescribed by the state board of accounts and filed with the county voter registration office within the sixty (60) day period described in subdivision (2) in the manner set forth in section 3.1 of this chapter relating to requests for a petition and remonstrance process.

(5) The county voter registration office shall determine whether each person who signed the petition or remonstrance is a registered voter. The county voter registration office shall not more than fifteen (15) business days after receiving a petition or remonstrance forward a copy of the petition or remonstrance to the county auditor. Not more than ten (10) business days after receiving the copy of the petition or remonstrance, the county auditor shall provide to the county voter registration office a statement verifying:

(A) whether a person who signed the petition or remonstrance as a registered voter but is not a registered voter, as determined by the county voter registration office, is the owner of real property in the political subdivision; and

(B) whether a person who signed the petition or remonstrance

as an owner of real property within the political subdivision does in fact own real property within the political subdivision.

(6) The county voter registration office shall not more than ten (10) business days after receiving the statement from the county auditor under subdivision (5) make the final determination of:

(A) the number of registered voters in the political subdivision that signed a petition and, based on the statement provided by the county auditor, the number of owners of real property within the political subdivision that signed a petition; and

(B) the number of registered voters in the political subdivision that signed a remonstrance and, based on the statement provided by the county auditor, the number of owners of real property within the political subdivision that signed a remonstrance.

Whenever the name of an individual who signs a petition or remonstrance as a registered voter contains a minor variation from the name of the registered voter as set forth in the records of the county voter registration office, the signature is presumed to be valid, and there is a presumption that the individual is entitled to sign the petition or remonstrance under this section. Except as otherwise provided in this chapter, in determining whether an individual is a registered voter, the county voter registration office shall apply the requirements and procedures used under IC 3 to determine whether a person is a registered voter for purposes of voting in an election governed by IC 3. However, an individual is not required to comply with the provisions concerning providing proof of identification to be considered a registered voter for purposes of this chapter. A person is entitled to sign a petition or remonstrance only one (1) time in a particular petition and remonstrance process under this chapter, regardless of whether the person owns more than one (1) parcel of real property within the subdivision and regardless of whether the person is both a registered voter in the political subdivision and the owner of real property within the political subdivision. Notwithstanding any other provision of this section, if a petition or remonstrance is presented to the county voter registration office within ~~thirty-five (35)~~ **forty-five (45)** days before an election, the county voter registration office may defer acting on the petition or remonstrance, and the time requirements under this section for action by the county voter registration office do not begin to run

until five (5) days after the date of the election.

(7) The county voter registration office must file a certificate and the petition or remonstrance with the body of the political subdivision charged with issuing bonds or entering into leases within thirty-five (35) business days of the filing of a petition or remonstrance under subdivision (4), whichever applies, containing ten thousand (10,000) signatures or less. The county voter registration office may take an additional five (5) days to review and certify the petition or remonstrance for each additional five thousand (5,000) signatures up to a maximum of sixty (60) days. The certificate must state the number of petitioners and remonstrators that are owners of real property within the political subdivision and the number of petitioners who are registered voters residing within the political subdivision.

(8) If a greater number of persons who are either owners of real property within the political subdivision or registered voters residing within the political subdivision sign a remonstrance than the number that signed a petition, the bonds petitioned for may not be issued or the lease petitioned for may not be entered into. The proper officers of the political subdivision may not make a preliminary determination to issue bonds or enter into a lease for the controlled project defeated by the petition and remonstrance process under this section or any other controlled project that is not substantially different within one (1) year after the date of the county voter registration office's certificate under subdivision (7). Withdrawal of a petition carries the same consequences as a defeat of the petition.

(9) After a political subdivision has gone through the petition and remonstrance process set forth in this section, the political subdivision is not required to follow any other remonstrance or objection procedures under any other law (including section 5 of this chapter) relating to bonds or leases designed to protect owners of real property within the political subdivision from the imposition of property taxes to pay debt service or lease rentals. However, the political subdivision must still receive the approval of the department of local government finance if required by:

(A) IC 6-1.1-18.5-8; or

(B) IC 20-46-7-8, IC 20-46-7-9, and IC 20-46-7-10.

SECTION 145. IC 6-1.1-20-3.5, AS ADDED BY P.L.146-2008, SECTION 193, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 3.5. (a) This section applies only to a controlled project that meets the following conditions:

(1) The controlled project is described in one (1) of the following categories:

(A) An elementary school building, middle school building, or other school building for academic instruction that:

(i) will be used for any combination of kindergarten through grade 8;

(ii) will not be used for any combination of grade 9 through grade 12; and

(iii) will cost more than ten million dollars ($10,000,000).

(B) A high school building or other school building for academic instruction that:

(i) will be used for any combination of grade 9 through grade 12;

(ii) will not be used for any combination of kindergarten through grade 8; and

(iii) will cost more than twenty million dollars ($20,000,000).

(C) Any other controlled project that:

(i) is not a controlled project described in clause (A) or (B); and

(ii) will cost the political subdivision more than the lesser of twelve million dollars ($12,000,000) or an amount equal to one percent (1%) of the total gross assessed value of property within the political subdivision on the last assessment date (if that amount is at least one million dollars ($1,000,000)).

(2) The proper officers of the political subdivision make a preliminary determination after June 30, 2008, in the manner described in subsection (b) to issue bonds or enter into a lease for the controlled project.

(b) A political subdivision may not impose property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project without completing the following procedures:

(1) The proper officers of a political subdivision shall publish notice in accordance with IC 5-3-1 and send notice by first class mail to any organization that delivers to the officers, before January 1 of that year, an annual written request for notices of any meeting to consider the adoption of an ordinance or a resolution

making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on the preliminary determination before adoption of the ordinance or resolution. The political subdivision must make the following information available to the public at the public hearing on the preliminary determination, in addition to any other information required by law:

(A) The result of the political subdivision's current and projected annual debt service payments divided by the net assessed value of taxable property within the political subdivision.

(B) The result of:

(i) the sum of the political subdivision's outstanding long term debt plus the outstanding long term debt of other taxing units that include any of the territory of the political subdivision; divided by

(ii) the net assessed value of taxable property within the political subdivision.

(C) The information specified in subdivision (3)(A) through (3)(G).

(2) If the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease, the officers shall give notice of the preliminary determination by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in subdivision (1).

(3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease must include the following information:

(A) The maximum term of the bonds or lease.

(B) The maximum principal amount of the bonds or the maximum lease rental for the lease.

(C) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.

(D) The purpose of the bonds or lease.

(E) A statement that the proposed debt service or lease payments must be approved in an election on a local public question held under section 3.6 of this chapter.

(F) With respect to bonds issued or a lease entered into to open:

(i) a new school facility; or

(ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;

the estimated costs the school corporation expects to annually incur to operate the facility.

(G) The political subdivision's current debt service levy and rate and the estimated increase to the political subdivision's debt service levy and rate that will result if the political subdivision issues the bonds or enters into the lease.

(H) The information specified in subdivision (1)(A) through (1)(B).

(4) After notice is given, a petition requesting the application of the local public question process under section 3.6 of this chapter may be filed by the lesser of:

(A) one hundred (100) persons who are either owners of real property within the political subdivision or registered voters residing within the political subdivision; or

(B) five percent (5%) of the registered voters residing within the political subdivision.

(5) The state board of accounts shall design and, upon request by the county voter registration office, deliver to the county voter registration office or the county voter registration office's designated printer the petition forms to be used solely in the petition process described in this section. The county voter registration office shall issue to an owner or owners of real property within the political subdivision or a registered voter residing within the political subdivision the number of petition forms requested by the owner or owners or the registered voter. Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of real property or registered voters;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and

(D) govern the closing date for the petition period.

Persons requesting forms may be required to identify themselves as owners of real property or registered voters and may be

allowed to pick up additional copies to distribute to other property owners or registered voters. Each person signing a petition must indicate whether the person is signing the petition as a registered voter within the political subdivision or is signing the petition as the owner of real property within the political subdivision. A person who signs a petition as a registered voter must indicate the address at which the person is registered to vote. A person who signs a petition as a real property owner must indicate the address of the real property owned by the person in the political subdivision.

(6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county voter registration office under subdivision (7).

(7) Each petition must be filed with the county voter registration office not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

(8) The county voter registration office shall determine whether each person who signed the petition is a registered voter. However, after the county voter registration office has determined that at least one hundred twenty-five (125) persons who signed the petition are registered voters within the political subdivision, the county voter registration office is not required to verify whether the remaining persons who signed the petition are registered voters. If the county voter registration office does not determine that at least one hundred twenty-five (125) persons who signed the petition are registered voters, the county voter registration office, not more than fifteen (15) business days after receiving a petition, shall forward a copy of the petition to the county auditor. Not more than ten (10) business days after receiving the copy of the petition, the county auditor shall provide to the county voter registration office a statement verifying:

(A) whether a person who signed the petition as a registered voter but is not a registered voter, as determined by the county voter registration office, is the owner of real property in the political subdivision; and

(B) whether a person who signed the petition as an owner of real property within the political subdivision does in fact own real property within the political subdivision.

(9) The county voter registration office, not more than ten (10)

business days after determining that at least one hundred twenty-five (125) persons who signed the petition are registered voters or after receiving the statement from the county auditor under subdivision (8) (as applicable), shall make the final determination of whether a sufficient number of persons have signed the petition. Whenever the name of an individual who signs a petition form as a registered voter contains a minor variation from the name of the registered voter as set forth in the records of the county voter registration office, the signature is presumed to be valid, and there is a presumption that the individual is entitled to sign the petition under this section. Except as otherwise provided in this chapter, in determining whether an individual is a registered voter, the county voter registration office shall apply the requirements and procedures used under IC 3 to determine whether a person is a registered voter for purposes of voting in an election governed by IC 3. However, an individual is not required to comply with the provisions concerning providing proof of identification to be considered a registered voter for purposes of this chapter. A person is entitled to sign a petition only one (1) time in a particular referendum process under this chapter, regardless of whether the person owns more than one (1) parcel of real property within the political subdivision and regardless of whether the person is both a registered voter in the political subdivision and the owner of real property within the political subdivision. Notwithstanding any other provision of this section, if a petition is presented to the county voter registration office within ~~thirty-five (35)~~ **forty-five (45)** days before an election, the county voter registration office may defer acting on the petition, and the time requirements under this section for action by the county voter registration office do not begin to run until five (5) days after the date of the election.

(10) The county voter registration office must file a certificate and each petition with:

(A) the township trustee, if the political subdivision is a township, who shall present the petition or petitions to the township board; or

(B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

within thirty-five (35) business days of the filing of the petition

requesting the referendum process. The certificate must state the number of petitioners who are owners of real property within the political subdivision and the number of petitioners who are registered voters residing within the political subdivision.

(11) If a sufficient petition requesting the local public question process is not filed by owners of real property or registered voters as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or lease to be entered into.

(c) If the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease, the officers shall provide to the county auditor:

(1) a copy of the notice required by subsection (b)(2); and

(2) any other information the county auditor requires to fulfill the county auditor's duties under section 3.6 of this chapter.

SECTION 146. IC 6-1.1-20-3.6, AS ADDED BY P.L.146-2008, SECTION 194, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 3.6. (a) **Except as provided in section 3.7 of this chapter,** this section applies only to a controlled project described in section 3.5(a) of this chapter.

(b) If a sufficient petition requesting the application of the local public question process has been filed as set forth in section 3.5 of this chapter, a political subdivision may not impose property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project unless the political subdivision's proposed debt service or lease rental is approved in an election on a local public question held under this section.

(c) **Except as provided in subsection (j),** the following question shall be submitted to the **eligible** voters at the election conducted under this section:

"Shall _____ (insert the name of the political subdivision) issue bonds or enter into a lease to finance _____ (insert ~~the~~ **a brief** description of the controlled project), **which is estimated to cost not more than _____ (insert the total cost of the project) and is estimated to increase the property tax rate for debt service by _____ (insert increase in tax rate as determined by the department of local government finance)?".**

The public question must appear on the ballot in the form approved by the county election board. If the political subdivision

proposing to issue bonds or enter into a lease is located in more than one (1) county, the county election board of each county shall jointly approve the form of the public question that will appear on the ballot in each county. The form approved by the county election board may differ from the language certified to the county election board by the county auditor.

(d) The county auditor shall certify the public question described in subsection (c) under IC 3-10-9-3 to the county election board of each county in which the political subdivision is located. ~~After the public question is certified,~~ **The certification must occur not later than noon:**

(1) sixty (60) days before a primary election if the public question is to be placed on the primary or municipal primary election ballot; or

(2) August 1 if the public question is to be placed on the general or municipal election ballot.

Subject to the certification requirements and deadlines under this subsection and except as provided in subsection (j), the public question shall be placed on the ballot at the next primary election, general election, or municipal election in which all voters of the political subdivision are entitled to vote. However, if a primary election, general election, or municipal election will not be held ~~in the six (6) month period after the county auditor certifies~~ **during the first year in which** the public question **is eligible to be placed on the ballot under this section and if the political subdivision requests the public question to be placed on the ballot at a special election,** the public question shall be placed on the ballot at a special election to be held

~~(1) not earlier than ninety (90) days; and~~

~~(2) not later than one hundred twenty (120) days;~~

~~after the public question is certified if the fiscal body of the political subdivision that wishes to issue the bonds or enter into the lease requests the public question to be voted on in a special election. However, in a year in which a general election or municipal election is held, the public question may be placed on the ballot at a special election only if the fiscal body of the political subdivision that requests the special election agrees to~~ **on the first Tuesday after the first Monday in May or November of the year. The certification must occur not later than noon sixty (60) days before a special election to be held in May (if the special election is to be held in May) or noon on August 1 (if the special election is to be held in November).**

However, in 2009, a political subdivision may hold a special election under this section on any date scheduled for the special election if notice of the special election was given before July 1, 2009, to the election division of the secretary of state's office as provided in IC 3-10-8-4. The fiscal body of the political subdivision that requests the special election shall pay the costs of holding the special election. ~~In a year in which a general election is not held and a municipal election is not held, the fiscal body of the political subdivision that requests the special election is not required to pay the costs of holding the special election.~~ The county election board shall give notice under IC 5-3-1 of a special election conducted under this subsection. A special election conducted under this subsection is under the direction of the county election board. The county election board shall take all steps necessary to carry out the special election.

(e) The circuit court clerk shall certify the results of the public question to the following:

(1) The county auditor of each county in which the political subdivision is located.

(2) The department of local government finance.

(f) Subject to the requirements of IC 6-1.1-18.5-8, the political subdivision may issue the proposed bonds or enter into the proposed lease rental if a majority of the **eligible** voters voting on the public question vote in favor of the public question.

(g) If a majority of the **eligible** voters voting on the public question vote in opposition to the public question, both of the following apply:

(1) The political subdivision may not issue the proposed bonds or enter into the proposed lease rental.

(2) Another public question under this section on the same or a substantially similar project may not be submitted to the voters earlier than one (1) year after the date of the election.

(h) IC 3, to the extent not inconsistent with this section, applies to an election held under this section.

(i) A political subdivision may not artificially divide a capital project into multiple capital projects in order to avoid the requirements of this section and section 3.5 of this chapter.

(j) This subsection applies to a political subdivision for which a petition requesting a public question has been submitted under section 3.5 of this chapter. The legislative body (as defined in IC 36-1-2-9) of the political subdivision may adopt a resolution to withdraw a controlled project from consideration in a public

question. If the legislative body provides a certified copy of the resolution to the county auditor and the county election board not later than forty-nine (49) days before the election at which the public question would be on the ballot, the public question on the controlled project shall not be placed on the ballot and the public question on the controlled project shall not be held, regardless of whether the county auditor has certified the public question to the county election board. If the withdrawal of a public question under this subsection requires the county election board to reprint ballots, the political subdivision withdrawing the public question shall pay the costs of reprinting the ballots. If a political subdivision withdraws a public question under this subsection that would have been held at a special election and the county election board has printed the ballots before the legislative body of the political subdivision provides a certified copy of the withdrawal resolution to the county auditor and the county election board, the political subdivision withdrawing the public question shall pay the costs incurred by the county in printing the ballots. If a public question on a controlled project is withdrawn under this subsection, a public question under this section on the same controlled project or a substantially similar controlled project may not be submitted to the voters earlier than one (1) year after the date the resolution withdrawing the public question is adopted.

(k) If a public question regarding a controlled project is placed on the ballot to be voted on at a public question under this section, the political subdivision shall submit to the department of local government finance, at least thirty (30) days before the election, the following information regarding the proposed controlled project for posting on the department's Internet web site:

(1) The cost per square foot of any buildings being constructed as part of the controlled project.

(2) The effect that approval of the controlled project would have on the political subdivision's property tax rate.

(3) The maximum term of the bonds or lease.

(4) The maximum principal amount of the bonds or the maximum lease rental for the lease.

(5) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.

(6) The purpose of the bonds or lease.

(7) In the case of a controlled project proposed by a school corporation:

(A) the current and proposed square footage of school building space per student;

(B) enrollment patterns within the school corporation; and

(C) the age and condition of the current school facilities.

SECTION 147. IC 6-1.1-20-3.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.7. (a) This section applies to the following:**

(1) The issuance of bonds or the entering into a lease for a controlled project:

(A) to which section 3.5 of this chapter applies; and

(B) for which a sufficient petition requesting the application of the local public question process under section 3.6 of this chapter has not been filed as set forth in section 3.5 of this chapter within the time required under section 3.5(b)(7) of this chapter.

(2) The issuance of bonds or the entering into a lease for a capital project:

(A) that is not a controlled project to which section 3.5 of this chapter applies; and

(B) that would, but for the application of section 1.1(6) of this chapter to the project, be a controlled project to which section 3.5 of this chapter applies.

(b) If the proper officers of a political subdivision make a preliminary determination to issue bonds described in subsection (a) or enter into a lease described in subsection (a), the fiscal body of the political subdivision may adopt a resolution specifying that the local public question process specified in section 3.6 of this chapter applies to the issuance of the bonds or the entering into the lease, notwithstanding that:

(1) a sufficient petition requesting the application of the local public question process under section 3.6 of this chapter has not been filed as set forth in section 3.5 of this chapter (in the case of bonds or a lease described in subsection (a)(1)); or

(2) because of the application of section 1.1(6) of this chapter, the bonds or lease is not considered to be issued or entered into for a controlled project (in the case of bonds or a lease described in subsection (a)(2)).

(c) The following apply to the adoption of a resolution by the fiscal body of a political subdivision under subsection (b):

(1) In the case of bonds or a lease described in subsection

(a)(1) and for which no petition requesting the application of the local public question process under section 3.6 of this chapter has been filed within the time required under section 3.5(b)(7) of this chapter, the fiscal body must adopt the resolution not more than sixty (60) days after publication of the notice of the preliminary determination to issue the bonds or enter into the lease.

(2) In the case of bonds or a lease described in subsection (a)(1) for which a petition requesting the application of the local public question process under section 3.6 of this chapter:

(A) has been filed under section 3.5 of this chapter; and

(B) is determined to have an insufficient number of signatures to require application of the local public question process under section 3.6 of this chapter;

the fiscal body must adopt the resolution not more than thirty (30) days after the county voter registration office makes the final determination under section 3.5 of this chapter that a sufficient number of persons have not signed the petition.

(3) In the case of bonds or a lease described in subsection (a)(2), the fiscal body must adopt the resolution not more than thirty (30) days after publication of the notice of the preliminary determination to issue the bonds or enter into the lease.

(4) The fiscal body shall certify the resolution to the county election board of each county in which the political subdivision is located, and the county election board shall place the public question on the ballot as provided in section 3.6 of this chapter.

(d) Except to the extent it is inconsistent with this section, section 3.6 of this chapter applies to a local public question placed on the ballot under this section.

SECTION 148. IC 6-1.1-20-10, AS AMENDED BY P.L.146-2008, SECTION 199, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) This section applies to a political subdivision that adopts an ordinance or a resolution making a preliminary determination to issue bonds or enter into a lease. During the period commencing with the adoption of the ordinance or resolution and, if a petition and remonstrance process is commenced under section 3.2 of this chapter, continuing through the sixty (60) day period commencing with the notice under section 3.2(b)(1) of this chapter, the political subdivision seeking to issue bonds or enter into

a lease for the proposed controlled project may not promote a position on the petition or remonstrance by doing any of the following:

(1) Allowing facilities or equipment, including mail and messaging systems, owned by the political subdivision to be used for public relations purposes to promote a position on the petition or remonstrance, unless equal access to the facilities or equipment is given to persons with a position opposite to that of the political subdivision.

(2) Making an expenditure of money from a fund controlled by the political subdivision to promote a position on the petition or remonstrance or to pay for the gathering of signatures on a petition or remonstrance. This subdivision does not prohibit a political subdivision from making an expenditure of money to an attorney, an architect, registered professional engineer, a construction manager, or a financial adviser for professional services provided with respect to a controlled project.

(3) Using an employee to promote a position on the petition or remonstrance during the employee's normal working hours or paid overtime, or otherwise compelling an employee to promote a position on the petition or remonstrance at any time.

(4) In the case of a school corporation, promoting a position on a petition or remonstrance by:

(A) using students to transport written materials to their residences or in any way directly involving students in a school organized promotion of a position; or

(B) including a statement within another communication sent to the students' residences.

However, this section does not prohibit an employee of the political subdivision from carrying out duties with respect to a petition or remonstrance that are part of the normal and regular conduct of the employee's office or agency.

(b) A person may not solicit or collect signatures for a petition or remonstrance on property owned or controlled by the political subdivision.

(c) The staff and employees of a school corporation may not personally identify a student as the child of a parent or guardian who supports or opposes a petition or remonstrance.

(d) A person or an organization that has a contract or arrangement (whether formal or informal) with a school corporation for the use of any of the school corporation's facilities may not spend any money to

promote a position on the petition or remonstrance. A person or an organization that violates this subsection commits a Class A infraction.

(e) An attorney, an architect, registered professional engineer, a construction manager, or a financial adviser for professional services provided with respect to a controlled project may not spend any money to promote a position on the petition or remonstrance. A person who violates this subsection:

(1) commits a Class A infraction; and

(2) is barred from performing any services with respect to the controlled project.

(f) An elected or appointed public official of the political subdivision may personally advocate for or against a position on the petition or remonstrance so long as it is not done by using public funds.

SECTION 149. IC 6-1.1-20-10.1, AS ADDED BY P.L.146-2008, SECTION 200, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10.1. (a) This section applies only to a political subdivision that, after June 30, 2008, adopts an ordinance or a resolution making a preliminary determination to issue bonds or enter into a lease subject to sections 3.5 and 3.6 of this chapter.

(b) During the period beginning with the adoption of the ordinance or resolution and continuing through the day on which a local public question is submitted to the voters of the political subdivision under section 3.6 of this chapter, the political subdivision seeking to issue bonds or enter into a lease for the proposed controlled project may not promote a position on the local public question by doing any of the following:

(1) Allowing facilities or equipment, including mail and messaging systems, owned by the political subdivision to be used for public relations purposes to promote a position on the local public question, unless equal access to the facilities or equipment is given to persons with a position opposite to that of the political subdivision.

(2) Making an expenditure of money from a fund controlled by the political subdivision to promote a position on the local public question. This subdivision does not prohibit a political subdivision from making an expenditure of money to an attorney, an architect, a registered professional engineer, a construction manager, or a financial adviser for professional services provided with respect to a controlled project.

(3) Using an employee to promote a position on the local public question during the employee's normal working hours or paid overtime, or otherwise compelling an employee to promote a position on the local public question at any time.

(4) In the case of a school corporation, promoting a position on a local public question by:

(A) using students to transport written materials to their residences or in any way directly involving students in a school organized promotion of a position; or

(B) including a statement within another communication sent to the students' residences.

However, this section does not prohibit an employee of the political subdivision from carrying out duties with respect to a local public question that are part of the normal and regular conduct of the employee's office or agency.

(c) The staff and employees of a school corporation may not personally identify a student as the child of a parent or guardian who supports or opposes a controlled project subject to a local public question held under section 3.6 of this chapter.

(d) A person or an organization that has a contract or arrangement (whether formal or informal) with a school corporation for the use of any of the school corporation's facilities may not spend any money to promote a position on a local public question. A person or an organization that violates this subsection commits a Class A infraction.

(e) An attorney, an architect, a registered professional engineer, a construction manager, or a financial adviser for professional services provided with respect to a controlled project may not spend any money to promote a position on a local public question. A person who violates this subsection:

(1) commits a Class A infraction; and

(2) is barred from performing any services with respect to the controlled project.

(f) An elected or appointed public official of the political subdivision may personally advocate for or against a position on the local public question so long as it is not done by using public funds.

(g) A student may use school equipment or facilities to report or editorialize about a local public question as part of the news coverage of the referendum by student newspaper or broadcast.

SECTION 150. IC 6-1.1-20.2 IS ADDED TO THE INDIANA

CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 20.2. Rainy Day Fund Loans to the Certain Counties

Sec. 1. As used in this chapter, "board" refers to the state board of finance.

Sec. 2. As used in this chapter, "eligible county" refers to a county in which voting equipment has been damaged or destroyed in a natural disaster.

Sec. 3. An eligible county, with the approval of the fiscal body of the eligible county, may apply to the board for a loan from the counter-cyclical revenue and economic stabilization fund.

Sec. 4. Subject to this chapter, the board, after review by the budget committee, shall determine the terms of any loan made under this chapter.

Sec. 5. Interest may be imposed on the loan at a rate determined by the board.

Sec. 6. An eligible county receiving a loan under this chapter must repay the loan within seventy-two (72) months after the date on which the loan is made. No penalty may be imposed for repaying a loan before the term of the loan.

Sec. 7. The board may disburse in installments the proceeds of a loan made under this chapter.

Sec. 8. An eligible county may repay a loan made under this chapter from any sources of revenue.

Sec. 9. The obligation to repay a loan made under this chapter is not a basis for the eligible county to obtain an excessive tax levy.

Sec. 10. Whenever the board receives a payment on a loan made under this chapter, the board shall deposit the amount paid in the counter-cyclical revenue and economic stabilization fund.

Sec. 11. The proceeds of a loan received by an eligible county under this chapter are not considered to be part of the ad valorem property tax levy actually collected by the eligible county for taxes first due and payable during a particular calendar year for the purpose of calculating levy excess.

Sec. 12. The notes and the authorization, issuance, sale, and delivery of the notes are not subject to any general statute concerning obligations issued by the local governmental entity borrower. This chapter contains full and complete authority for the making of the loan, the authorization, issuance, sale, and delivery of the notes, and the repayment of the loan by the borrower, and no law, procedure, proceedings, publications,

notices, consents, approvals, orders, or acts by any officer, department, agency, or instrument of the state or of any political subdivision is required to make the loan, issue the notes, or repay the loan except as prescribed in this chapter.

Sec. 13. Upon the failure of an eligible county to make any of the eligible county's payments on a loan granted under this chapter when due, the treasurer of state, upon being notified of the failure by the board, may pay the unpaid amount that is due from the funds held by the state that would be otherwise distributable to the eligible county.

SECTION 151. IC 6-1.1-20.6-2, AS AMENDED BY P.L.146-2008, SECTION 215, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 2. (a) As used in this chapter, "homestead" ~~has the meaning set forth in~~ **refers to a homestead that is eligible for a standard deduction under** IC 6-1.1-12-37.

(b) The term includes a house or apartment that is owned or leased by a cooperative housing corporation (as defined in 26 U.S.C. 216(b)).

SECTION 152. IC 6-1.1-20.6-8.5, AS ADDED BY P.L.146-2008, SECTION 225, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 8.5. (a) ~~This section applies to property taxes first due and payable for a calendar year after December 31, 2008.~~ This section applies to an individual who:

(1) qualified for a standard deduction granted under IC 6-1.1-12-37 for the individual's homestead property in the immediately preceding calendar year (or was married at the time of death to a deceased spouse who qualified for a standard deduction granted under IC 6-1.1-12-37 for the individual's homestead property in the immediately preceding calendar year); ~~and~~

(2) qualifies for a standard deduction granted under IC 6-1.1-12-37 for the same homestead property in the current calendar year;

(3) is or will be at least sixty-five (65) years of age on or before December 31 of the calendar year immediately preceding the current calendar year; and

(4) had:

(A) in the case of an individual who filed a single return, adjusted gross income (as defined in Section 62 of the Internal Revenue Code) not exceeding thirty thousand

dollars ($30,000); or

(B) in the case of an individual who filed a joint income tax return with the individual's spouse, combined adjusted gross income (as defined in Section 62 of the Internal Revenue Code) not exceeding forty thousand dollars ($40,000);

for the calendar year preceding by two (2) years the calendar year in which property taxes are first due and payable.

(b) This section does not apply if the gross assessed value of the homestead on the assessment date for which property taxes are imposed is at least one hundred sixty thousand dollars ($160,000).

~~(b)~~ **(c)** An individual is entitled to an additional credit under this section for property taxes first due and payable for a calendar year on a homestead if:

(1) the **individual and the** homestead ~~qualifies as qualified homestead property~~ **qualify for the credit under subsection (a) for the calendar year;**

(2) the homestead is not disqualified for the credit under subsection (b) for the calendar year; and

(3) the filing requirements under subsection (e) are met.

~~(c)~~ **(d)** The amount of the credit is equal to the greater of zero (0) or the result of:

(1) the property tax liability first due and payable on the ~~qualified~~ homestead property for the calendar year; minus

(2) the result of:

(A) the property tax liability first due and payable on the qualified homestead property for the immediately preceding year; multiplied by

(B) one and two hundredths (1.02).

However, property tax liability imposed on any improvements to or expansion of the homestead property after the assessment date for which property tax liability described in subdivision (2) was imposed shall not be considered in determining the credit granted under this section in the current calendar year.

~~(d) The following adjusted gross income limits apply to an individual who claims a credit under this section:~~

~~(1) In the case of an individual who files a single return, the adjusted gross income (as defined in Section 62 of the Internal Revenue Code) of the individual claiming the exemption may not exceed thirty thousand dollars ($30,000).~~

~~(2) In the case of an individual who files a joint income tax return with the individual's spouse, the combined adjusted gross income (as defined in Section 62 of the Internal Revenue Code) of the individual and the individual's spouse may not exceed forty thousand dollars ($40,000).~~

(e) Applications for a credit under this section shall be filed in the manner provided for an application for a deduction under IC 6-1.1-12-9. However, an individual who remains eligible for the credit in the following year is not required to file a statement to apply for the credit in the following year. An individual who receives a credit under this section in a particular year and who becomes ineligible for the credit in the following year shall notify the auditor of the county in which the homestead is located of the individual's ineligibility ~~before June 11 of the year in which~~ **not later than sixty (60) days after** the individual becomes ineligible.

(f) The auditor of each county shall, in a particular year, apply a credit provided under this section to each individual who received the credit in the preceding year unless the auditor determines that the individual is no longer eligible for the credit.

SECTION 153. IC 6-1.1-21.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 21.1. Rainy Day Fund Loans to the City of LaPorte

Sec. 1. As used in this chapter, "board" refers to the state board of finance.

Sec. 2. The general assembly finds that:

(1) distributions of property tax revenue for 2008 and 2009 to the city of LaPorte either:

(A) have not been made; or

(B) have been delayed by more than sixty (60) days after either due date specified in IC 6-1.1-22-9;

as a result of a state ordered reassessment of property in the county; and

(2) the city is having severe difficulty carrying out the governmental functions committed to it by law as a result of the delay in the distribution of tax revenue to the city.

Sec. 3. The city of LaPorte, with the approval of the fiscal body of the city, may apply to the board for a loan from the counter-cyclical revenue and economic stabilization fund.

Sec. 4. Subject to this chapter, the board, after review by the budget committee, shall determine the terms of any loan made

under this chapter.

Sec. 5. Interest may be imposed on the loan at a rate determined by the board.

Sec. 6. The total amount of all loans under this chapter for all calendar years may not exceed the amount of revenue that the board determines has not been collected by the city of LaPorte from property taxes in 2008 and 2009 on the date of the loan.

Sec. 7. If the city of LaPorte receives a loan under this chapter, the city must repay the loan within seventy-two (72) months after the date on which the loan is made. No penalty may be imposed for repaying a loan before the term of the loan.

Sec. 8. The board may disburse in installments the proceeds of a loan made under this chapter.

Sec. 9. The city of LaPorte may repay a loan made under this chapter from any sources of revenue.

Sec. 10. The obligation to repay a loan made under this chapter is not a basis for the city of LaPorte to obtain an excessive tax levy.

Sec. 11. Whenever the board receives a payment on a loan made under this chapter, the board shall deposit the amount paid in the counter-cyclical revenue and economic stabilization fund.

Sec. 12. The proceeds of a loan received by an eligible taxing unit under this chapter are not considered to be part of the ad valorem property tax levy actually collected by the city of LaPorte for taxes first due and payable during a particular calendar year for the purpose of calculating levy excess.

Sec. 13. The notes and the authorization, issuance, sale, and delivery of the notes are not subject to any general statute concerning obligations issued by the local governmental entity borrower. This chapter contains full and complete authority for the making of the loan, the authorization, issuance, sale, and delivery of the notes, and the repayment of the loan by the borrower, and no law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by any officer, department, agency, or instrument of the state or of any political subdivision is required to make the loan, issue the notes, or repay the loan except as prescribed in this chapter.

Sec. 14. Upon the failure of the city of LaPorte to make any of the city's payments on a loan granted under this chapter when due, the treasurer of state, upon being notified of the failure by the board, may pay the unpaid amount that is due from the funds held by the state that would be otherwise distributable to the city.

SECTION 154. IC 6-1.1-21.2-12, AS AMENDED BY P.L.146-2008, SECTION 239, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) This section applies if the tax increment replacement amount for an allocation area in a district is greater than zero (0).

(b) A governing body may, after a public hearing, do the following:

(1) Impose a special assessment on the owners of property that is located in an allocation area to raise an amount not to exceed the tax increment replacement amount.

(2) Impose a tax on all taxable property in the district in which the governing body exercises jurisdiction to raise an amount not to exceed the tax increment replacement amount.

(3) Reduce the base assessed value of property in the allocation area to an amount that is sufficient to increase the tax increment revenues in the allocation area by an amount that does not exceed the tax increment replacement amount.

(c) The governing body shall submit a proposed special assessment or tax levy under this section to the legislative body of the unit that established the district. The legislative body may:

(1) reduce the amount of the special assessment or tax to be levied under this section;

(2) determine that no special assessment or property tax should be levied under this section; or

(3) increase the special assessment or tax to the amount necessary to fully fund the tax increment replacement amount.

(d) Before a public hearing under subsection (b) may be held, the governing body must publish notice of the hearing under IC 5-3-1. The notice must also be sent to the fiscal officer of each political subdivision that is located in any part of the district. The notice must state that the governing body will meet to consider whether a special assessment or tax should be imposed under this chapter and whether the special assessment or tax will help the governing body realize the redevelopment or economic development objectives for the allocation area or honor its obligations related to the allocation area. The notice must also specify a date when the governing body will receive and hear remonstrances and objections from persons affected by the special assessment. All persons affected by the hearing, including all taxpayers within the allocation area, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, and orders of the governing body by the notice. At the hearing, which may be adjourned

from time to time, the governing body shall hear all persons affected by the proceedings and shall consider all written remonstrances and objections that have been filed. The only grounds for remonstrance or objection are that the special assessment or tax will not help the governing body realize the redevelopment or economic development objectives for the allocation area or honor its obligations related to the allocation area. After considering the evidence presented, the governing body shall take final action concerning the proposed special assessment or tax. The final action taken by the governing body shall be recorded and is final and conclusive, except that an appeal may be taken in the manner prescribed by subsection (e).

(e) A person who filed a written remonstrance with a governing body under subsection (d) and is aggrieved by the final action taken may, within ten (10) days after that final action, file in the office of the clerk of the circuit or superior court a copy of the order of the governing body and the person's remonstrance or objection against that final action, together with a bond conditioned to pay the costs of appeal if the appeal is determined against the person. The only ground of remonstrance or objection that the court may hear is whether the proposed special assessment or tax will help achieve the redevelopment of economic development objectives for the allocation area or honor its obligations related to the allocation area. An appeal under this subsection shall be promptly heard by the court without a jury. All remonstrances or objections upon which an appeal has been taken must be consolidated, heard, and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the remonstrances or objections and may confirm the final action of the governing body or sustain the remonstrances or objections. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions.

(f) This section applies to a governing body that:

(1) is the metropolitan development commission for a county having a consolidated city; and

(2) has established an allocation area and pledged tax increment revenues from the area to the payment of bonds, leases, or other obligations before May 8, 1989.

Notwithstanding subsections (a) through (e), the governing body may determine to fund that part of the tax increment replacement amount attributable to the repeal of IC 36-7-15.1-26.5, IC 36-7-15.1-26.7, and IC 36-7-15.1-26.9 from property taxes on personal property (as defined in IC 6-1.1-1-11). If the governing

body makes such a determination, the property taxes on personal property in the amount determined under this subsection shall be allocated to the redevelopment district, paid into the special fund for the allocation area, and used for the purposes specified in IC 36-7-15.1-26.

SECTION 155. IC 6-1.1-21.2-15, AS AMENDED BY P.L.146-2008, SECTION 240, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 15. (a) As the special assessment or tax imposed under this chapter is collected by the county treasurer, it shall be transferred to the governing body and accumulated and kept in the special fund for the allocation area.

(b) A special assessment or tax levied under this chapter is not subject to IC 6-1.1-20.

(c) A special assessment or tax levied under this chapter and the use of revenues from a special assessment or tax levied under this chapter by a governing body do not create a constitutional or statutory debt, pledge, or obligation of the governing body, the district, or any county, city, town, or township.

(d) The ad valorem property tax levy limits imposed by IC 6-1.1-18.5-3 or another provision of IC 6-1.1-18.5 do not apply to a special assessment or tax imposed under this chapter. For purposes of computing the ad valorem property tax levy limit imposed on a civil taxing unit under IC 6-1.1-18.5-3 or another provision of IC 6-1.1-18.5, the civil taxing unit's ad valorem property tax levy for a particular calendar year does not include a special assessment or tax imposed under this chapter.

SECTION 156. IC 6-1.1-21.3 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 21.3. Rainy Day Fund Loans for Taxing Units Affected by Transmission Manufacturer Bankruptcy

Sec. 1. (a) As used in this chapter, "board" refers to the state board of finance.

(b) As used in this chapter, "qualified taxing unit" means a taxing unit:

(1) in which a qualifying taxpayer has tangible property subject to taxation; and

(2) that has experienced or is expected to experience a significant revenue shortfall as a result of a default or an expected default described in subsection (c)(3).

(c) As used in this chapter, "qualifying taxpayer" means a taxpayer that:

(1) casts and manufactures motor vehicle transmissions as part of its business;

(2) has filed a petition to reorganize under the federal bankruptcy code; and

(3) has defaulted, or has notified the county fiscal body of the county in which the taxpayer is subject to property taxes that the taxpayer will default, on all or part of one (1) or more of its property tax payments with respect to taxes first due and payable in 2009 or 2010, or both.

Sec. 2. A qualified taxing unit may apply to the board for one (1) or more loans from the counter-cyclical revenue and economic stabilization fund.

Sec. 3. (a) The board, after review by the budget committee, shall determine the terms of a loan made under this chapter, subject to the following:

(1) The loan must be repaid not later than ten (10) years after the date on which the loan is made.

(2) The terms of the loan must allow for prepayment of the loan without penalty.

(3) The maximum amount of the loan that a qualified taxing unit may receive with respect to a default described in section 1(c)(3) of this chapter on one (1) or more payments of property taxes first due and payable in a calendar year is the amount, as determined by the board, of revenue shortfall for the qualified taxing unit that results from the default for that calendar year.

(b) The board may disburse in installments the proceeds of a loan made under this chapter.

(c) A qualified taxing unit may repay a loan made under this chapter from any of the following:

(1) Property tax revenues of the qualified taxing unit that are subject to the levy limitations imposed by IC 6-1.1-18.5.

(2) Property tax revenues of the qualified taxing unit that are not subject to levy limitations as provided in IC 6-1.1-18.5-21.

(3) The qualified taxing unit's debt service fund.

(4) Any other source of revenues (other than property taxes) that is legally available to the qualified taxing unit.

The payment of any installment on a loan made under this chapter constitutes a first charge against the property tax revenues

described in subdivision (1) or (2) that are collected by the qualified taxing unit during the calendar year the installment is due and payable.

(d) The obligation to repay a loan made under this chapter is not a basis for the qualified taxing unit to obtain an excessive tax levy under IC 6-1.1-18.5 or IC 20-44-3.

(e) Whenever the board receives a payment on a loan made under this chapter, the board shall deposit the amount paid in the counter-cyclical revenue and economic stabilization fund.

Sec. 4. (a) As used in this section, "delinquent tax" means any tax not paid during the calendar year in which the tax was first due and payable.

(b) Except as provided in subsection (c), the following are not considered to be part of the ad valorem property tax levy actually collected by the qualified taxing unit for taxes first due and payable during a particular calendar year for the purpose of calculating the levy excess under IC 6-1.1-18.5-17 and IC 20-44-3:

(1) The proceeds of a loan received by the qualified taxing unit under this chapter.

(2) The receipt by a qualified taxing unit of any payment of delinquent tax owed by a qualifying taxpayer.

(c) Delinquent tax owed by a qualifying taxpayer received by a qualified taxing unit:

(1) must first be used toward the retirement of an outstanding loan made under this chapter; and

(2) is considered, only to the extent that the amount received exceeds the amount of the outstanding loan, to be part of the ad valorem property tax levy actually collected by the qualified taxing unit for taxes first due and payable during a particular calendar year for the purpose of calculating the levy excess under IC 6-1.1-18.5-17 and IC 20-44-3.

(d) If a qualifying taxpayer pays delinquent tax during the term of repayment of an outstanding loan made under this chapter, the remaining loan balance is repayable in equal installments over the remainder of the original term of repayment.

(e) Proceeds of a loan made under this chapter may be expended by a qualified taxing unit only to pay obligations of the qualified taxing unit that have been incurred under appropriations for operating expenses made by the qualified taxing unit and approved by the department of local government finance.

Sec. 5. A loan under this chapter is not bonded indebtedness for

purposes of IC 6-1.1-18.5.

SECTION 157. IC 6-1.1-22-5, AS AMENDED BY P.L.146-2008, SECTION 250, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Except as provided in subsections (b) and (c), on or before March 15 of each year, the county auditor shall prepare and deliver to the auditor of state and the county treasurer a certified copy of an abstract of the property, assessments, taxes, deductions, and exemptions for taxes payable in that year in each taxing district of the county. The county auditor shall prepare the abstract in such a manner that the information concerning property tax deductions reflects the total amount of each type of deduction. The abstract shall also contain a statement of the taxes and penalties unpaid in each taxing unit at the time of the last settlement between the county auditor and county treasurer and the status of these delinquencies. The county auditor shall prepare the abstract on the form prescribed by the state board of accounts. The auditor of state, county auditor, and county treasurer shall each keep a copy of the abstract as a public record.

(b) If the county auditor receives a copy of an appeal petition under ~~IC 6-1.1-18.5-12(d)~~ **IC 6-1.1-18.5-12(g)** before the county auditor prepares and delivers the certified copy of the abstract under subsection (a), the county auditor shall prepare and deliver the certified copy of the abstract when the appeal is resolved by the department of local government finance.

(c) If the county auditor receives a copy of an appeal petition under ~~IC 6-1.1-18.5-12(d)~~ **IC 6-1.1-18.5-12(g)** after the county auditor prepares and delivers the certified copy of the abstract under subsection (a), the county auditor shall prepare and deliver a certified copy of a revised abstract when the appeal is resolved by the department of local government finance that reflects the action of the department.

SECTION 158. IC 6-1.1-22.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. As used in this chapter, "provisional statement" refers to a provisional property tax statement required by section 6 **or 6.5** of this chapter **as the context indicates.**

SECTION 159. IC 6-1.1-22.5-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6.5. (a) As used in this section, "cross-county area" refers to a cross-county entity's territory that is located in one (1) county.**

(b) As used in this section, "cross-county entity" refers to a

taxing unit that is located in more than one (1) county.

(c) As used in this section, "statement preparation date" refers to the date determined by the county treasurer before which the county treasurer must receive all necessary information in order to timely prepare and deliver property tax statements under IC 6-1.1-22.

(d) With respect to property taxes first due and payable under this article after 2009, the county treasurer may, except as provided in section 7 of this chapter, use a provisional statement under this section if:

(1) the county treasurer is not required to use provisional statements under section 6 of this chapter; and

(2) the county treasurer determines that:

(A) the property tax rate of a cross-county entity with cross-county area in the county has not been finally determined before the statement preparation date; and

(B) the rate referred to in clause (A) has not been finally determined because the assessed valuation:

(i) in the cross-county area of a neighboring county; and

(ii) on which the property taxes are based;

has not been finally determined.

(e) A provisional statement under this section applies only for the cross-county area in the county. If a provisional statement is used under this section, the county treasurer shall prepare and deliver property tax statements under IC 6-1.1-22 for the territory of the county that is not a cross-county area.

(f) The county treasurer shall give notice of the provisional statement in the manner required by section 6(b) of this chapter.

(g) Immediately upon determining to use provisional statements under this section, the county treasurer shall give notice of the determination to the county fiscal body (as defined in IC 36-1-2-6).

SECTION 160. IC 6-1.1-22.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) The county auditor of a county or fifty (50) property owners in the county may, not more than five (5) days after the publication of the notice required under section ~~6~~ **6(b) or 6.5(f)** of this chapter, request in writing that the department of local government finance waive the use of a provisional statement under this chapter as to that county for a particular ~~assessment date.~~ **year.**

(b) **With respect to the use of a provisional statement required under section 6 of this chapter,** upon receipt of a request under

subsection (a), the department of local government finance shall give notice of a hearing concerning the request in the manner provided by IC 5-3-1. The notice must state:

(1) the date and time of the hearing;

(2) the location of the hearing, which must be in the county; and

(3) that the purpose of the hearing is to hear:

(A) the request of the county treasurer and county auditor to waive the requirements of **section 6 of** this chapter; and

(B) taxpayers' comments regarding that request.

(c) After the hearing **referred to in subsection (b),** the department of local government finance may waive the use of a provisional statement under **section 6 of** this chapter for a particular ~~assessment date~~ **year** as to the county making the request if the department finds that the petitioners have presented sufficient evidence to establish that although the abstract required by IC 6-1.1-22-5 was not delivered in a timely manner:

(1) the abstract;

(A) was delivered as of the date of the hearing; or

(B) will be delivered not later than a date specified by the county auditor and county treasurer; and

(2) sufficient time remains or will remain after the date or anticipated date of delivery of the abstract to:

(A) permit the timely preparation and delivery of property tax statements in the manner provided by IC 6-1.1-22; and

(B) render the use of a provisional statement under **section 6 of** this chapter unnecessary.

(d) With respect to a determination to use a provisional statement under section 6.5 of this chapter, upon receipt of a request under subsection (a), the department of local government finance shall give notice of a hearing concerning the request in the manner provided by IC 5-3-1. The notice must state:

(1) the date and time of the hearing;

(2) the location of the hearing, which must be in the county; and

(3) that the purpose of the hearing is to hear:

(A) the request of the county treasurer and county auditor to waive the requirements of section 6.5 of this chapter; and

(B) taxpayers' comments regarding that request.

(e) After the hearing referred to in subsection (d), the

department of local government finance may waive the use of a provisional statement under section 6.5 of this chapter for a particular year as to the county making the request if the department finds that the petitioners have presented sufficient evidence to establish that although the property tax rate of one (1) or more cross-county entities with cross-county area in the county was not finally determined before the statement preparation date:

(1) that property tax rate:

(A) was determined as of the date of the hearing; or

(B) will be determined not later than a date specified by the county auditor and county treasurer; and

(2) sufficient time remains or will remain after the date or anticipated date of determination of the rate to:

(A) permit the timely preparation and delivery of property tax statements in the manner provided by IC 6-1.1-22; and

(B) render the use of a provisional statement under section 6.5 of this chapter unnecessary.

SECTION 161. IC 6-1.1-22.5-8, AS AMENDED BY P.L.87-2009, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) **Subject to subsection (c),** a provisional statement must:

(1) be on a form ~~approved~~ **prescribed** by the ~~state board of accounts,~~ **department of local government finance;**

(2) except as provided in emergency rules adopted under section 20 of this chapter and subsection (b):

(A) for property taxes billed using a provisional statement under section 6 of this chapter, indicate tax liability in the amount of ~~ninety~~ **not more than one hundred** percent ~~(90%)~~ **(100%)** of the tax liability that was payable in the same year as the assessment date for the property for which the provisional statement is issued, **subject to any adjustments to the tax liability as prescribed by the department of local government finance; and**

(B) for property taxes billed using a provisional statement under section 6.5 of this chapter, except as provided in subsection (d), indicate tax liability in an amount determined by the department of local government finance based on:

(i) subject to subsection (c), for the cross-county entity, the property tax rate of the cross-county entity for taxes first due and payable in the immediately preceding

calendar year; and

(ii) for all other taxing units that make up the taxing district or taxing districts that comprise the cross-county area, the property tax rates of the taxing units for taxes first due and payable in the current calendar year;

(3) indicate:

(A) that the tax liability under the provisional statement is determined as described in subdivision (2); and

(B) that property taxes billed on the provisional statement:

(i) are due and payable in the same manner as property taxes billed on a tax statement under IC 6-1.1-22-8.1; and

(ii) will be credited against a reconciling statement;

(4) **for property taxes billed using a provisional statement under section 6 of this chapter,** include ~~the following~~ **a** statement in the following or a substantially similar form, as determined by the department of local government finance:

"Under Indiana law, _____ County (insert county) has ~~elected to send~~ **sent** provisional statements because the county did not complete the abstract of the property, assessments, taxes, deductions, and exemptions for taxes payable in (insert year) in each taxing district before March 16, (insert year). The statement is due to be paid in installments on _____ (insert date) and _____ (insert date). The statement is based on ~~ninety~~ _____ percent ~~(90%)~~ **(___%) (insert percentage)** of your tax liability for taxes payable in _____ (insert year), subject to adjustment **to the tax liability as prescribed by the department of local government finance and adjustment** for any new construction on your property or any damage to your property. After the abstract of property is complete, you will receive a reconciling statement in the amount of your actual tax liability for taxes payable in (insert year), minus the amount you pay under this provisional statement.";

(5) for property taxes billed using a provisional statement under section 6.5 of this chapter, include a statement in the following or a substantially similar form, as determined by the department of local government finance:

"Under Indiana law, _____ County (insert county) has elected to send provisional statements for the territory of _____ (insert cross-county entity) located in _____ County (insert county) because the property tax

rate for _____ (insert cross-county entity) was not available in time to prepare final tax statements. The statement is due to be paid in installments on _____ (insert date) and _____ (insert date). The statement is based on the property tax rate of _____ (insert cross-county entity) for taxes first due and payable in _____ (insert immediately preceding calendar year). After the property tax rate of _____ (insert cross-county entity) is determined, you will receive a reconciling statement in the amount of your actual tax liability for taxes payable in _____ (insert year), minus the amount you pay under this provisional statement.";

~~(5)~~ **(6)** indicate liability for:

(A) delinquent:

(i) taxes; and

(ii) special assessments;

(B) penalties; and

(C) interest;

is allowed to appear on the tax statement under ~~IC 6-1.1-22-8~~ **IC 6-1.1-22-8.1** for the first installment of property taxes in the year in which the provisional tax statement is issued;

~~(6)~~ **(7)** include:

(A) a checklist that shows:

(i) homestead credits under IC 6-1.1-20.4, IC 6-3.5-6-13, or another law and all property tax deductions; and

(ii) whether each homestead credit and property tax deduction was applied in the current provisional statement;

(B) an explanation of the procedure and deadline that a taxpayer must follow and the forms that must be used if a credit or deduction has been granted for the property and the taxpayer is no longer eligible for the credit or deduction; and

(C) an explanation of the tax consequences and applicable penalties if a taxpayer unlawfully claims a standard deduction under IC 6-1.1-12-37 on:

(i) more than one (1) parcel of property; or

(ii) property that is not the taxpayer's principal place of residence or is otherwise not eligible for a standard deduction; and

~~(7)~~ **(8)** include any other information the county treasurer requires.

(b) This subsection applies to property taxes first due and payable for assessment dates after January 15, 2009. The county may apply a standard deduction, supplemental standard deduction, or homestead credit calculated by the county's property system on a provisional bill for a qualified property. If a provisional bill has been used for property tax billings for two (2) consecutive years and a property qualifies for a standard deduction, supplemental standard deduction, or homestead credit for the second year a provisional bill is used, the county shall apply the standard deduction, supplemental standard deduction, or homestead credit calculated by the county's property system on the provisional bill.

(c) For purposes of this section, property taxes that are:

(1) first due and payable in the current calendar year on a provisional statement under section 6 or 6.5 of this chapter; and

(2) based on property taxes first due and payable in the immediately preceding calendar year or on a percentage of those property taxes;

are determined after excluding from the property taxes first due and payable in the immediately preceding calendar year property taxes imposed by one (1) or more taxing units in which the tangible property is located that are attributable to a levy that no longer applies for property taxes first due and payable in the current calendar year.

(d) If there was no property tax rate of the cross-county entity for taxes first due and payable in the immediately preceding calendar year for use under subsection (a)(2)(B), the department of local government finance shall provide an estimated tax rate calculated to approximate the actual tax rate that will apply when the tax rate is finally determined.

SECTION 162. IC 6-1.1-22.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 11. **(a) With respect to provisional statements under section 6 of this chapter,** as soon as possible after the receipt of the abstract ~~referred to in section 6 of this chapter,~~ **required by IC 6-1.1-22-5,** the county treasurer shall:

(1) give the notice required by IC 6-1.1-22-4; and

(2) mail or transmit reconciling statements under section 12 of this chapter.

(b) With respect to provisional statements under section 6.5 of this chapter, as soon as possible after determination of the tax rate

of the cross-county entity referred to in section 6.5 of this chapter, the county treasurer shall:

(1) give the notice required by IC 6-1.1-22-4; and

(2) mail or transmit reconciling statements under section 12 of this chapter.

SECTION 163. IC 6-1.1-22.5-12, AS AMENDED BY P.L.87-2009, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) Except as provided by subsection (c), each reconciling statement **must be on a form prescribed by the department of local government finance and** must indicate:

(1) the actual property tax liability under this article ~~on the assessment determined for the assessment date~~ for the ~~property~~ **calendar year** for which the reconciling statement is issued;

(2) the total amount paid under the provisional statement for the property for which the reconciling statement is issued;

(3) if the amount under subdivision (1) exceeds the amount under subdivision (2), that the excess is payable by the taxpayer:

(A) as a final reconciliation of the tax liability; and

(B) not later than:

(i) thirty (30) days after the date of the reconciling statement;

(ii) if the county treasurer requests in writing that the commissioner designate a later date, the date designated by the commissioner; or

(iii) the date specified in an ordinance adopted under section 18.5 of this chapter; and

(4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

(b) If, upon receipt of the abstract ~~referred to in section 6 of this chapter,~~ **required by IC 6-1.1-22-5 or upon determination of the tax rate of the cross-county entity referred to in section 6.5 of this chapter,** the county treasurer determines that it is possible to complete the:

(1) preparation; and

(2) mailing or transmittal;

of the reconciling statement at least thirty (30) days before the due date of the second installment specified in the provisional statement, the county treasurer may request in writing that the department of local government finance permit the county treasurer to issue a reconciling

statement that adjusts the amount of the second installment that was specified in the provisional statement. If the department approves the county treasurer's request, the county treasurer shall prepare and mail or transmit the reconciling statement at least thirty (30) days before the due date of the second installment specified in the provisional statement.

(c) A reconciling statement prepared under subsection (b) must indicate:

(1) the actual property tax liability under this article ~~on the assessment determined for the assessment date~~ **for the calendar year** for the property for which the reconciling statement is issued;

(2) the total amount of the first installment paid under the provisional statement for the property for which the reconciling statement is issued;

(3) if the amount under subdivision (1) exceeds the amount under subdivision (2), the adjusted amount of the second installment that is payable by the taxpayer:

(A) as a final reconciliation of the tax liability; and

(B) not later than:

(i) November 10; or

(ii) if the county treasurer requests in writing that the commissioner designate a later date, the date designated by the commissioner; and

(4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

(d) At the election of a county auditor, a checklist required by IC 6-1.1-22-8.1(b)(8) and a notice required by IC 6-1.1-22-8.1(b)(9) may be sent to a taxpayer with a reconciling statement under this section. This subsection expires January 1, 2013.

(e) In a county in which an authorizing ordinance is adopted under IC 6-1.1-22-8.1(h), a person may direct the county treasurer to transmit a reconciling statement by electronic mail under IC 6-1.1-22-8.1(h).

SECTION 164. IC 6-1.1-22.5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20. For purposes of a provisional statement under **section 6 of** this chapter, the department of local government finance may adopt emergency rules under IC 4-22-2-37.1 to provide a methodology for a county treasurer to issue provisional statements with respect to real property, taking into account

new construction of improvements placed on the real property, damage, and other losses related to the real property:

(1) after March 1 of the year preceding the assessment date to which the provisional statement applies; and

(2) before the assessment date to which the provisional statement applies.

SECTION 165. IC 6-1.1-27-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. (a) This section applies if:**

(1) a school corporation did not receive a property tax distribution that was at least the amount of the school corporation's actual general fund property tax levy for a particular year because of property taxes not being paid when due, as determined by the department of local government finance; and

(2) delinquent property taxes are paid that are attributable to a year referred to in subdivision (1).

(b) The county auditor shall distribute to a school corporation the school corporation's proportionate share of any delinquent property taxes paid that are attributable to a year referred to in subsection (a) in the amount that would have been distributed to the school corporation with respect to the school corporation's general fund. The school corporation shall deposit the distribution in the school corporation's general fund.

(c) This section expires January 1, 2015.

SECTION 166. IC 6-1.1-28-1, AS AMENDED BY P.L.219-2007, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Each county shall have a county property tax assessment board of appeals composed of individuals who are at least eighteen (18) years of age and knowledgeable in the valuation of property. **At the election of the board of commissioners of the county, a county property tax assessment board of appeals may consist of three (3) or five (5) members appointed in accordance with this section.**

(b) This subsection applies to a county in which the board of commissioners elects to have a five (5) member county property tax assessment board of appeals. In addition to the county assessor, only one (1) other individual who is an officer or employee of a county or township may serve on the board of appeals in the county in which the individual is an officer or employee. Subject to subsections ~~(d)~~ **(g)** and ~~(e),~~ **(h),** the fiscal body of the county shall appoint two (2) individuals

to the board. At least one (1) of the members appointed by the county fiscal body must be a certified level two or level three assessor-appraiser. Subject to subsections ~~(d)~~ **(g)** and ~~(e),~~ **(h),** the board of commissioners of the county shall appoint ~~two (2)~~ **three (3)** freehold members so that not more than three (3) of the five (5) members may be of the same political party and so that at least three (3) of the five (5) members are residents of the county. At least one (1) of the members appointed by the board of county commissioners must be a certified level two or level three assessor-appraiser. ~~If the county assessor is a certified level two or level three assessor-appraiser,~~ The board of county commissioners may waive the requirement in this subsection that one (1) of the freehold members appointed by the board of county commissioners must be a certified level two or level three assessor-appraiser.

(c) This subsection applies to a county in which the board of commissioners elects to have a three (3) member county property tax assessment board of appeals. In addition to the county assessor, only one (1) other individual who is an officer or employee of a county or township may serve on the board of appeals in the county in which the individual is an officer or employee. Subject to subsections (g) and (h), the fiscal body of the county shall appoint one (1) individual to the board. The member appointed by the county fiscal body must be a certified level two or level three assessor-appraiser. Subject to subsections (d) and (e), the board of commissioners of the county shall appoint two (2) freehold members so that not more than two (2) of the three (3) members may be of the same political party and so that at least two (2) of the three (3) members are residents of the county. At least one (1) of the members appointed by the board of county commissioners must be a certified level two or level three assessor-appraiser. The board of county commissioners may waive the requirement in this subsection that one (1) of the freehold members appointed by the board of county commissioners must be a certified level two or level three assessor-appraiser.

(d) A person appointed to a property tax assessment board of appeals may serve on the property tax assessment board of appeals of another county at the same time. The members of the board shall elect a president. The employees of the county assessor shall provide administrative support to the property tax assessment board of appeals. The county assessor is a ~~voting~~ **nonvoting** member of the property tax assessment board of appeals. The county assessor shall serve as

secretary of the board. The secretary shall keep full and accurate minutes of the proceedings of the board. A majority of the board that includes at least one (1) certified level two or level three assessor-appraiser constitutes a quorum for the transaction of business. Any question properly before the board may be decided by the agreement of a majority of the whole board.

~~(b)~~ **(e)** The county assessor, county fiscal body, and board of county commissioners may agree to waive the requirement in subsection ~~(a)~~ **(b) or (c)** that not more than three (3) of the five (5) **or two (2) of the three (3)** members of the county property tax assessment board of appeals may be of the same political party if it is necessary to waive the requirement due to the absence of certified level two or level three Indiana assessor-appraisers:

(1) who are willing to serve on the board; and

(2) whose political party membership status would satisfy the requirement in subsection ~~(c)(1).~~ **(b) or (c).**

~~(c)~~ **(f)** If the board of county commissioners is not able to identify at least two (2) prospective freehold members of the county property tax assessment board of appeals who are:

(1) residents of the county;

(2) certified level two or level three Indiana assessor-appraisers; and

(3) willing to serve on the county property tax assessment board of appeals;

it is not necessary that at least three (3) of the five (5) **or two (2) of the three (3)** members of the county property tax assessment board of appeals be residents of the county.

~~(d)~~ **(g)** Except as provided in subsection ~~(c),~~ **(f),** the term of a member of the county property tax assessment board of appeals appointed under ~~subsection (a).~~ **this section:**

(1) is one (1) year; and

(2) begins January 1.

~~(e)~~ **(h)** If:

(1) the term of a member of the county property tax assessment board of appeals appointed under ~~subsection (a)~~ **this section** expires;

(2) the member is not reappointed; and

(3) a successor is not appointed;

the term of the member continues until a successor is appointed.

SECTION 167. IC 6-1.1-29-1, AS AMENDED BY P.L.224-2007,

SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 30, 2008 (RETROACTIVE)]: Sec. 1. ~~(a)~~ Except as provided in section 9 of this chapter, each county shall have a county board of tax adjustment composed of seven (7) members. The members of the county board of tax adjustment shall be selected as follows:

(1) The county fiscal body shall appoint a member of the body to serve as a member of the county board of tax adjustment.

(2) Either the executive of the largest city in the county or a public official of any city in the county appointed by that executive shall serve as a member of the board. However, if there is no incorporated city in the county, the fiscal body of the largest incorporated town of the county shall appoint a member of the body to serve as a member of the county board of tax adjustment.

(3) The governing body of the school corporation, located entirely or partially within the county, which has the greatest taxable valuation of any school corporation of the county shall appoint a member of the governing body to serve as a member of the county board of tax adjustment.

(4) The remaining four (4) members of the county board of tax adjustment must be residents of the county and freeholders and shall be appointed by the board of commissioners of the county.

~~(b) This section expires December 31, 2008.~~

SECTION 168. IC 6-1.1-31.5-2, AS AMENDED BY P.L.146-2008, SECTION 272, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Subject to section 3.5 of this chapter, the department shall adopt rules under IC 4-22-2 to prescribe computer specification standards and for the certification of:

(1) computer software;

(2) software providers;

(3) computer service providers; and

(4) computer equipment providers.

(b) The rules of the department shall provide for:

(1) the effective and efficient administration of assessment laws;

(2) the prompt updating of assessment data;

(3) the administration of information contained in the sales disclosure form, as required under IC 6-1.1-5.5; and

(4) other information necessary to carry out the administration of the property tax assessment laws.

(c) After June 30, 2008, subject to section 3.5 of this chapter, a county:

(1) may contract only for computer software and with software providers, computer service providers, and equipment providers that are certified by the department under the rules described in subsection (a); and

(2) may enter into a contract referred to in subdivision (1) **and any addendum to the contract** only if the department is a party to the contract **and the addendum.**

SECTION 169. IC 6-1.1-33.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. The division of data analysis shall:

(1) conduct continuing studies in the areas in which the department of local government finance operates;

(2) make periodic field surveys and audits of:

(A) tax rolls;

(B) plat books;

(C) building permits;

(D) real estate transfers; and

(E) other data that may be useful in checking property valuations or taxpayer returns;

(3) make test checks of property valuations to serve as the bases for special reassessments under this article;

(4) conduct biennially a coefficient of dispersion study for each township and county in Indiana;

(5) conduct quadrennially a sales assessment ratio study for each township and county in Indiana;

~~(6) compute school assessment ratios under IC 6-1.1-34;~~ and

~~(7)~~ **(6)** report annually to the executive director of the legislative services agency, in an electronic format under IC 5-14-6, the information obtained or determined under this section for use by the executive director and the general assembly, including:

(A) all information obtained by the division of data analysis from units of local government; and

(B) all information included in:

(i) the local government data base; and

(ii) any other data compiled by the division of data analysis.

SECTION 170. IC 6-1.1-34-1, AS AMENDED BY P.L.246-2005, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 1. ~~Each~~ **In the** year ~~in which~~ **after** a general assessment of real property becomes effective, the department of local government finance shall compute a new assessment ratio for each

school corporation ~~and a new state average assessment ratio.~~ **located in a county in which a supplemental county levy is imposed under IC 20-45-7 or IC 20-45-8.** In all other years, the department shall compute a new assessment ratio for **such** a school corporation ~~and a new state average assessment ratio~~ if the department finds that there has been sufficient reassessment or adjustment of one (1) or more classes of property in the school district. When the department of local government finance computes a new assessment ratio for a school corporation, the department shall publish the new ratio.

SECTION 171. IC 6-1.1-34-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 7. (a) Each year in which the department of local government finance computes a new assessment ratio for a school corporation, the department shall also compute a new adjustment factor for the school corporation. If the school corporation's assessment ratio for a year is more than ninety-nine percent (99%) but less than one hundred one percent (101%) of the state average assessment ratio for that year, the school corporation's adjustment factor is the number one (1). In all other cases, the school corporation's adjustment factor equals (1) the state average assessment ratio for a year, divided by (2) the school corporation's assessment ratio for that year. The department of local government finance shall notify the school corporation of its new adjustment factor before March 2 of the year in which the department calculates the new adjustment factor.

(b) This subsection applies in a calendar year ~~in~~ **after** which a general reassessment takes effect. If the department of local government finance has not computed

~~(1)~~ a new assessment ratio for a school corporation, ~~or~~

~~(2) a new state average assessment ratio;~~

the school corporation's adjustment factor is the number one (1) until the department of local government finance notifies the school corporation of the school corporation's new adjustment factor.

SECTION 172. IC 6-1.1-35-9, AS AMENDED BY P.L.146-2008, SECTION 279, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) All information that is related to earnings, income, profits, losses, or expenditures and that is:

(1) given by a person to:

(A) an assessing official;

(B) an employee of an assessing official; or

(C) an officer or employee of an entity that contracts with a

board of county commissioners or a county assessor under IC 6-1.1-36-12; or

(2) acquired by:

(A) an assessing official;

(B) an employee of an assessing official; or

(C) an officer or employee of an entity that contracts with a board of county commissioners or a county assessor under IC 6-1.1-36-12;

in the performance of the person's duties;

is confidential. The assessed valuation of tangible property is a matter of public record and is thus not confidential. Confidential information may be disclosed only in a manner that is authorized under subsection (b), (c), or (d).

(b) Confidential information may be disclosed to:

(1) an official or employee of:

(A) this state or another state;

(B) the United States; or

(C) an agency or subdivision of this state, another state, or the United States;

if the information is required in the performance of the official duties of the official or employee; ~~or~~

(2) an officer or employee of an entity that contracts with a board of county commissioners or a county assessor under IC 6-1.1-36-12 if the information is required in the performance of the official duties of the officer or employee; **or**

(3) a state educational institution in order to develop data required under IC 6-1.1-4-42.

(c) The following state agencies, or their authorized representatives, shall have access to the confidential farm property records and schedules that are on file in the office of a county assessor:

(1) The Indiana state board of animal health, in order to perform its duties concerning the discovery and eradication of farm animal diseases.

(2) The department of agricultural statistics of Purdue University, in order to perform its duties concerning the compilation and dissemination of agricultural statistics.

(3) Any other state agency that needs the information in order to perform its duties.

(d) Confidential information may be disclosed during the course of a judicial proceeding in which the regularity of an assessment is

questioned.

(e) Confidential information that is disclosed to a person under subsection (b) or (c) retains its confidential status. Thus, that person may disclose the information only in a manner that is authorized under subsection (b), (c), or (d).

(f) Notwithstanding any other provision of law:

(1) a person who:

(A) is an officer or employee of an entity that contracts with a board of county commissioners or a county assessor under IC 6-1.1-36-12; and

(B) obtains confidential information under this section;

may not disclose that confidential information to any other person; and

(2) a person referred to in subdivision (1) must return all confidential information to the taxpayer not later than fourteen (14) days after the earlier of:

(A) the completion of the examination of the taxpayer's personal property return under IC 6-1.1-36-12; or

(B) the termination of the contract.

SECTION 173. IC 6-1.1-37-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. A person who **recklessly, knowingly, or intentionally:**

(1) disobeys a subpoena, or a subpoena duces tecum, issued under the general assessment provisions of this article;

(2) refuses to give evidence when directed to do so by an individual or board authorized under the general assessment provisions of this article to require the evidence;

(3) fails to file a personal property return required under IC 6-1.1-3;

(4) fails to subscribe to an oath or certificate required under the general assessment provisions of this article; ~~or~~

(5) temporarily converts property which is taxable under this article into property not taxable to evade the payment of taxes on the converted property; **or**

(6) fails to file an information return required by the department of local government finance under IC 6-1.1-4-42;

commits a Class A misdemeanor.

SECTION 174. IC 6-2.5-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (b), "gross retail income" means the total ~~gross~~

~~receipts, of any kind or character, received in a retail transaction,~~ **amount of consideration,** including cash, credit, property, and services, for which tangible personal property is sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for:

(1) the seller's cost of the property sold;

(2) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(3) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

(4) delivery charges; or

~~(5) the value of exempt personal property given to the purchaser where taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise.~~

(5) consideration received by the seller from a third party if:

(A) the seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(D) the price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser.

For purposes of subdivision (4), delivery charges are charges by the seller for preparation and delivery of the property to a location designated by the purchaser of property, including but not limited to transportation, shipping, postage, handling, crating, and packing.

(b) "Gross retail income" does not include that part of the gross receipts attributable to:

(1) the value of any tangible personal property received in a like kind exchange in the retail transaction, if the value of the property given in exchange is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(2) the receipts received in a retail transaction which constitute interest, finance charges, or insurance premiums on either a

promissory note or an installment sales contract;

(3) discounts, including cash, terms, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(4) interest, financing, and carrying charges from credit extended on the sale of personal property if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(5) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser; or

(6) installation charges that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(c) A public utility's or a power subsidiary's gross retail income includes all gross retail income received by the public utility or power subsidiary, including any minimum charge, flat charge, membership fee, or any other form of charge or billing.

SECTION 175. IC 6-2.5-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) For purposes of this section, "person" includes an individual who is personally liable for use tax under IC 6-2.5-9-3.

(b) The person who uses, stores, or consumes the tangible personal property acquired in a retail transaction is personally liable for the use tax.

(c) The person liable for the use tax shall pay the tax to the retail merchant from whom the person acquired the property, and the retail merchant shall collect the tax as an agent for the state, if the retail merchant is engaged in business in Indiana or if the retail merchant has departmental permission to collect the tax. In all other cases, the person shall pay the use tax to the department.

(d) Notwithstanding subsection (c), a person liable for the use tax imposed in respect to a vehicle, watercraft, or aircraft under section 2(b) of this chapter shall pay the tax:

(1) to the titling agency when the person applies for a title for the vehicle or the watercraft; ~~or~~

(2) to the registering agency when the person registers the aircraft; **or**

(3) to the registering agency when the person registers the watercraft because it is a United States Coast Guard documented vessel;

unless the person presents proof to the agency that the use tax or state gross retail tax has already been paid with respect to the purchase of the vehicle, watercraft, or aircraft or proof that the taxes are inapplicable because of an exemption under this article.

(e) At the time a person pays the use tax for the purchase of a vehicle to a titling agency pursuant to subsection (d), the titling agency shall compute the tax due based on the presumption that the sale price was the average selling price for that vehicle, as determined under a used vehicle buying guide to be chosen by the titling agency. However, the titling agency shall compute the tax due based on the actual sale price of the vehicle if the buyer, at the time the buyer pays the tax to the titling agency, presents documentation to the titling agency sufficient to rebut the presumption set forth in this subsection and to establish the actual selling price of the vehicle.

SECTION 176. IC 6-2.5-5-8, AS AMENDED BY P.L.224-2007, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 8. (a) As used in this section, "new motor vehicle" has the meaning set forth in IC 9-13-2-111.

(b) Transactions involving tangible personal property other than a new motor vehicle are exempt from the state gross retail tax if the person acquiring the property acquires it for resale, rental, or leasing in the ordinary course of the person's business without changing the form of the property.

(c) The following transactions involving a new motor vehicle are exempt from the state gross retail tax:

(1) A transaction in which a person that has a franchise in effect at the time of the transaction for the vehicle trade name, trade or service mark, or related characteristics acquires a new motor vehicle for resale, rental, or leasing in the ordinary course of the person's business.

(2) A transaction in which a person that is a franchisee appointed by a manufacturer or converter manufacturer licensed under IC 9-23 acquires a new motor vehicle that has at least one (1) trade name, service mark, or related characteristic as a result of modification or further manufacture by the manufacturer or converter manufacturer for resale, rental, or leasing in the ordinary course of the person's business.

(3) A transaction in which a person acquires a new motor vehicle for rental or leasing in the ordinary course of the person's

business.

(d) The rental or leasing of accommodations to a promoter by a political subdivision (including a capital improvement board) or the state fair commission is not exempt from the state gross retail tax, if the rental or leasing of the property by the promoter is exempt under IC 6-2.5-4-4.

(e) This subsection applies only **to aircraft acquired** after June 30, 2008. **Except as provided in subsection (h),** a transaction in which a person acquires an aircraft for rental or leasing in the ordinary course of the person's business is not exempt from the state gross retail tax unless the person establishes, under guidelines adopted by the department in the manner provided in IC 4-22-2-37.1 for the adoption of emergency rules, that the annual amount of the **gross** lease revenue derived from leasing **or rental of** the aircraft, **which may include revenue from related party transactions,** is equal to or greater than

~~(1) ten percent (10%) of the greater of the original cost or the book value of the aircraft, if the original cost of the aircraft was less than one million dollars ($1,000,000); or~~

~~(2)~~ seven and five-tenths percent (7.5%) of the: ~~greater of the original cost or the~~

(1) book value of the aircraft, ~~if the original cost of the aircraft was at least one million dollars ($1,000,000).~~ **as published in the Vref Aircraft Value Reference guide for the aircraft; or**

(2) net acquisition price for the aircraft.

If a person acquires an aircraft below the Vref Aircraft Value Reference guide book value, the person may appeal to the department for a lower lease or rental threshold equal to the actual acquisition price paid if the person demonstrates that the transaction was completed in a commercially reasonable manner based on the aircraft's age, condition, and equipment. The department may request the person to submit to the department supporting documents showing the aircraft is available for general public lease or rental, copies of business and aircraft insurance policies, and other documents that assist the department in determining if an aircraft is exempt from the state gross retail tax.

(f) A person is required to meet the requirements of subsection (e) until the earlier of the date the aircraft has generated sales tax on leases or rental income that is equal to the amount of the original sales tax exemption or the elapse of thirteen (13) years. If the aircraft is sold by the person before meeting the requirements of this section and before the sale the aircraft was exempt from

gross retail tax under subsection (e), the sale of the aircraft shall not result in the assessment or collection of gross retail tax for the period from the date of acquisition to the date of sale by the person.

(g) The person is required to remit the gross retail tax on taxable lease and rental transactions no matter how long the aircraft is used for lease and rental.

(h) This subsection applies only to aircraft acquired after December 31, 2007. A transaction in which a person acquires an aircraft to rent or lease the aircraft to another person for predominant use in public transportation by the other person or by an affiliate of the other person is exempt from the state gross retail tax. The department may not require a person to meet the revenue threshold in subsection (e) with respect to the person's leasing or rental of the aircraft to receive or maintain the exemption. To maintain the exemption provided under this subsection, the department may require the person to submit only annual reports showing that the aircraft is predominantly used to provide public transportation.

(i) The exemptions allowed under subsections (e) and (h) apply regardless of the relationship, if any, between the person or lessor and the lessee or renter of the aircraft.

SECTION 177. IC 6-2.5-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. Transactions involving tangible personal property are exempt from the state gross retail tax, if:

(1) the property is:

(A) classified as central office equipment, station equipment or apparatus, station connection, wiring, or large private branch exchanges according to the uniform system of accounts which was adopted and prescribed for the utility by the Indiana utility regulatory commission; ~~or~~

(B) mobile telecommunications switching office equipment, radio or microwave transmitting or receiving equipment, including, without limitation, towers, antennae, and property that perform a function similar to the function performed by any of the property described in clause (A); **or**

(C) a part of a national, regional, or local headend or similar facility operated by a person furnishing video services, cable radio services, satellite television or radio services, or Internet access services; and

(2) the person acquiring the property:

(A) furnishes or sells intrastate telecommunication service in a retail transaction described in IC 6-2.5-4-6; **or**

(B) uses the property to furnish:

(i) video services or Internet access services; or

(ii) VOIP services.

SECTION 178. IC 6-2.5-5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. (a) Sales of durable medical equipment, prosthetic devices, artificial limbs, orthopedic devices, dental prosthetic devices, eyeglasses, contact lenses, and other medical supplies and devices are exempt from the state gross retail tax, if the sales are prescribed by a person licensed to issue the prescription.

(b) Rentals of durable medical equipment and other medical supplies and devices are exempt from the state gross retail tax, if the rentals are prescribed by a person licensed to issue the prescription.

(c) Sales of hearing aids are exempt from the state gross retail tax if the hearing aids are fitted or dispensed by a person licensed or registered for that purpose. In addition, sales of hearing aid parts, attachments, or accessories are exempt from the state gross retail tax. For purposes of this subsection, a hearing aid is a device which is worn on the body and which is designed to aid, improve, or correct defective human hearing.

(d) Sales of colostomy bags, ileostomy bags, and the medical equipment, supplies, and devices used in conjunction with those bags are exempt from the state gross retail tax.

(e) Sales of equipment and devices used to administer insulin are exempt from the state gross retail tax.

(f) Sales of equipment and devices used to monitor blood glucose level, including blood glucose meters and measuring strips, lancets, and other similar diabetic supplies, are exempt from the state gross retail tax, regardless of whether the equipment and devices are prescribed.

SECTION 179. IC 6-2.5-5-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 19.5. (a) For purposes of this section, "drug sample" means a legend drug (as defined by IC 16-18-2-199) or a drug composed wholly or partly of insulin or an insulin analog that is furnished without charge. **For purposes of this section, "blood glucose monitoring device" means blood glucose meters and measuring strips, lancets, and other similar diabetic supplies furnished without charge.**

(b) Transactions involving the following are exempt from the state gross retail tax:

(1) A drug sample, ~~and~~ the packaging and literature for a drug sample, **a blood glucose monitoring device, and the packaging and literature for a blood glucose monitoring device.**

(2) Tangible personal property that will be used as a drug sample **or a blood glucose monitoring device** or **that** will be processed, manufactured, or incorporated into:

(A) a drug sample **or a blood glucose monitoring device;** or

(B) the packaging or literature for a drug sample **or a blood glucose monitoring device.**

SECTION 180. IC 6-2.5-6-1, AS AMENDED BY P.L.131-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 1. (a) Except as otherwise provided in this section, each person liable for collecting the state gross retail or use tax shall file a return for each calendar month and pay the state gross retail and use taxes that the person collects during that month. A person shall file the person's return for a particular month with the department and make the person's tax payment for that month to the department not more than thirty (30) days after the end of that month, if that person's average monthly liability for collections of state gross retail and use taxes under this section as determined by the department for the preceding calendar year did not exceed one thousand dollars ($1,000). If a person's average monthly liability for collections of state gross retail and use taxes under this section as determined by the department for the preceding calendar year exceeded one thousand dollars ($1,000), that person shall file the person's return for a particular month and make the person's tax payment for that month to the department not more than twenty (20) days after the end of that month.

(b) If a person files a combined sales and withholding tax report and either this section or IC 6-3-4-8.1 requires sales or withholding tax reports to be filed and remittances to be made within twenty (20) days after the end of each month, then the person shall file the combined report and remit the sales and withholding taxes due within twenty (20) days after the end of each month.

(c) Instead of the twelve (12) monthly reporting periods required by subsection (a), the department may permit a person to divide a year into a different number of reporting periods. The return and payment for each reporting period is due not more than twenty (20) days after the end of the period.

(d) Instead of the reporting periods required under subsection (a), the department may permit a retail merchant to report and pay the merchant's state gross retail and use taxes for a period covering a calendar year, if the retail merchant's state gross retail and use tax liability in the previous calendar year does not exceed one thousand dollars ($1,000). A retail merchant using a reporting period allowed under this subsection must file the merchant's return and pay the merchant's tax for a reporting period not later than the last day of the month immediately following the close of that reporting period.

(e) If a retail merchant reports the merchant's adjusted gross income tax, or the tax the merchant pays in place of the adjusted gross income tax, over a fiscal year not corresponding to the calendar year, the merchant may, without prior departmental approval, report and pay the merchant's state gross retail and use taxes over the merchant's fiscal year that corresponds to the calendar year the merchant is permitted to use under subsection (d). However, the department may, at any time, require the retail merchant to stop using the fiscal reporting period.

(f) If a retail merchant files a combined sales and withholding tax report, the reporting period for the combined report is the shortest period required under:

(1) this section;

(2) IC 6-3-4-8; or

(3) IC 6-3-4-8.1.

(g) If the department determines that a person's:

(1) estimated monthly gross retail and use tax liability for the current year; or

(2) average monthly gross retail and use tax liability for the preceding year;

exceeds five thousand dollars ($5,000), the person shall pay the monthly gross retail and use taxes due by electronic funds transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

(h) A person that registers as a retail merchant after December 31, 2009, shall report and remit state gross retail and use taxes through the department's online tax filing program. This subsection does not apply to a retail merchant that was a registered retail merchant before January 1, 2010, but adds an additional place of business in accordance with IC 6-2.5-8-1(e) after

December 31, 2009.

~~(h)~~ **(i)** A person:

(1) who has voluntarily registered as a seller under the Streamlined Sales and Use Tax Agreement;

(2) who is not a Model 1, Model 2, or Model 3 seller (as defined in the Streamlined Sales and Use Tax Agreement); and

(3) whose liability for collections of state gross retail and use taxes under this section for the preceding calendar year as determined by the department does not exceed one thousand dollars ($1,000);

is not required to file a monthly gross retail and use tax return.

SECTION 181. IC 6-2.5-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 10. (a) Each refiner or terminal operator and each qualified distributor that has received a prepayment of the state gross retail tax under this chapter shall remit the tax received to the department semimonthly, **through the department's online tax filing system,** according to the following schedule:

(1) On or before the tenth day of each month for prepayments received after the fifteenth day and before the end of the preceding month.

(2) On or before the twenty-fifth day of each month for prepayments received after the end of the preceding month and before the sixteenth day of the month in which the prepayments are made.

(b) Before the end of each month, each refiner or terminal operator and each qualified distributor shall file a report covering the prepaid taxes received and the gallons of gasoline sold or shipped during the preceding month. The report must include the following:

(1) The number of gallons of gasoline sold or shipped during the preceding month, identifying each purchaser or receiver as required by the department.

(2) The amount of tax prepaid by each purchaser or receiver.

(3) Any other information reasonably required by the department.

SECTION 182. IC 6-2.5-7-14, AS AMENDED BY P.L.176-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) Before June 10 and December 10 of each year, the department shall determine and provide to:

(1) each refiner and terminal operator and each qualified distributor known to the department to be required to collect

prepayments of the state gross retail tax under this chapter; and

(2) any other person that makes a request;

a notice of the prepayment rate to be used during the following six (6) month period. ~~The department shall also have the prepayment rate published in the June and December issues of the Indiana Register.~~ **The department, after approval by the office of management and budget, may determine a new prepayment rate if the department finds that the statewide average retail price per gallon of gasoline, excluding the Indiana and federal gasoline taxes and the Indiana gross retail tax, has changed by at least twenty-five percent (25%) since the most recent determination.**

(b) In determining the prepayment rate under this section, the department shall use the most recent retail price of gasoline available to the department.

(c) The prepayment rate per gallon of gasoline determined by the department under this section is the amount per gallon of gasoline determined under STEP FOUR of the following formula:

STEP ONE: Determine the statewide average retail price per gallon of gasoline, excluding the Indiana and federal gasoline taxes and the Indiana gross retail tax.

STEP TWO: Determine the product of the following:

(A) The STEP ONE amount.

(B) The Indiana gross retail tax rate.

(C) ~~Ninety~~ **Eighty** percent ~~(90%).~~ **(80%).**

STEP THREE: Determine the lesser of:

(A) the STEP TWO result; or

(B) the product of:

(i) the prepayment rate in effect on the day immediately preceding the day on which the prepayment rate is redetermined under this section; multiplied by

(ii) one hundred twenty-five percent (125%).

STEP FOUR: Round the STEP THREE result to the nearest one-tenth of one cent ($0.001).

SECTION 183. IC 6-2.5-11-10, AS AMENDED BY P.L.145-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) A certified service provider is the agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of sales and use taxes. As the seller's agent, the certified service provider is liable for sales and use tax due each member state on all sales transactions it processes for the seller

except as set out in this section. A seller that contracts with a certified service provider is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresented the type of items it sells or committed fraud. In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider. A seller is subject to audit for transactions not processed by the certified service provider. The member states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.

(b) A person that provides a certified automated system is responsible for the proper functioning of that system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to the state for reporting and remitting tax.

(c) A seller that has a proprietary system for determining the amount of tax due on transactions and has signed an agreement establishing a performance standard for that system is liable for the failure of the system to meet the performance standard.

(d) A certified service provider or a seller using a certified automated system that obtains a certification from the department is not liable for sales or use tax collection errors that result from reliance on the department's certification. If the department determines that an item or transaction is incorrectly classified as to the taxability of the item or transaction, the department shall notify the certified service provider or the seller using a certified automated system of the incorrect classification. The certified service provider or the seller using a certified automated system must revise the incorrect classification within ten (10) days after receiving notice of the determination from the department. If the classification error is not corrected within ten (10) days after receiving the department's notice, the certified service provider or the seller using a certified automated system is liable for failure to collect the correct amount of sales or use tax due and owing.

(e) If at least thirty (30) days are not provided between the enactment of a statute changing the rate set forth in IC 6-2.5-2-2 and the effective date of the rate change, the department shall

relieve the seller of liability for failing to collect tax at the new rate if:

(1) the seller collected the tax at the immediately preceding effective rate; and

(2) the seller's failure to collect at the current rate does not extend beyond thirty (30) days after the effective date of the rate change.

A seller is not eligible for the relief provided for in this subsection if the seller fraudulently fails to collect at the current rate or solicits purchases based on the immediately preceding effective rate.

~~(c)~~ **(f)** The department shall allow any monetary allowances that are provided by the member states to sellers or certified service providers in exchange for collecting the sales and use taxes as provided in article VI of the agreement.

SECTION 184. IC 6-2.5-12-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. Except for the telecommunications services listed in section 16 of this chapter, a sale of:

(1) telecommunications services sold on a basis other than a call by call basis;

(2) Internet access service; or

(3) an ancillary service;

is sourced to the customer's place of primary use.

SECTION 185. IC 6-2.5-13-1, AS AMENDED BY P.L.19-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 1. (a) As used in this section, the terms "receive" and "receipt" mean:

(1) taking possession of tangible personal property;

(2) making first use of services; or

(3) taking possession or making first use of digital goods;

whichever comes first. The terms "receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser.

(b) This section:

(1) applies regardless of the characterization of a product as tangible personal property, a digital good, or a service;

(2) applies only to the determination of a seller's obligation to pay or collect and remit a sales or use tax with respect to the seller's retail sale of a product; and

(3) does not affect the obligation of a purchaser or lessee to remit tax on the use of the product to the taxing jurisdictions of that use.

(c) This section does not apply to sales or use taxes levied on the following:

(1) The retail sale or transfer of watercraft, modular homes, manufactured homes, or mobile homes. These items must be sourced according to the requirements of this article.

(2) The retail sale, excluding lease or rental, of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in subsection (g). The retail sale of these items shall be sourced according to the requirements of this article, and the lease or rental of these items must be sourced according to subsection (f).

(3) Telecommunications services, ancillary services, and Internet access service shall be sourced in accordance with IC 6-2.5-12.

(d) The retail sale, excluding lease or rental, of a product shall be sourced as follows:

(1) When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.

(2) When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser (or the purchaser's donee, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery to the purchaser (or donee), known to the seller.

(3) When subdivisions (1) and (2) do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

(4) When subdivisions (1), (2), and (3) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

(5) When none of the previous rules of subdivision (1), (2), (3), or (4) apply, including the circumstance in which the seller is without sufficient information to apply the previous rules, then the location will be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for

transmission by the seller, or from which the service was provided (disregarding for these purposes any location that merely provided the digital transfer of the product sold).

(e) The lease or rental of tangible personal property, other than property identified in subsection (f) or (g), shall be sourced as follows:

(1) For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions of subsection (d). Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.

(2) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection (d).

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or an accelerated basis, or on the acquisition of property for lease.

(f) The lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in subsection (g), shall be sourced as follows:

(1) For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. This location shall not be altered by intermittent use at different locations.

(2) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection (d).

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

(g) The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with the provisions of subsection (d), notwithstanding the exclusion of lease or rental in subsection (d). As used in this subsection, "transportation equipment" means any of the following:

(1) Locomotives and railcars that are used for the carriage of persons or property in interstate commerce.

(2) Trucks and truck-tractors with a gross vehicle weight rating (GVWR) of ten thousand one (10,001) pounds or greater, trailers, semitrailers, or passenger buses that are:

(A) registered through the International Registration Plan; and

(B) operated under authority of a carrier authorized and certificated by the U.S. Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.

(3) Aircraft that are operated by air carriers authorized and certificated by the U.S. Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce.

(4) Containers designed for use on and component parts attached or secured on the items set forth in subdivisions (1) through (3).

(h) ~~This subsection applies to retail sales of floral products that occur before January 1, 2010.~~ Notwithstanding subsection (d), a retail sale of floral products in which a florist or floral business:

(1) takes a floral order from a purchaser; and

(2) transmits the floral order by telegraph, telephone, or other means of communication to another florist or floral business for delivery;

is sourced to the location of the florist or floral business that originally takes the floral order from the purchaser.

SECTION 186. IC 6-3-1-3.5, AS AMENDED BY P.L.1-2009, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed

or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars ($1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars ($1,000).

(4) Subtract one thousand dollars ($1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) for taxable years beginning after December 31, 2004, one thousand five hundred dollars ($1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code (as effective January 1, 2004); and

(B) five hundred dollars ($500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars ($40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars ($2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.
(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).
(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.
(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.
(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.
(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.
(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.
(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.
(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.
(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars ($2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(23) Subtract an amount equal to the amount of the taxpayer's qualified military income that was not excluded from the taxpayer's gross income for federal income tax purposes under Section 112 of the Internal Revenue Code.

(24) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the individual's federal adjusted gross income under the Internal Revenue Code.

(25) Subtract any amount of a credit (including an advance refund of the credit) that is provided to an individual under 26 U.S.C. 6428 (federal Economic Stimulus Act of 2008) and included in the individual's federal adjusted gross income.

(26) Add any amount of unemployment compensation excluded from federal gross income, as defined in Section 61 of the Internal Revenue Code, under Section 85(c) of the Internal Revenue Code.

(27) Add the amount excluded from gross income under Section 108(a)(1)(e) of the Internal Revenue Code for the discharge of debt on a qualified principal residence.

(28) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract the amount necessary from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(29) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified restaurant property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(v) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(30) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified retail improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(ix) of the Internal Revenue Code equal to the

amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(31) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that claimed the special allowance for qualified disaster assistance property under Section 168(n) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the special allowance not been claimed for the property.

(32) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 179C of the Internal Revenue Code to expense costs for qualified refinery property equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(33) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 181 of the Internal Revenue Code to expense costs for a qualified film or television production equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(34) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that treated a loss from the sale or exchange of preferred stock in:

(A) the Federal National Mortgage Association, established under the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.); or

(B) the Federal Home Loan Mortgage Corporation, established under the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.);

as an ordinary loss under Section 301 of the Emergency Economic Stabilization Act of 2008 in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had the loss not been treated as an ordinary loss.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.
(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.
(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).
(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.
(9) Add to the extent required by IC 6-3-2-20 the amount of intangible expenses (as defined in IC 6-3-2-20) and any directly related intangible interest expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as

defined in Section 63 of the Internal Revenue Code) for federal income tax purposes.

(10) Add an amount equal to any deduction for dividends paid (as defined in Section 561 of the Internal Revenue Code) to shareholders of a captive real estate investment trust (as defined in section 34.5 of this chapter).

(11) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the corporation's taxable income under the Internal Revenue Code.

(12) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(13) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified restaurant property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(v) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(14) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified retail improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(ix) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(15) Add or subtract the amount necessary to make the

adjusted gross income of any taxpayer that claimed the special allowance for qualified disaster assistance property under Section 168(n) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the special allowance not been claimed for the property.

(16) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 179C of the Internal Revenue Code to expense costs for qualified refinery property equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(17) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 181 of the Internal Revenue Code to expense costs for a qualified film or television production equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(18) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that treated a loss from the sale or exchange of preferred stock in:

(A) the Federal National Mortgage Association, established under the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.); or

(B) the Federal Home Loan Mortgage Corporation, established under the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.);

as an ordinary loss under Section 301 of the Emergency Economic Stabilization Act of 2008 in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had the loss not been treated as an ordinary loss.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable

under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the insurance company's taxable income under the Internal Revenue Code.

(10) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1,

2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(11) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified restaurant property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(v) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(12) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified retail improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(ix) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(13) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that claimed the special allowance for qualified disaster assistance property under Section 168(n) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the special allowance not been claimed for the property.

(14) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 179C of the Internal Revenue Code to expense costs for qualified refinery property equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(15) Add or subtract the amount necessary to make the

adjusted gross income of any taxpayer that made an election under Section 181 of the Internal Revenue Code to expense costs for a qualified film or television production equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(16) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that treated a loss from the sale or exchange of preferred stock in:

(A) the Federal National Mortgage Association, established under the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.); or

(B) the Federal Home Loan Mortgage Corporation, established under the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.);

as an ordinary loss under Section 301 of the Emergency Economic Stabilization Act of 2008 in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had the loss not been treated as an ordinary loss.

(17) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus

depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the insurance company's taxable income under the Internal Revenue Code.

(10) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(11) Add the amount necessary to make the adjusted gross

income of any taxpayer that placed qualified restaurant property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(v) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(12) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified retail improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(ix) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(13) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that claimed the special allowance for qualified disaster assistance property under Section 168(n) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the special allowance not been claimed for the property.

(14) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 179C of the Internal Revenue Code to expense costs for qualified refinery property equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(15) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 181 of the Internal Revenue Code to expense costs for a qualified film or television production equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(16) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that treated a loss from the sale or exchange of preferred stock in:

(A) the Federal National Mortgage Association, established under the Federal National Mortgage Association Charter

Act (12 U.S.C. 1716 et seq.); or

(B) the Federal Home Loan Mortgage Corporation, established under the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.);

as an ordinary loss under Section 301 of the Emergency Economic Stabilization Act of 2008 in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had the loss not been treated as an ordinary loss.

(17) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal

Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(7) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the taxpayer's taxable income under the Internal Revenue Code.

(8) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(9) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified restaurant property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(v) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(10) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified retail improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(ix) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(11) Add or subtract the amount necessary to make the

adjusted gross income of any taxpayer that claimed the special allowance for qualified disaster assistance property under Section 168(n) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the special allowance not been claimed for the property.

(12) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 179C of the Internal Revenue Code to expense costs for qualified refinery property equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(13) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 181 of the Internal Revenue Code to expense costs for a qualified film or television production equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(14) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that treated a loss from the sale or exchange of preferred stock in:

(A) the Federal National Mortgage Association, established under the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.); or

(B) the Federal Home Loan Mortgage Corporation, established under the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.);

as an ordinary loss under Section 301 of the Emergency Economic Stabilization Act of 2008 in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had the loss not been treated as an ordinary loss.

(15) Add the amount excluded from gross income under Section 108(a)(1)(e) of the Internal Revenue Code for the discharge of debt on a qualified principal residence.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal

to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars ($2,500).

STEP FIVE: Determine the sum of the STEP FOUR amount and two thousand five hundred dollars ($2,500).

SECTION 187. IC 6-3-1-3.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **Sec. 3.7. (a) This section applies only to an individual who in 2009 paid property taxes that:**

(1) were imposed on the individual's principal place of residence for the March 1, 2007, assessment date or the January 15, 2008, assessment date;

(2) are due after December 31, 2008; and

(3) are paid on or before the due date for the property taxes.

(b) An individual described in subsection (a) is entitled to a deduction from adjusted gross income for a taxable year beginning after December 31, 2008, and before January 1, 2010, in an amount equal to the amount determined in the following STEPS:

STEP ONE: Determine the lesser of:

(A) two thousand five hundred dollars ($2,500); or

(B) the total amount of property taxes imposed on the individual's principal place of residence for the March 1, 2007, assessment date or the January 15, 2008, assessment date and paid in 2008 or 2009.

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

(A) the STEP ONE result; minus

(B) the total amount of property taxes that:

(i) were imposed on the individual's principal place of residence for the March 1, 2007, assessment date or the January 15, 2008, assessment date;

(ii) were paid in 2008; and

(iii) were deducted from adjusted gross income under section 3.5(a)(17) of this chapter by the individual on the individual's state income tax return for a taxable year beginning before January 1, 2009.

(c) The deduction under this section is in addition to any deduction that an individual is otherwise entitled to claim under section 3.5(a)(17) of this chapter. However, an individual may not deduct under section 3.5(a)(17) of this chapter any property taxes deducted under this section.

(d) This section expires January 1, 2014.

SECTION 188. IC 6-3-1-11, AS AMENDED BY P.L.131-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 11. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended and in effect on ~~January 1, 2008.~~ **February 17, 2009.**

(b) Whenever the Internal Revenue Code is mentioned in this article, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on ~~January 1, 2008,~~ **February 17, 2009,** that pertain to the provisions specifically mentioned, shall be regarded as incorporated in this article by reference and have the same force and effect as though fully set forth in this article. To the extent the provisions apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code and in effect on ~~January 1, 2008,~~ **February 17, 2009,** shall be regarded as rules adopted by the department under this article, unless the department adopts specific rules that supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act passed by Congress before ~~January 1, 2008,~~ **February 17, 2009,** that is effective for any taxable year that began before January 1, ~~2008,~~ **2009,** and that affects:

(1) individual adjusted gross income (as defined in Section 62 of the Internal Revenue Code);

(2) corporate taxable income (as defined in Section 63 of the Internal Revenue Code);

(3) trust and estate taxable income (as defined in Section 641(b) of the Internal Revenue Code);

(4) life insurance company taxable income (as defined in Section 801(b) of the Internal Revenue Code);

(5) mutual insurance company taxable income (as defined in

Section 821(b) of the Internal Revenue Code); or

(6) taxable income (as defined in Section 832 of the Internal Revenue Code);

is also effective for that same taxable year for purposes of determining adjusted gross income under section 3.5 of this chapter.

SECTION 189. IC 6-3-1-34.5, AS ADDED BY P.L.211-2007, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 34.5. (a) Except as provided in subsection (b), "captive real estate investment trust" means a corporation, a trust, or an association:

(1) that is considered a real estate investment trust for the taxable year under Section 856 of the Internal Revenue Code;

(2) that is not regularly traded on an established securities market; and

(3) in which more than fifty percent (50%) of the:

(A) voting power;

(B) beneficial interests; or

(C) shares;

are owned or controlled, directly or constructively, by a single entity that is subject to Subchapter C of Chapter 1 of the Internal Revenue Code.

(b) The term does not include a corporation, a trust, or an association in which more than fifty percent (50%) of the entity's voting power, beneficial interests, or shares are owned by a single entity described in subsection (a)(3) that is owned or controlled, directly or constructively, by:

(1) a corporation, a trust, or an association that is considered a real estate investment trust under Section 856 of the Internal Revenue Code;

(2) a person exempt from taxation under Section 501 of the Internal Revenue Code;

(3) a listed property trust or other foreign real estate investment trust that is organized in a country that has a tax treaty with the United States Treasury Department governing the tax treatment of these trusts; or

~~(3)~~ **(4)** a real estate investment trust that:

(A) is intended to become regularly traded on an established securities market; and

(B) satisfies the requirements of Section 856(a)(5) and Section 856(a)(6) of the Internal Revenue Code under Section 856(h)

of the Internal Revenue Code.

(c) For purposes of this section, the constructive ownership rules of Section 318 of the Internal Revenue Code, as modified by Section 856(d)(5) of the Internal Revenue Code, apply to the determination of the ownership of stock, assets, or net profits of any person.

SECTION 190. IC 6-3-1-35 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **Sec. 35. As used in this article, "pass through entity" means:**

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

(2) a partnership;

(3) a trust;

(4) a limited liability company; or

(5) a limited liability partnership.

SECTION 191. IC 6-3-2-2, AS AMENDED BY P.L.162-2006, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 2. (a) With regard to corporations and nonresident persons, "adjusted gross income derived from sources within Indiana", for the purposes of this article, shall mean and include:

(1) income from real or tangible personal property located in this state;

(2) income from doing business in this state;

(3) income from a trade or profession conducted in this state;

(4) compensation for labor or services rendered within this state; and

(5) income from stocks, bonds, notes, bank deposits, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other intangible personal property if the receipt from the intangible is attributable to Indiana under section 2.2 of this chapter.

Income from a pass through entity shall be characterized in a manner consistent with the income's characterization for federal income tax purposes and shall be considered Indiana source income as if the person, corporation, or pass through entity that received the income had directly engaged in the income producing activity. Income that is derived from one (1) pass through entity and is considered to pass through to another pass through entity does not change these characteristics or attribution provisions. In the case of nonbusiness income described in subsection (g), only so

much of such income as is allocated to this state under the provisions of subsections (h) through (k) shall be deemed to be derived from sources within Indiana. In the case of business income, only so much of such income as is apportioned to this state under the provision of subsection (b) shall be deemed to be derived from sources within the state of Indiana. In the case of compensation of a team member (as defined in section 2.7 of this chapter), only the portion of income determined to be Indiana income under section 2.7 of this chapter is considered derived from sources within Indiana. In the case of a corporation that is a life insurance company (as defined in Section 816(a) of the Internal Revenue Code) or an insurance company that is subject to tax under Section 831 of the Internal Revenue Code, only so much of the income as is apportioned to Indiana under subsection (r) is considered derived from sources within Indiana.

(b) Except as provided in subsection (l), if business income of a corporation or a nonresident person is derived from sources within the state of Indiana and from sources without the state of Indiana, the business income derived from sources within this state shall be determined by multiplying the business income derived from sources both within and without the state of Indiana by the following:

(1) For all taxable years that begin after December 31, 2006, and before January 1, 2008, a fraction. The:

(A) numerator of the fraction is the sum of the property factor plus the payroll factor plus the product of the sales factor multiplied by three (3); and

(B) denominator of the fraction is five (5).

(2) For all taxable years that begin after December 31, 2007, and before January 1, 2009, a fraction. The:

(A) numerator of the fraction is the property factor plus the payroll factor plus the product of the sales factor multiplied by four and sixty-seven hundredths (4.67); and

(B) denominator of the fraction is six and sixty-seven hundredths (6.67).

(3) For all taxable years beginning after December 31, 2008, and before January 1, 2010, a fraction. The:

(A) numerator of the fraction is the property factor plus the payroll factor plus the product of the sales factor multiplied by eight (8); and

(B) denominator of the fraction is ten (10).

(4) For all taxable years beginning after December 31, 2009, and

before January 1, 2011, a fraction. The:

(A) numerator of the fraction is the property factor plus the payroll factor plus the product of the sales factor multiplied by eighteen (18); and

(B) denominator of the fraction is twenty (20).

(5) For all taxable years beginning after December 31, 2010, the sales factor.

(c) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the taxable year. However, with respect to a foreign corporation, the denominator does not include the average value of real or tangible personal property owned or rented and used in a place that is outside the United States. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The average of property shall be determined by averaging the values at the beginning and ending of the taxable year, but the department may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the taxpayer's property.

(d) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the taxable year by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the taxable year. However, with respect to a foreign corporation, the denominator does not include compensation paid in a place that is outside the United States. Compensation is paid in this state if:

(1) the individual's service is performed entirely within the state;

(2) the individual's service is performed both within and without this state, but the service performed without this state is incidental to the individual's service within this state; or

(3) some of the service is performed in this state and:

(A) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in this state; or

(B) the base of operations or the place from which the service

is directed or controlled is not in any state in which some part of the service is performed, but the individual is a resident of this state.

(e) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the taxable year, and the denominator of which is the total sales of the taxpayer everywhere during the taxable year. Sales include receipts from intangible property and receipts from the sale or exchange of intangible property. However, with respect to a foreign corporation, the denominator does not include sales made in a place that is outside the United States. Receipts from intangible personal property are derived from sources within Indiana if the receipts from the intangible personal property are attributable to Indiana under section 2.2 of this chapter. Regardless of the f.o.b. point or other conditions of the sale, sales of tangible personal property are in this state if:

(1) the property is delivered or shipped to a purchaser that is within Indiana, other than the United States government; or

(2) the property is shipped from an office, a store, a warehouse, a factory, or other place of storage in this state and:

(A) the purchaser is the United States government; or

(B) the taxpayer is not taxable in the state of the purchaser.

Gross receipts derived from commercial printing as described in IC 6-2.5-1-10 shall be treated as sales of tangible personal property for purposes of this chapter.

(f) Sales, other than receipts from intangible property covered by subsection (e) and sales of tangible personal property, are in this state if:

(1) the income-producing activity is performed in this state; or

(2) the income-producing activity is performed both within and without this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(g) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (h) through (k).

(h)(1) Net rents and royalties from real property located in this state are allocable to this state.

(2) Net rents and royalties from tangible personal property are allocated to this state:

(i) if and to the extent that the property is utilized in this state; or

(ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(3) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year, and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(i)(1) Capital gains and losses from sales of real property located in this state are allocable to this state.

(2) Capital gains and losses from sales of tangible personal property are allocable to this state if:

(i) the property had a situs in this state at the time of the sale; or

(ii) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(3) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

(j) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

(k)(1) Patent and copyright royalties are allocable to this state:

(i) if and to the extent that the patent or copyright is utilized by the taxpayer in this state; or

(ii) if and to the extent that the patent or copyright is utilized by the taxpayer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(l) If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) separate accounting;

(2) for a taxable year beginning before January 1, 2011, the exclusion of any one (1) or more of the factors, except the sales factor;

(3) the inclusion of one (1) or more additional factors which will fairly represent the taxpayer's income derived from sources within the state of Indiana; or

(4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(m) In the case of two (2) or more organizations, trades, or businesses owned or controlled directly or indirectly by the same interests, the department shall distribute, apportion, or allocate the income derived from sources within the state of Indiana between and among those organizations, trades, or businesses in order to fairly reflect and report the income derived from sources within the state of Indiana by various taxpayers.

(n) For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if:

(1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

(o) Notwithstanding subsections (l) and (m), the department may not, under any circumstances, require that income, deductions, and credits attributable to a taxpayer and another entity be reported in a combined income tax return for any taxable year, if the other entity is:

(1) a foreign corporation; or

(2) a corporation that is classified as a foreign operating corporation for the taxable year by section 2.4 of this chapter.

(p) Notwithstanding subsections (l) and (m), the department may not require that income, deductions, and credits attributable to a taxpayer and another entity not described in subsection (o)(1) or (o)(2) be reported in a combined income tax return for any taxable year, unless the department is unable to fairly reflect the taxpayer's adjusted gross income for the taxable year through use of other powers granted to the department by subsections (l) and (m).

(q) Notwithstanding subsections (o) and (p), one (1) or more taxpayers may petition the department under subsection (l) for permission to file a combined income tax return for a taxable year. The petition to file a combined income tax return must be completed and filed with the department not more than thirty (30) days after the end of the taxpayer's taxable year. A taxpayer filing a combined income tax return must petition the department within thirty (30) days after the end of the taxpayer's taxable year to discontinue filing a combined income tax return.

(r) This subsection applies to a corporation that is a life insurance company (as defined in Section 816(a) of the Internal Revenue Code) or an insurance company that is subject to tax under Section 831 of the Internal Revenue Code. The corporation's adjusted gross income that is derived from sources within Indiana is determined by multiplying the corporation's adjusted gross income by a fraction:

(1) the numerator of which is the direct premiums and annuity considerations received during the taxable year for insurance upon property or risks in the state; and

(2) the denominator of which is the direct premiums and annuity considerations received during the taxable year for insurance upon property or risks everywhere.

The term "direct premiums and annuity considerations" means the gross premiums received from direct business as reported in the corporation's annual statement filed with the department of insurance.

SECTION 192. IC 6-3-2-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 2.5. (a) This section applies to a resident person.

(b) Resident persons are entitled to a net operating loss deduction. The amount of the deduction taken in a taxable year may not exceed the taxpayer's unused Indiana net operating losses carried back or carried over to that year.

(c) An Indiana net operating loss equals the taxpayer's federal net operating loss for a taxable year as calculated under Section 172 of the Internal Revenue Code, adjusted for the modifications required by IC 6-3-1-3.5.

(d) The following provisions apply for purposes of subsection (c):

(1) The modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year in which each net operating loss was incurred.

(2) An Indiana net operating loss includes a net operating loss that arises when the modifications required by IC 6-3-1-3.5 exceed the taxpayer's federal adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for the taxable year in which the Indiana net operating loss is determined.

(e) Subject to the limitations contained in subsection (g), an Indiana net operating loss carryback or carryover shall be available as a deduction from the taxpayer's adjusted gross income (as defined in IC 6-3-1-3.5) in the carryback or carryover year provided in subsection (f).

(f) Carrybacks and carryovers shall be determined under this subsection as follows:

(1) An Indiana net operating loss shall be an Indiana net operating loss carryback to each of the carryback years preceding the taxable year of the loss.

(2) An Indiana net operating loss shall be an Indiana net operating loss carryover to each of the carryover years following the taxable year of the loss.

(3) Carryback years shall be determined by reference to the number of years allowed for carrying back a net operating loss under Section 172(b) of the Internal Revenue Code. **However, with respect to the carryback period for a net operating loss:**

(A) for which an eligible small business, as defined in Section 172(b)(1)(H)(iv) of the Internal Revenue Code, made an election to use five (5) years instead of two (2) years under Section 172(b)(1)(H) of the Internal Revenue Code, two (2) years shall be used instead of five (5) years; or

(B) that is a qualified disaster loss for which the taxpayer elected to have the net operating loss carryback period with respect to the loss year determined without regard to Section 172(b)(1)(J) of the Internal Revenue Code, five (5) years shall be used.

(4) Carryover years shall be determined by reference to the number of years allowed for carrying over net operating losses under Section 172(b) of the Internal Revenue Code.

(5) A taxpayer who makes an election under Section 172(b)(3) of the Internal Revenue Code to relinquish the carryback period with respect to a net operating loss for any taxable year shall be considered to have also relinquished the carryback of the Indiana net operating loss for purposes of this section.

(g) The entire amount of the Indiana net operating loss for any taxable year shall be carried to the earliest of the taxable years to which (as determined under subsection (f)) the loss may be carried. The amount of the Indiana net operating loss remaining after the deduction is taken under this section in a taxable year may be carried back or carried over as provided in subsection (f). The amount of the Indiana net operating loss carried back or carried over from year to year shall be reduced to the extent that the Indiana net operating loss carryback or carryover is used by the taxpayer to obtain a deduction in a taxable year until the occurrence of the earlier of the following:

(1) The entire amount of the Indiana net operating loss has been used as a deduction.

(2) The Indiana net operating loss has been carried over to each of the carryover years provided by subsection (f).

SECTION 193. IC 6-3-2-2.6, AS AMENDED BY P.L.2-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 2.6. (a) This section applies to a corporation or a nonresident person.

(b) Corporations and nonresident persons are entitled to a net operating loss deduction. The amount of the deduction taken in a taxable year may not exceed the taxpayer's unused Indiana net operating losses carried back or carried over to that year.

(c) An Indiana net operating loss equals the taxpayer's federal net operating loss for a taxable year as calculated under Section 172 of the Internal Revenue Code, derived from sources within Indiana and adjusted for the modifications required by IC 6-3-1-3.5.

(d) The following provisions apply for purposes of subsection (c):

(1) The modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year in which each net operating loss was incurred.

(2) The amount of the taxpayer's net operating loss that is derived from sources within Indiana shall be determined in the same

manner that the amount of the taxpayer's adjusted income derived from sources within Indiana is determined under section 2 of this chapter for the same taxable year during which each loss was incurred.

(3) An Indiana net operating loss includes a net operating loss that arises when the modifications required by IC 6-3-1-3.5 exceed the taxpayer's federal taxable income (as defined in Section 63 of the Internal Revenue Code), if the taxpayer is a corporation, or when the modifications required by IC 6-3-1-3.5 exceed the taxpayer's federal adjusted gross income (as defined by Section 62 of the Internal Revenue Code), if the taxpayer is a nonresident person, for the taxable year in which the Indiana net operating loss is determined.

(e) Subject to the limitations contained in subsection (g), an Indiana net operating loss carryback or carryover shall be available as a deduction from the taxpayer's adjusted gross income derived from sources within Indiana (as defined in section 2 of this chapter) in the carryback or carryover year provided in subsection (f).

(f) Carrybacks and carryovers shall be determined under this subsection as follows:

(1) An Indiana net operating loss shall be an Indiana net operating loss carryback to each of the carryback years preceding the taxable year of the loss.

(2) An Indiana net operating loss shall be an Indiana net operating loss carryover to each of the carryover years following the taxable year of the loss.

(3) Carryback years shall be determined by reference to the number of years allowed for carrying back a net operating loss under Section 172(b) of the Internal Revenue Code. **However, with respect to the carryback period for a net operating loss:**

(A) for which an eligible small business, as defined in Section 172(b)(1)(H)(iv) of the Internal Revenue Code, made an election to use five (5) years instead of two (2) years under Section 172(b)(1)(H) of the Internal Revenue Code, two (2) years shall be used instead of five (5) years; or

(B) that is a qualified disaster loss for which the taxpayer elected to have the net operating loss carryback period with respect to the loss year determined without regard to Section 172(b)(1)(J) of the Internal Revenue Code, five (5) years shall be used.

(4) Carryover years shall be determined by reference to the number of years allowed for carrying over net operating losses under Section 172(b) of the Internal Revenue Code.

(5) A taxpayer who makes an election under Section 172(b)(3) of the Internal Revenue Code to relinquish the carryback period with respect to a net operating loss for any taxable year shall be considered to have also relinquished the carryback of the Indiana net operating loss for purposes of this section.

(g) The entire amount of the Indiana net operating loss for any taxable year shall be carried to the earliest of the taxable years to which (as determined under subsection (f)) the loss may be carried. The amount of the Indiana net operating loss remaining after the deduction is taken under this section in a taxable year may be carried back or carried over as provided in subsection (f). The amount of the Indiana net operating loss carried back or carried over from year to year shall be reduced to the extent that the Indiana net operating loss carryback or carryover is used by the taxpayer to obtain a deduction in a taxable year until the occurrence of the earlier of the following:

(1) The entire amount of the Indiana net operating loss has been used as a deduction.

(2) The Indiana net operating loss has been carried over to each of the carryover years provided by subsection (f).

(h) An Indiana net operating loss deduction determined under this section shall be allowed notwithstanding the fact that in the year the taxpayer incurred the net operating loss the taxpayer was not subject to the tax imposed under section 1 of this chapter because the taxpayer was:

(1) a life insurance company (as defined in Section 816(a) of the Internal Revenue Code); or

(2) an insurance company subject to tax under Section 831 of the Internal Revenue Code.

(i) In the case of a life insurance company that claims an operations loss deduction under Section 810 of the Internal Revenue Code, this section shall be applied by:

(1) substituting the corresponding provisions of Section 810 of the Internal Revenue Code in place of references to Section 172 of the Internal Revenue Code; and

(2) substituting life insurance company taxable income (as defined in Section 801 the Internal Revenue Code) in place of references to taxable income (as defined in Section 63 of the

Internal Revenue Code).

(j) For purposes of an amended return filed to carry back an Indiana net operating loss:

(1) the term "due date of the return", as used in IC 6-8.1-9-1(a)(1), means the due date of the return for the taxable year in which the net operating loss was incurred; and

(2) the term "date the payment was due", as used in IC 6-8.1-9-2(c), means the due date of the return for the taxable year in which the net operating loss was incurred.

SECTION 194. IC 6-3-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 8. (a) For purposes of this section, "qualified employee" means an individual who is employed by a taxpayer, a pass through entity, an employer exempt from adjusted gross income tax (IC 6-3-1 through IC 6-3-7) under IC 6-3-2-2.8(3), IC 6-3-2-2.8(4), or IC 6-3-2-2.8(5), a nonprofit entity, the state, a political subdivision of the state, or the United States government and who:

(1) has the employee's principal place of residence in the enterprise zone in which the employee is employed;

(2) performs services for the taxpayer, the employer, the nonprofit entity, the state, the political subdivision, or the United States government, ninety percent (90%) of which are directly related to:

(A) the conduct of the taxpayer's or employer's trade or business; or

(B) the activities of the nonprofit entity, the state, the political subdivision, or the United States government;

that is located in an enterprise zone; and

(3) performs at least fifty percent (50%) of the employee's service for the taxpayer or employer during the taxable year in the enterprise zone.

~~(b) For purposes of this section, "pass through entity" means a:~~

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

~~(2) partnership;~~

~~(3) trust;~~

~~(4) limited liability company; or~~

~~(5) limited liability partnership.~~

~~(c)~~ **(b)** Except as provided in subsection ~~(d),~~ **(c),** a qualified employee is entitled to a deduction from ~~his~~ **the employee's** adjusted gross income in each taxable year in the amount of the lesser of:

(1) one-half (1/2) of ~~his~~ **the employee's** adjusted gross income for the taxable year that ~~he~~ **the employee** earns as a qualified employee; or

(2) seven thousand five hundred dollars ($7,500).

~~(d)~~ **(c)** No qualified employee is entitled to a deduction under this section for a taxable year that begins after the termination of the enterprise zone in which ~~he~~ **the employee** resides.

SECTION 195. IC 6-3-2-5.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **Sec. 5.3. (a) This section applies to taxable years beginning after December 31, 2008.**

(b) As used in this section, "solar powered roof vent or fan" means a roof vent or fan that is powered by solar energy and used to release heat from a building.

(c) A resident individual taxpayer is entitled to a deduction from the taxpayer's adjusted gross income for a particular taxable year if, during that taxable year, the taxpayer installs a solar powered roof vent or fan on a building owned or leased by the taxpayer.

(d) The amount of the deduction to which a taxpayer is entitled in a particular taxable year is the lesser of:

(1) one-half (1/2) of the amount the taxpayer pays for labor and materials for the installation of a solar powered roof vent or fan that is installed during the taxable year; or

(2) one thousand dollars ($1,000).

(e) To obtain the deduction provided by this section, a taxpayer must file with the department proof of the taxpayer's costs for the installation of a solar powered roof vent or fan and a list of the persons or corporation that supplied labor or materials for the installation of the solar powered roof vent or fan.

SECTION 196. IC 6-3-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 10. (a) An individual who received unemployment compensation, as defined in subsection (c), during the taxable year is entitled to a deduction from the individual's adjusted gross income for that taxable year in the amount determined using the following formula:

STEP ONE: Determine the **greater of zero (0) or the** difference between:

(A) the **sum of:**

(i) the federal adjusted gross income of the individual (or the individual and the individual's spouse, in the case of a joint return), as defined in Section 62 of the Internal

Revenue Code; **plus**

(ii) the amount of unemployment compensation excluded from federal gross income, as defined in Section 61 of the Internal Revenue Code, under Section 85(c) of the Internal Revenue Code; minus

(B) the base amount as defined in subsection (b).

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

(A) the individual's unemployment compensation for the taxable year; minus

(B) one-half (1/2) of the amount determined under STEP ONE.

(b) As used in this section, "base amount" means:

(1) twelve thousand dollars ($12,000) in all cases not covered by subdivision (2) or (3);

(2) eighteen thousand dollars ($18,000) in the case of an individual who files a joint return for the taxable year; or

(3) zero (0), in the case of an individual who:

(A) is married at the close of the taxable year, as determined under Section 143 of the Internal Revenue Code;

(B) does not file a joint return for the taxable year; and

(C) does not live apart from the individual's spouse at all times during the taxable year.

(c) As used in this section, "unemployment compensation" means the amount of unemployment compensation that is included in the individual's federal gross income under Section 85 of the Internal Revenue Code.

SECTION 197. IC 6-3-3-10, AS AMENDED BY P.L.4-2005, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 10. (a) As used in this section:

"Base period wages" means the following:

(1) In the case of a taxpayer other than a pass through entity, wages paid or payable by a taxpayer to its employees during the year that ends on the last day of the month that immediately precedes the month in which an enterprise zone is established, to the extent that the wages would have been qualified wages if the enterprise zone had been in effect for that year. If the taxpayer did not engage in an active trade or business during that year in the area that is later designated as an enterprise zone, then the base

period wages equal zero (0). If the taxpayer engaged in an active trade or business during only part of that year in an area that is later designated as an enterprise zone, then the department shall determine the amount of base period wages.

(2) In the case of a taxpayer that is a pass through entity, base period wages equal zero (0).

"Enterprise zone" means an enterprise zone created under IC 5-28-15.

"Enterprise zone adjusted gross income" means adjusted gross income of a taxpayer that is derived from sources within an enterprise zone. Sources of adjusted gross income shall be determined with respect to an enterprise zone, to the extent possible, in the same manner that sources of adjusted gross income are determined with respect to the state of Indiana under IC 6-3-2-2.

"Enterprise zone gross income" means gross income of a taxpayer that is derived from sources within an enterprise zone.

"Enterprise zone insurance premiums" means insurance premiums derived from sources within an enterprise zone.

"Monthly base period wages" means base period wages divided by twelve (12).

~~"Pass through entity" means a:~~

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

~~(2) partnership;~~

~~(3) trust;~~

~~(4) limited liability company; or~~

~~(5) limited liability partnership.~~

"Qualified employee" means an individual who is employed by a taxpayer and who:

(1) has the individual's principal place of residence in the enterprise zone in which the individual is employed;

(2) performs services for the taxpayer, ninety percent (90%) of which are directly related to the conduct of the taxpayer's trade or business that is located in an enterprise zone;

(3) performs at least fifty percent (50%) of the individual's services for the taxpayer during the taxable year in the enterprise zone; and

(4) in the case of an individual who is employed by a taxpayer that is a pass through entity, was first employed by the taxpayer after December 31, 1998.

"Qualified increased employment expenditures" means the following:

(1) For a taxpayer's taxable year other than the taxpayer's taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable by the taxpayer during the taxable year to qualified employees exceeds the taxpayer's base period wages.

(2) For the taxpayer's taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable by the taxpayer during all of the full calendar months in the taxpayer's taxable year that succeed the date on which the enterprise zone was established exceed the taxpayer's monthly base period wages multiplied by that same number of full calendar months.

"Qualified state tax liability" means a taxpayer's total income tax liability incurred under:

(1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax) with respect to enterprise zone adjusted gross income;

(2) IC 27-1-18-2 (insurance premiums tax) with respect to enterprise zone insurance premiums; and

(3) IC 6-5.5 (the financial institutions tax);

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

"Qualified wages" means the wages paid or payable to qualified employees during a taxable year.

"Taxpayer" includes a pass through entity.

(b) A taxpayer is entitled to a credit against the taxpayer's qualified state tax liability for a taxable year in the amount of the lesser of:

(1) the product of ten percent (10%) multiplied by the qualified increased employment expenditures of the taxpayer for the taxable year; or

(2) one thousand five hundred dollars ($1,500) multiplied by the number of qualified employees employed by the taxpayer during the taxable year.

(c) The amount of the credit provided by this section that a taxpayer uses during a particular taxable year may not exceed the taxpayer's qualified state tax liability for the taxable year. If the credit provided by this section exceeds the amount of that tax liability for the taxable year it is first claimed, then the excess may be carried back to preceding

taxable years or carried over to succeeding taxable years and used as a credit against the taxpayer's qualified state tax liability for those taxable years. Each time that the credit is carried back to a preceding taxable year or carried over to a succeeding taxable year, the amount of the carryover is reduced by the amount used as a credit for that taxable year. Except as provided in subsection (e), the credit provided by this section may be carried forward and applied in the ten (10) taxable years that succeed the taxable year in which the credit accrues. The credit provided by this section may be carried back and applied in the three (3) taxable years that precede the taxable year in which the credit accrues.

(d) A credit earned by a taxpayer in a particular taxable year shall be applied against the taxpayer's qualified state tax liability for that taxable year before any credit carryover or carryback is applied against that liability under subsection (c).

(e) Notwithstanding subsection (c), if a credit under this section results from wages paid in a particular enterprise zone, and if that enterprise zone terminates in a taxable year that succeeds the last taxable year in which a taxpayer is entitled to use the credit carryover that results from those wages under subsection (c), then the taxpayer may use the credit carryover for any taxable year up to and including the taxable year in which the enterprise zone terminates.

(f) A taxpayer is not entitled to a refund of any unused credit.

(g) A taxpayer that:

(1) does not own, rent, or lease real property outside of an enterprise zone that is an integral part of its trade or business; and

(2) is not owned or controlled directly or indirectly by a taxpayer that owns, rents, or leases real property outside of an enterprise zone;

is exempt from the allocation and apportionment provisions of this section.

(h) If a pass through entity is entitled to a credit under subsection (b) but does not have state tax liability against which the tax credit may be applied, an individual who is a shareholder, partner, beneficiary, or member of the pass through entity is entitled to a tax credit equal to:

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

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

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, beneficiary, or member of a pass through entity is entitled. However, a pass through entity and an individual who is a shareholder, partner, beneficiary, or member of a pass through entity may not claim more than one (1) credit for the qualified expenditure.

SECTION 198. IC 6-3-3-12, AS AMENDED BY P.L.131-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 12. (a) As used in this section, "account" has the meaning set forth in IC 21-9-2-2.

(b) As used in this section, "account beneficiary" has the meaning set forth in IC 21-9-2-3.

(c) As used in this section, "account owner" has the meaning set forth in IC 21-9-2-4.

(d) As used in this section, "college choice 529 education savings plan" refers to a college choice 529 investment plan established under IC 21-9.

(e) As used in this section, "contribution" means the amount of money directly provided to a college choice 529 education savings plan account by a taxpayer. A contribution does not include any of the following:

(1) Money credited to an account as a result of bonus points or other forms of consideration earned by the taxpayer that result in a transfer of money to the account.

(2) Money transferred from any other qualified tuition program under Section 529 of the Internal Revenue Code or from any other similar plan.

~~(e)~~ **(f)** As used in this section, "nonqualified withdrawal" means a withdrawal or distribution from a college choice 529 education savings plan that is not a qualified withdrawal.

~~(f)~~ **(g)** As used in this section, "qualified higher education expenses" has the meaning set forth in IC 21-9-2-19.5.

~~(g)~~ **(h)** As used in this section, "qualified withdrawal" means a withdrawal or distribution from a college choice 529 education savings plan that is made:

(1) to pay for qualified higher education expenses, excluding any withdrawals or distributions used to pay for qualified higher education expenses if the withdrawals or distributions are made from an account of a college choice 529 education savings plan that is terminated within twelve (12) months after the account is

opened;

(2) as a result of the death or disability of an account beneficiary;

(3) because an account beneficiary received a scholarship that paid for all or part of the qualified higher education expenses of the account beneficiary, to the extent that the withdrawal or distribution does not exceed the amount of the scholarship; or

(4) by a college choice 529 education savings plan as the result of a transfer of funds by a college choice 529 education savings plan from one (1) third party custodian to another.

A qualified withdrawal does not include a rollover distribution or transfer of assets from a college choice 529 education savings plan to any other qualified tuition program under Section 529 of the Internal Revenue Code or to any other similar plan.

~~(h)~~ **(i)** As used in this section, "taxpayer" means:

(1) an individual filing a single return; or

(2) a married couple filing a joint return.

~~(i)~~ **(j)** A taxpayer is entitled to a credit against the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a taxable year equal to the least of the following:

(1) Twenty percent (20%) of the amount of the total contributions made by the taxpayer to an account or accounts of a college choice 529 education savings plan during the taxable year.

(2) One thousand dollars ($1,000).

(3) The amount of the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7.

~~(j)~~ **(k)** A taxpayer is not entitled to a carryback, carryover, or refund of an unused credit.

~~(k)~~ **(l)** A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this section.

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

~~(m)~~ **(n)** An account owner of an account of a college choice 529 education savings plan must repay all or a part of the credit in a taxable year in which any nonqualified withdrawal is made from the account. The amount the taxpayer must repay is equal to the lesser of:

(1) twenty percent (20%) of the total amount of nonqualified withdrawals made during the taxable year from the account; or

(2) the excess of:

(A) the cumulative amount of all credits provided by this section that are claimed by any taxpayer with respect to the taxpayer's contributions to the account for all prior taxable years beginning on or after January 1, 2007; over

(B) the cumulative amount of repayments paid by the account owner under this subsection for all prior taxable years beginning on or after January 1, 2008.

~~(n)~~ **(o)** Any required repayment under subsection ~~(m)~~ **(o)** shall be reported by the account owner on the account owner's annual state income tax return for any taxable year in which a nonqualified withdrawal is made.

~~(o)~~ **(p)** A nonresident account owner who is not required to file an annual income tax return for a taxable year in which a nonqualified withdrawal is made shall make any required repayment on the form required under IC 6-3-4-1(2). If the nonresident account owner does not make the required repayment, the department shall issue a demand notice in accordance with IC 6-8.1-5-1.

~~(p)~~ **(q)** The executive director of the Indiana education savings authority shall submit or cause to be submitted to the department a copy of all information returns or statements issued to account owners, account beneficiaries, and other taxpayers for each taxable year with respect to:

(1) nonqualified withdrawals made from accounts of a college choice 529 education savings plan for the taxable year; or

(2) account closings for the taxable year.

SECTION 199. IC 6-3-4-8.1, AS AMENDED BY P.L.211-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 8.1. (a) Any entity that is required to file a monthly return and make a monthly remittance of taxes under sections 8, 12, 13, and 15 of this chapter shall file those returns and make those remittances twenty (20) days (rather than thirty (30) days) after the end of each month for which those returns and remittances are filed, if that entity's average monthly remittance for the immediately preceding calendar year exceeds one thousand dollars ($1,000).

(b) The department may require any entity to make the entity's monthly remittance and file the entity's monthly return twenty (20) days (rather than thirty (30) days) after the end of each month for which a

return and payment are made if the department estimates that the entity's average monthly payment for the current calendar year will exceed one thousand dollars ($1,000).

(c) If the department determines that a withholding agent is not withholding, reporting, or remitting an amount of tax in accordance with this chapter, the department may require the withholding agent:

(1) to make periodic deposits during the reporting period; and

(2) to file an informational return with each periodic deposit.

(d) If a person files a combined sales and withholding tax report and either this section or IC 6-2.5-6-1 requires the sales or withholding tax report to be filed and remittances to be made within twenty (20) days after the end of each month, then the person shall file the combined report and remit the sales and withholding taxes due within twenty (20) days after the end of each month.

(e) If the department determines that an entity's:

(1) estimated monthly withholding tax remittance for the current year; or

(2) average monthly withholding tax remittance for the preceding year;

exceeds five thousand dollars ($5,000), the entity shall remit the monthly withholding taxes due by electronic fund transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the remittance is due.

~~(f) If an entity's withholding tax remittance is made by electronic fund transfer, the entity is not required to file a monthly withholding tax return.~~

(f) An entity that registers to withhold taxes after December 31, 2009, shall file the withholding tax report and remit withholding taxes electronically through the department's online tax filing program.

SECTION 200. IC 6-3-4-8.2, AS AMENDED BY P.L.91-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.2. (a) Each person in Indiana who is required under the Internal Revenue Code to withhold federal tax from winnings shall deduct and retain adjusted gross income tax at the time and in the amount described in withholding instructions issued by the department.

(b) In addition to amounts withheld under subsection (a), every person engaged in a gambling operation (as defined in IC 4-33-2-10)

or a gambling game (as defined in IC 4-35-2-5) and making a payment in the course of the gambling operation (as defined in IC 4-33-2-10) **or a gambling game (as defined in IC 4-35-2-5)** of:

(1) winnings (not reduced by the wager) valued at one thousand two hundred dollars ($1,200) or more from slot machine play; or

(2) winnings (reduced by the wager) valued at one thousand five hundred dollars ($1,500) or more from a keno game;

shall deduct and retain adjusted gross income tax at the time and in the amount described in withholding instructions issued by the department. The department's instructions must provide that amounts withheld shall be paid to the department before the close of the business day following the day the winnings are paid, actually or constructively. Slot machine and keno winnings from a gambling operation (as defined in IC 4-33-2-10) **or a gambling game (as defined in IC 4-35-2-5)** that are reportable for federal income tax purposes shall be treated as subject to withholding under this section, even if federal tax withholding is not required.

(c) The adjusted gross income tax due on prize money or prizes:

(1) received from a winning lottery ticket purchased under IC 4-30; and

(2) exceeding one thousand two hundred dollars ($1,200) in value;

shall be deducted and retained at the time and in the amount described in withholding instructions issued by the department, even if federal withholding is not required.

(d) In addition to the amounts withheld under subsection (a), a qualified organization (as defined in IC 4-32.2-2-24(a)) that awards a prize under IC 4-32.2 exceeding one thousand two hundred dollars ($1,200) in value shall deduct and retain adjusted gross income tax at the time and in the amount described in withholding instructions issued by the department. The department's instructions must provide that amounts withheld shall be paid to the department before the close of the business day following the day the winnings are paid, actually or constructively.

SECTION 201. IC 6-3.1-4-2, AS AMENDED BY P.L.193-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 2. (a) A taxpayer who incurs Indiana qualified research expense in a particular taxable year is entitled to a research expense tax credit for the taxable year.

(b) For Indiana qualified research expense incurred before January

1, 2008, the amount of the research expense tax credit is equal to the product of ten percent (10%) multiplied by the remainder of:

(1) the taxpayer's Indiana qualified research expenses for the taxable year; minus

(2) the taxpayer's base amount.

(c) **Except as provided in subsection (d),** for Indiana qualified research expense incurred after December 31, 2007, the amount of the research expense tax credit is determined under STEP FOUR of the following formula:

STEP ONE: Subtract the taxpayer's base amount from the taxpayer's Indiana qualified research expense for the taxable year.

STEP TWO: Multiply the lesser of:

(A) one million dollars ($1,000,000); or

(B) the STEP ONE remainder;

by fifteen percent (15%).

STEP THREE: If the STEP ONE remainder exceeds one million dollars ($1,000,000), multiply the amount of that excess by ten percent (10%).

STEP FOUR: Add the STEP TWO and STEP THREE products.

(d) For Indiana qualified research expense incurred after December 31, 2009, a taxpayer may choose to have the amount of the research expense tax credit determined under this subsection rather than under subsection (c). At the election of the taxpayer, the amount of the taxpayer's research expense tax credit is equal to ten percent (10%) of the part of the taxpayer's Indiana qualified research expense for the taxable year that exceeds fifty percent (50%) of the taxpayer's average Indiana qualified research expense for the three (3) taxable years preceding the taxable year for which the credit is being determined. However, if the taxpayer did not have Indiana qualified research expense in any one (1) of the three (3) taxable years preceding the taxable year for which the credit is being determined, the amount of the research expense tax credit is equal to five percent (5%) of the taxpayer's Indiana qualified research expense for the taxable year.

SECTION 202. IC 6-3.1-26-26, AS AMENDED BY P.L.137-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 26. (a) This chapter applies to taxable years beginning after December 31, 2003.

(b) Notwithstanding the other provisions of this chapter, the corporation may not approve a credit for a qualified investment made after December 31, ~~2011.~~ **2013.** However, this section may not be

construed to prevent a taxpayer from carrying an unused tax credit attributable to a qualified investment made before January 1, ~~2012,~~ **2014,** forward to a taxable year beginning after December 31, ~~2011,~~ **2013,** in the manner provided by section 15 of this chapter.

SECTION 203. IC 6-3.1-29-19, AS AMENDED BY P.L.52-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) The corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

(1) A detailed description of the project that is the subject of the agreement.

(2) The first taxable year for which the credit may be claimed.

(3) The maximum tax credit amount that will be allowed for each taxable year.

(4) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.

(5) If the facility is an integrated coal gasification powerplant, a requirement that the taxpayer shall pay an average wage to its employees at the integrated coal gasification powerplant, other than highly compensated employees, in each taxable year that a tax credit is available, that equals at least one hundred twenty-five percent (125%) of the average county wage in the county in which the integrated coal gasification powerplant is located.

(6) For a project involving a qualified investment in an integrated coal gasification powerplant, a requirement that the taxpayer will maintain at the location where the qualified investment is made, during the term of the tax credit, a total payroll that is at least equal to the payroll that existed on the date that the taxpayer placed the integrated coal gasification powerplant into service.

(7) A requirement that:

(A) one hundred percent (100%) of the coal used:

(i) at the integrated coal gasification powerplant, for a project involving a qualified investment in an integrated coal gasification powerplant; or

(ii) as fuel in a fluidized bed combustion unit, in a project involving a qualified investment in a fluidized bed combustion technology, if the unit is dedicated primarily to serving Indiana retail electric utility consumers;

must be Indiana coal, unless the applicant wishes to assign the

tax credit as allowed under section 20.5(c) of this chapter **or elects to receive a refundable tax credit under section 20.7 of this chapter** and the applicant certifies to the corporation that partial use of other coal is necessary to result in lower rates for Indiana retail utility customers; or

(B) seventy-five percent (75%) of the coal used as fuel in a fluidized bed combustion unit must be Indiana coal, in a project involving a qualified investment in a fluidized bed combustion technology, if the unit is not dedicated primarily to serving Indiana retail electric utility consumers.

(8) A requirement that the taxpayer obtain from the commission a determination under IC 8-1-8.5-2 that public convenience and necessity require, or will require:

(A) the construction of the taxpayer's integrated coal gasification powerplant, in the case of a project involving a qualified investment in an integrated coal gasification powerplant; or

(B) the installation of the taxpayer's fluidized bed combustion unit, in the case of a project involving a qualified investment in a fluidized bed combustion technology.

(b) A taxpayer must comply with the terms of the agreement described in subsection (a) to receive an annual installment of the tax credit awarded under this chapter. The corporation shall annually determine whether the taxpayer is in compliance with the agreement. If the corporation determines that the taxpayer is in compliance, the corporation shall issue a certificate of compliance to the taxpayer.

SECTION 204. IC 6-3.1-29-20.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 20.7. (a) The findings in IC 4-4-11.6-12 are incorporated by reference into this section. The general assembly further finds that the refundable credit provided by this section is also necessary to achieve the purposes set forth in IC 4-4-11.6-12.**

(b) This section applies to a taxpayer that:

(1) makes a qualified investment in an integrated coal gasification powerplant; and

(2) enters into a contract to sell substitute natural gas (as defined in IC 4-4-11.6-11) to the Indiana finance authority under IC 4-4-11.6.

(c) Notwithstanding anything in this chapter to the contrary, a

taxpayer may elect in the manner prescribed by the department to take and receive all credits to which the taxpayer is entitled under section 15 of this chapter (without regard to section 16 of this chapter) as a refundable credit against the taxpayer's state tax liability, if any, over a period of twenty (20) taxable years, beginning not later than the taxable year in which the taxpayer places into service its integrated coal gasification powerplant. If, in a taxable year, a taxpayer that makes an election under this subsection has no state tax liability, the department shall pay to the taxpayer the full amount of the refundable credit for that taxable year.

(d) The amount of a credit to which a taxpayer that makes an election under subsection (c) is entitled for a particular taxable year equals the result determined under STEP FOUR:

STEP ONE: Determine the total credit amount to which the taxpayer is entitled under section 15 of this chapter (without regard to section 16 of this chapter).

STEP TWO: Divide the STEP ONE amount by twenty (20).

STEP THREE: Determine the ratio of Indiana coal to total coal used in the taxpayer's integrated coal gasification powerplant in the taxable year.

STEP FOUR: Multiply the STEP TWO and STEP THREE amounts.

(e) A taxpayer shall claim a refund under this section in the manner provided by the department. The department shall pay the refunded amount to the taxpayer not more than ninety (90) days after the date on which the refund is claimed.

(f) The shareholders, members, or partners of a pass through entity that makes an election under subsection (c) are not entitled to a credit allowed under section 20(b) of this chapter.

(g) A credit allowed under this section is not assignable under section 20.5 of this chapter.

SECTION 205. IC 6-3.1-30.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 30.5. School Scholarship Tax Credit

Sec. 1. As used in this chapter, "credit" refers to a credit granted under this chapter.

Sec. 2. As used in this chapter, "pass through entity" has the meaning set forth in IC 6-3-1-35.

Sec. 3. As used in this chapter, "scholarship granting

organization" refers to an organization that:

(1) is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(2) conducts a school scholarship program.

Sec. 4. As used in this chapter, "school scholarship program" refers to a scholarship program certified by the department of education under IC 20-51.

Sec. 5. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

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

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

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

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

Sec. 6. As used in this chapter, "taxpayer" means an individual or entity that has any state tax liability.

Sec. 7. A taxpayer that makes a contribution to a scholarship granting organization for use by the scholarship granting organization in a school scholarship program is entitled to a credit against the taxpayer's state tax liability in the taxable year in which the taxpayer makes the contribution.

Sec. 8. The amount of a taxpayer's credit is equal to fifty percent (50%) of the amount of the contribution made to the scholarship granting organization for a school scholarship program.

Sec. 9. A taxpayer is not entitled to a carryover, carryback, or refund of an unused credit.

Sec. 10. If a pass through entity is entitled to a credit under section 7 of this chapter but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

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

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

Sec. 11. To apply a credit against the taxpayer's state tax liability, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department the

information that the department determines is necessary for the department to determine whether the taxpayer is eligible for the credit.

Sec. 12. A contribution shall be treated as having been made for use in a school scholarship program if:

(1) the contribution is made directly to a scholarship granting organization; and

(2) either:

(A) not later than the date of the contribution, the taxpayer designates in writing to the scholarship granting organization that the contribution is to be used only for a school scholarship program; or

(B) the scholarship granting organization provides the taxpayer with written confirmation that the contribution will be dedicated solely for use in a school scholarship program.

Sec. 13. The total amount of tax credits awarded under this chapter may not exceed two million five hundred thousand dollars ($2,500,000) in any state fiscal year.

Sec. 14. The department, on an Internet web site used by the department to provide information to the public, shall provide the following information:

(1) The application for the credit provided in this chapter.

(2) A timeline for receiving the credit provided in this chapter.

(3) The total amount of credits awarded under this chapter during the current state fiscal year.

Sec. 15. The department shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 206. IC 6-3.1-31.9-1, AS ADDED BY P.L.223-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "alternative fuel" means:

(1) methanol, denatured ethanol, and other alcohols;

(2) mixtures containing eighty-five percent (85%) or more by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuel;

(3) natural gas;

(4) liquefied petroleum gas;

(5) hydrogen;

(6) coal-derived liquid fuels;

(7) non-alcohol fuels derived from biological material;

(8) P-Series fuels; ~~or~~

(9) electricity; **or**

(10) biodiesel or ultra low sulfur diesel fuel.

SECTION 207. IC 6-3.1-31.9-2, AS ADDED BY P.L.223-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "alternative fuel vehicle" means any ~~vehicle~~ **passenger car or light truck with a gross weight of eight thousand five hundred (8,500) pounds or less that is** designed to operate on at least one (1) alternative fuel.

SECTION 208. IC 6-3.1-32-9, AS ADDED BY P.L.131-2008, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) Subject to subsection (b), a qualified applicant that:

(1) incurs or makes qualified production expenditures of:

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

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

(2) satisfies the requirements of this chapter;

may claim a refundable tax credit as provided in this chapter.

(b) The maximum amount of tax credits that may be allowed under this chapter during a state fiscal year for all taxpayers is ~~five~~ **two** million **five hundred** dollars ~~($5,000,000).~~ **($2,500,000).**

SECTION 209. IC 6-3.5-1.1-1.1, AS ADDED BY P.L.207-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.1. (a) For purposes of allocating the certified distribution made to a county under this chapter among the civil taxing units and school corporations in the county, the allocation amount for a civil taxing unit or school corporation is the amount determined using the following formula:

STEP ONE: Determine the sum of the total property taxes being collected by the civil taxing unit or school corporation during the calendar year of the distribution.

STEP TWO: Determine the sum of the following:

(A) Amounts appropriated from property taxes to pay the principal of or interest on any debenture or other debt obligation issued after June 30, 2005, other than an obligation described in subsection (b).

(B) Amounts appropriated from property taxes to make payments on any lease entered into after June 30, 2005, other than a lease described in subsection (c).

(C) The proceeds of any property that are:

(i) received as the result of the issuance of a debt obligation described in clause (A) or a lease described in clause (B); and

(ii) appropriated from property taxes for any purpose other than to refund or otherwise refinance a debt obligation or lease described in subsection (b) or (c).

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

STEP FOUR: Determine the sum of:

(A) the STEP THREE amount; plus

(B) the civil taxing unit's or school corporation's certified distribution for the previous calendar year.

The allocation amount is subject to adjustment as provided in IC 36-8-19-7.5.

(b) Except as provided in this subsection, an appropriation from property taxes to repay interest and principal of a debt obligation is not deducted from the allocation amount for a civil taxing unit or school corporation if:

(1) the debt obligation was issued; and

(2) the proceeds appropriated from property taxes;

to refund or otherwise refinance a debt obligation or a lease issued before July 1, 2005. However, an appropriation from property taxes related to a debt obligation issued after June 30, 2005, is deducted if the debt extends payments on a debt or lease beyond the time in which the debt or lease would have been payable if the debt or lease had not been refinanced or increases the total amount that must be paid on a debt or lease in excess of the amount that would have been paid if the debt or lease had not been refinanced. The amount of the deduction is the annual amount for each year of the extension period or the annual amount of the increase over the amount that would have been paid.

(c) Except as provided in this subsection, an appropriation from property taxes to make payments on a lease is not deducted from the allocation amount for a civil taxing unit or school corporation if:

(1) the lease was issued; and

(2) the proceeds were appropriated from property taxes;

to refinance a debt obligation or lease issued before July 1, 2005.

However, an appropriation from property taxes related to a lease entered into after June 30, 2005, is deducted if the lease extends payments on a debt or lease beyond the time in which the debt or lease would have been payable if the debt or lease had not been refinanced or increases the total amount that must be paid on a debt or lease in excess of the amount that would have been paid if the debt or lease had not been refinanced. The amount of the deduction is the annual amount for each year of the extension period or the annual amount of the increase over the amount that would have been paid.

SECTION 210. IC 6-3.5-1.1-9, AS AMENDED BY P.L.146-2008, SECTION 327, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 9. (a) Revenue derived from the imposition of the county adjusted gross income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount to be distributed to a county during an ensuing calendar year equals the amount of county adjusted gross income tax revenue that the ~~department, after reviewing the recommendation of the~~ budget agency determines has been:

(1) received from that county for a taxable year ending before the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted ~~(as determined after review of the recommendation of the budget agency)~~ for refunds of county adjusted gross income tax made in the state fiscal year.

(b) Before August 2 of each calendar year, the ~~department, after reviewing the recommendation of the~~ budget agency shall certify to the county auditor of each adopting county the amount determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified shall be adjusted under subsections (c), (d), (e), (f), (g), and (h). The budget agency shall provide the county council with an informative summary of the calculations used to determine the certified distribution. The summary of calculations must include:

(1) the amount reported on individual income tax returns processed by the department during the previous fiscal year;

(2) adjustments for over distributions in prior years;

(3) adjustments for clerical or mathematical errors in prior years;

(4) adjustments for tax rate changes; and

(5) the amount of excess account balances to be distributed under IC 6-3.5-1.1-21.1.

The ~~department~~ **budget agency** shall also certify information concerning the part of the certified distribution that is attributable to a tax rate under section 24, 25, or 26 of this chapter. This information must be certified to the county auditor, **the department,** and ~~to~~ the department of local government finance not later than September 1 of each calendar year. The part of the certified distribution that is attributable to a tax rate under section 24, 25, or 26 of this chapter may be used only as specified in those provisions.

(c) The ~~department~~ **budget agency** shall certify an amount less than the amount determined under subsection (b) if the ~~department, after reviewing the recommendation of the~~ budget agency determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The ~~department after reviewing the recommendation of the~~ budget agency may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(d) The ~~department, after reviewing the recommendation of the~~ budget agency shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The ~~department, after reviewing the recommendation of the~~ budget agency may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) The ~~department, after reviewing the recommendation of the~~ budget agency shall adjust the certified distribution of a county to provide the county with the distribution required under section 10(b) of this chapter.

(f) This subsection applies to a county that:

(1) initially imposes the county adjusted gross income tax; or

(2) increases the county adjusted income tax rate;

under this chapter in the same calendar year in which the ~~department~~ **budget agency** makes a certification under this section. The ~~department, after reviewing the recommendation of the~~ budget agency shall adjust the certified distribution of a county to provide for a

distribution in the immediately following calendar year and in each calendar year thereafter. The ~~department~~ **budget agency** shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c).

(g) The ~~department, after reviewing the recommendation of the~~ budget agency shall adjust the certified distribution of a county to provide the county with the distribution required under section 3.3 of this chapter beginning not later than the tenth month after the month in which additional revenue from the tax authorized under section 3.3 of this chapter is initially collected.

(h) This subsection applies in the year in which a county initially imposes a tax rate under section 24 of this chapter. Notwithstanding any other provision, the ~~department~~ **budget agency** shall adjust the part of the county's certified distribution that is attributable to the tax rate under section 24 of this chapter to provide for a distribution in the immediately following calendar year equal to the result of:

(1) the sum of the amounts determined under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) in the year in which the county initially imposes a tax rate under section 24 of this chapter; multiplied by

(2) two (2).

SECTION 211. IC 6-3.5-1.1-14, AS AMENDED BY P.L.146-2008, SECTION 328, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 14. (a) In determining the amount of property tax replacement credits civil taxing units and school corporations of a county are entitled to receive during a calendar year, the department of local government finance shall consider only property taxes imposed on tangible property that was assessed in that county.

(b) If a civil taxing unit or a school corporation is located in more than one (1) county and receives property tax replacement credits from one (1) or more of the counties, then the property tax replacement credits received from each county shall be used only to reduce the property tax rates that are imposed within the county that distributed the property tax replacement credits.

(c) A civil taxing unit shall treat any property tax replacement credits that it receives or is to receive during a particular calendar year as a part of its property tax levy for that same calendar year for purposes of fixing its budget and for purposes of the property tax levy

limits imposed by IC 6-1.1-18.5.

(d) Subject to subsection (e), if a civil taxing unit or school corporation of an adopting county does not impose a property tax levy that is first due and payable in a calendar year in which property tax replacement credits are being distributed, the civil taxing unit or school corporation is entitled to use the property tax replacement credits distributed to the civil taxing unit or school corporation for any purpose for which a property tax levy could be used.

(e) A school corporation shall treat any property tax replacement credits that the school corporation receives or is to receive during a particular calendar year as a part of its property tax levy for its debt service fund, capital projects fund, transportation fund, **and** school bus replacement fund ~~and special education preschool fund~~ in proportion to the levy for each of these funds for that same calendar year for purposes of fixing its budget. A school corporation shall allocate the property tax replacement credits described in this subsection to all ~~five (5)~~ **four (4)** funds in proportion to the levy for each fund.

SECTION 212. IC 6-3.5-1.1-15, AS AMENDED BY P.L.146-2008, SECTION 329, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) As used in this section, "attributed allocation amount" of a civil taxing unit for a calendar year means the sum of:

(1) the allocation amount of the civil taxing unit for that calendar year; plus

(2) the current ad valorem property tax levy of any special taxing district, authority, board, or other entity formed to discharge governmental services or functions on behalf of or ordinarily attributable to the civil taxing unit; plus

(3) in the case of a county, an amount equal to the welfare allocation amount.

The welfare allocation amount is an amount equal to the sum of the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund and, if the county received a certified distribution under this chapter or IC 6-3.5-6 in 2008, the property taxes imposed by the county in 2008 for the county's county medical assistance to wards fund, family and children's fund, children's psychiatric residential treatment services fund, county hospital care for the indigent fund and children with special health care needs county fund.

(b) The part of a county's certified distribution that is to be used as

certified shares shall be allocated only among the county's civil taxing units. Each civil taxing unit of a county is entitled to receive a certified share during a calendar year in an amount determined in STEP TWO of the following formula:

STEP ONE: Divide:

(A) the attributed allocation amount of the civil taxing unit during that calendar year; by

(B) the sum of the attributed allocation amounts of all the civil taxing units of the county during that calendar year.

STEP TWO: Multiply the part of the county's certified distribution that is to be used as certified shares by the STEP ONE amount.

(c) The ~~local government tax control board established by IC 6-1.1-18.5-11~~ **department of local government finance** shall determine the attributed levies of civil taxing units that are entitled to receive certified shares during a calendar year. If the ad valorem property tax levy of any special taxing district, authority, board, or other entity is attributed to another civil taxing unit under subsection (a)(2), then the special taxing district, authority, board, or other entity shall not be treated as having an attributed allocation amount of its own. The ~~local government tax control board~~ **department of local government finance** shall certify the attributed allocation amounts to the appropriate county auditor. The county auditor shall then allocate the certified shares among the civil taxing units of the auditor's county.

(d) Certified shares received by a civil taxing unit shall be treated as additional revenue for the purpose of fixing its budget for the calendar year during which the certified shares will be received. The certified shares may be allocated to or appropriated for any purpose, including property tax relief or a transfer of funds to another civil taxing unit whose levy was attributed to the civil taxing unit in the determination of its attributed allocation amount.

SECTION 213. IC 6-3.5-1.1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 21. Before October 2 of each year, the ~~department~~ **budget agency** shall submit a report to each county auditor indicating the balance in the county's adjusted gross income tax account as of the cutoff date specified by the budget agency.

SECTION 214. IC 6-3.5-1.1-21.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 21.1. (a) If ~~after receiving a recommendation from~~ the budget agency ~~the department~~

determines that a sufficient balance exists in a county account in excess of the amount necessary, when added to other money that will be deposited in the account after the date of the ~~recommendation,~~ **determination,** to make certified distributions to the county in the ensuing year, the ~~department~~ **budget agency** shall make a supplemental distribution to a county from the county's adjusted gross income tax account.

(b) A supplemental distribution described in subsection (a) must be:

(1) made in January of the ensuing calendar year; and

(2) allocated and, subject to subsection (d), used in the same manner as certified distributions.

(c) A determination under this section must be made before October 2.

(d) This subsection applies to that part of a distribution made under this section that is allocated and available for use in the same manner as certified shares. The civil taxing unit receiving the money shall deposit the money in the civil taxing unit's rainy day fund established under IC 36-1-8-5.1.

SECTION 215. IC 6-3.5-1.5-1, AS AMENDED BY P.L.146-2008, SECTION 334, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 1. (a) The department of local government finance and the department of state revenue **(before January 1, 2010) or the budget agency (after December 31, 2009)** shall, before July 1 of each year, jointly calculate the county adjusted income tax rate or county option income tax rate (as applicable) that must be imposed in a county to raise income tax revenue in the following year equal to the sum of the following STEPS:

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

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

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

In the case of a civil taxing unit that is located in more than one (1) county, the department of local government finance shall, for purposes of making the determination under this subdivision,

apportion the civil taxing unit's maximum permissible ad valorem property tax levy among the counties in which the civil taxing unit is located.

STEP TWO: This STEP applies only to property taxes first due and payable before January 1, 2009. Determine the greater of zero (0) or the result of:

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

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

STEP THREE: This STEP applies only to property taxes first due and payable before January 1, 2009. Determine the greater of zero (0) or the result of:

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

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

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

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

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

(b) In the case of a county that wishes to impose a tax rate under IC 6-3.5-1.1-24 or IC 6-3.5-6-30 (as applicable) for the first time, the department of local government finance and the department of state revenue **(before January 1, 2010) or the budget agency (after December 31, 2009)** shall jointly estimate the amount that will be calculated under subsection (a) in the second year after the tax rate is

first imposed. The department of local government finance and the department of state revenue **(before January 1, 2010) or the budget agency (after December 31, 2009)** shall calculate the tax rate under IC 6-3.5-1.1-24 or IC 6-3.5-6-30 (as applicable) that must be imposed in the county in the second year after the tax rate is first imposed to raise income tax revenue equal to the estimate under this subsection.

(c) The department **(before January 1, 2010) or the budget agency (after December 31, 2009)** and the department of local government finance shall make the calculations under subsections (a) and (b) based on the best information available at the time the calculation is made.

(d) Notwithstanding IC 6-3.5-1.1-24(h) and IC 6-3.5-6-30(h), if a county has adopted an income tax rate under IC 6-3.5-1.1-24 or IC 6-3.5-6-30 to replace property tax levy growth, the part of the tax rate under IC 6-3.5-1.1-24 or IC 6-3.5-6-30 that was used before January 1, 2009, to reduce levy growth in the county family and children's fund property tax levy and the children's psychiatric residential treatment services property tax levy shall instead be used for property tax relief in the same manner that a tax rate under IC 6-3.5-1.1-26 or ~~IC 6-3.5-6-30~~ **IC 6-3.5-6-32** is used for property tax relief.

SECTION 216. IC 6-3.5-1.5-3, AS ADDED BY P.L.224-2007, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 3. The department of local government finance and the ~~department of state revenue~~ **budget agency** may take any actions necessary to carry out the purposes of this chapter.

SECTION 217. IC 6-3.5-6-1.1, AS AMENDED BY P.L.146-2008, SECTION 336, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.1. (a) For purposes of allocating the certified distribution made to a county under this chapter among the civil taxing units in the county, the allocation amount for a civil taxing unit is the amount determined using the following formula:

STEP ONE: Determine the total property taxes that are first due and payable to the civil taxing unit during the calendar year of the distribution plus, for a county, an amount equal to the welfare allocation amount.

STEP TWO: Determine the sum of the following:

(A) Amounts appropriated from property taxes to pay the principal of or interest on any debenture or other debt obligation issued after June 30, 2005, other than an obligation

described in subsection (b).

(B) Amounts appropriated from property taxes to make payments on any lease entered into after June 30, 2005, other than a lease described in subsection (c).

(C) The proceeds of any property that are:

(i) received as the result of the issuance of a debt obligation described in clause (A) or a lease described in clause (B); and

(ii) appropriated from property taxes for any purpose other than to refund or otherwise refinance a debt obligation or lease described in subsection (b) or (c).

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

STEP FOUR: Determine the sum of:

(A) the STEP THREE amount; plus

(B) the civil taxing unit or school corporation's certified distribution for the previous calendar year.

The allocation amount is subject to adjustment as provided in IC 36-8-19-7.5. The welfare allocation amount is an amount equal to the sum of the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund and, if the county received a certified distribution under IC 6-3.5-1.1 or this chapter in 2008, the property taxes imposed by the county in 2008 for the county's county medical assistance to wards fund, family and children's fund, children's psychiatric residential treatment services fund, county hospital care for the indigent fund, and children with special health care needs county fund.

(b) Except as provided in this subsection, an appropriation from property taxes to repay interest and principal of a debt obligation is not deducted from the allocation amount for a civil taxing unit if:

(1) the debt obligation was issued; and

(2) the proceeds appropriated from property taxes;

to refund or otherwise refinance a debt obligation or a lease issued before July 1, 2005. However, an appropriation from property taxes related to a debt obligation issued after June 30, 2005, is deducted if the debt extends payments on a debt or lease beyond the time in which the debt or lease would have been payable if the debt or lease had not been refinanced or increases the total amount that must be paid on a debt or lease in excess of the amount that would have been paid if the debt or lease had not been refinanced. The amount of the deduction is

the annual amount for each year of the extension period or the annual amount of the increase over the amount that would have been paid.

(c) Except as provided in this subsection, an appropriation from property taxes to make payments on a lease is not deducted from the allocation amount for a civil taxing unit if:

(1) the lease was issued; and

(2) the proceeds were appropriated from property taxes;

to refinance a debt obligation or lease issued before July 1, 2005. However, an appropriation from property taxes related to a lease entered into after June 30, 2005, is deducted if the lease extends payments on a debt or lease beyond the time in which the debt or lease would have been payable if it had not been refinanced or increases the total amount that must be paid on a debt or lease in excess of the amount that would have been paid if the debt or lease had not been refinanced. The amount of the deduction is the annual amount for each year of the extension period or the annual amount of the increase over the amount that would have been paid.

SECTION 218. IC 6-3.5-6-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.5. A county income tax council must before August 1 of each odd-numbered year hold at least one (1) public meeting at which the county income tax council discusses whether the county option income tax rate under this chapter should be adjusted.**

SECTION 219. IC 6-3.5-6-17, AS AMENDED BY P.L.146-2008, SECTION 338, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 17. (a) Revenue derived from the imposition of the county option income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount that is to be distributed to a county during an ensuing calendar year equals the amount of county option income tax revenue that the ~~department, after reviewing the recommendation of the~~ budget agency determines has been:

(1) received from that county for a taxable year ending in a calendar year preceding the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted (as determined after review of the recommendation of the

budget agency) for refunds of county option income tax made in the state fiscal year.

(b) Before August 2 of each calendar year, the ~~department, after reviewing the recommendation of the~~ budget agency shall certify to the county auditor of each adopting county the amount determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified shall be adjusted, as necessary, under subsections (c), (d), (e), and (f). The budget agency shall provide the county council with an informative summary of the calculations used to determine the certified distribution. The summary of calculations must include:

(1) the amount reported on individual income tax returns processed by the department during the previous fiscal year;

(2) adjustments for over distributions in prior years;

(3) adjustments for clerical or mathematical errors in prior years;

(4) adjustments for tax rate changes; and

(5) the amount of excess account balances to be distributed under IC 6-3.5-6-17.3.

The ~~department~~ **budget agency** shall also certify information concerning the part of the certified distribution that is attributable to a tax rate under section 30, 31, or 32 of this chapter. This information must be certified to the county auditor and to the department of local government finance not later than September 1 of each calendar year. The part of the certified distribution that is attributable to a tax rate under section 30, 31, or 32 of this chapter may be used only as specified in those provisions.

(c) The ~~department~~ **budget agency** shall certify an amount less than the amount determined under subsection (b) if the ~~department, after reviewing the recommendation of the~~ budget agency determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The ~~department, after reviewing the recommendation of the~~ budget agency may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(d) The ~~department, after reviewing the recommendation of the~~ budget agency shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous

certification under this section. The ~~department, after reviewing the recommendation of the~~ budget agency may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) This subsection applies to a county that:

(1) initially imposed the county option income tax; or

(2) increases the county option income tax rate;

under this chapter in the same calendar year in which the ~~department~~ **budget agency** makes a certification under this section. The ~~department, after reviewing the recommendation of the~~ budget agency shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The ~~department~~ **budget agency** shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c).

(f) This subsection applies in the year a county initially imposes a tax rate under section 30 of this chapter. Notwithstanding any other provision, the ~~department~~ **budget agency** shall adjust the part of the county's certified distribution that is attributable to the tax rate under section 30 of this chapter to provide for a distribution in the immediately following calendar year equal to the result of:

(1) the sum of the amounts determined under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) in the year in which the county initially imposes a tax rate under section 30 of this chapter; multiplied by

(2) the following:

(A) In a county containing a consolidated city, one and five-tenths (1.5).

(B) In a county other than a county containing a consolidated city, two (2).

(g) One-twelfth (1/12) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 16 of this chapter to the appropriate county treasurer on the first day of each month of that calendar year.

(h) Upon receipt, each monthly payment of a county's certified distribution shall be allocated among, distributed to, and used by the civil taxing units of the county as provided in sections 18 and 19 of this chapter.

(i) All distributions from an account established under section 16 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

SECTION 220. IC 6-3.5-6-17.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 17.2. Before October 2 of each year, the ~~department~~ **budget agency** shall submit a report to each county auditor indicating the balance in the county's special account as of the cutoff date set by the budget agency.

SECTION 221. IC 6-3.5-6-17.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 17.3. (a) If ~~after receiving a recommendation from~~ the budget agency ~~the department~~ determines that a sufficient balance exists in a county account in excess of the amount necessary, when added to other money that will be deposited in the account after the date of the ~~recommendation,~~ **determination,** to make certified distributions to the county in the ensuing year, the ~~department~~ **budget agency** shall make a supplemental distribution to a county from the county's special account.

(b) A supplemental distribution described in subsection (a) must be:

(1) made in January of the ensuing calendar year; and

(2) allocated in the same manner as certified distributions for deposit in a civil unit's rainy day fund established under IC 36-1-8-5.1.

(c) A determination under this section must be made before October 2.

SECTION 222. IC 6-3.5-6-18, AS AMENDED BY P.L.224-2007, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. (a) The revenue a county auditor receives under this chapter shall be used to:

(1) replace the amount, if any, of property tax revenue lost due to the allowance of an increased homestead credit within the county;

(2) fund the operation of a public communications system and computer facilities district as provided in an election, if any, made by the county fiscal body under IC 36-8-15-19(b);

(3) fund the operation of a public transportation corporation as provided in an election, if any, made by the county fiscal body under IC 36-9-4-42;

(4) make payments permitted under **IC 36-7-14-25.5 or** IC 36-7-15.1-17.5;

(5) make payments permitted under subsection (i);

(6) make distributions of distributive shares to the civil taxing

units of a county; and

(7) make the distributions permitted under sections 27, 28, 29, 30, 31, 32, and 33 of this chapter.

(b) The county auditor shall retain from the payments of the county's certified distribution, an amount equal to the revenue lost, if any, due to the increase of the homestead credit within the county. This money shall be distributed to the civil taxing units and school corporations of the county as though they were property tax collections and in such a manner that no civil taxing unit or school corporation shall suffer a net revenue loss due to the allowance of an increased homestead credit.

(c) The county auditor shall retain:

(1) the amount, if any, specified by the county fiscal body for a particular calendar year under subsection (i), **IC 36-7-14-25.5,** IC 36-7-15.1-17.5, IC 36-8-15-19(b), and IC 36-9-4-42 from the county's certified distribution for that same calendar year; and

(2) the amount of an additional tax rate imposed under section 27, 28, 29, 30, 31, 32, or 33 of this chapter.

The county auditor shall distribute amounts retained under this subsection to the county.

(d) All certified distribution revenues that are not retained and distributed under subsections (b) and (c) shall be distributed to the civil taxing units of the county as distributive shares.

(e) The amount of distributive shares that each civil taxing unit in a county is entitled to receive during a month equals the product of the following:

(1) The amount of revenue that is to be distributed as distributive shares during that month; multiplied by

(2) A fraction. The numerator of the fraction equals the allocation amount for the civil taxing unit for the calendar year in which the month falls. The denominator of the fraction equals the sum of the allocation amounts of all the civil taxing units of the county for the calendar year in which the month falls.

(f) The department of local government finance shall provide each county auditor with the fractional amount of distributive shares that each civil taxing unit in the auditor's county is entitled to receive monthly under this section.

(g) Notwithstanding subsection (e), if a civil taxing unit of an adopting county does not impose a property tax levy that is first due and payable in a calendar year in which distributive shares are being distributed under this section, that civil taxing unit is entitled to receive

a part of the revenue to be distributed as distributive shares under this section within the county. The fractional amount such a civil taxing unit is entitled to receive each month during that calendar year equals the product of the following:

(1) The amount to be distributed as distributive shares during that month; multiplied by

(2) A fraction. The numerator of the fraction equals the budget of that civil taxing unit for that calendar year. The denominator of the fraction equals the aggregate budgets of all civil taxing units of that county for that calendar year.

(h) If for a calendar year a civil taxing unit is allocated a part of a county's distributive shares by subsection (g), then the formula used in subsection (e) to determine all other civil taxing units' distributive shares shall be changed each month for that same year by reducing the amount to be distributed as distributive shares under subsection (e) by the amount of distributive shares allocated under subsection (g) for that same month. The department of local government finance shall make any adjustments required by this subsection and provide them to the appropriate county auditors.

(i) Notwithstanding any other law, a county fiscal body may pledge revenues received under this chapter (other than revenues attributable to a tax rate imposed under section 30, 31, or 32 of this chapter) to the payment of bonds or lease rentals to finance a qualified economic development tax project under IC 36-7-27 in that county or in any other county if the county fiscal body determines that the project will promote significant opportunities for the gainful employment or retention of employment of the county's residents.

SECTION 223. IC 6-3.5-6-27, AS ADDED BY P.L.214-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 27. (a) This section applies only to Miami County. Miami County possesses unique economic development challenges due to:

(1) underemployment in relation to similarly situated counties; and

(2) the presence of a United States government military base or other military installation that is completely or partially inactive or closed.

Maintaining low property tax rates is essential to economic development, and the use of county option income tax revenues as provided in this chapter to pay any bonds issued or leases entered into

to finance the construction, acquisition, improvement, renovation, and equipping described under subsection (c), rather than use of property taxes, promotes that purpose.

(b) In addition to the rates permitted by sections 8 and 9 of this chapter, the county council may impose the county option income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of resident county taxpayers if the county council makes the finding and determination set forth in subsection (c). Section 8(e) of this chapter applies to the application of the additional rate to nonresident taxpayers.

(c) In order to impose the county option income tax as provided in this section, the county council must adopt an ordinance finding and determining that revenues from the county option income tax are needed to pay the costs of financing, constructing, acquiring, renovating, and equipping a county jail, including the repayment of bonds issued, or leases entered into, for financing, constructing, acquiring, renovating, and equipping a county jail.

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

(e) The county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section. County option income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 18 of this chapter.

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

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

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

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

(g) The ~~department, after reviewing the recommendation of the~~ budget agency shall adjust the certified distribution of a county to provide for an increased distribution of taxes in the immediately following calendar year after the county adopts an increased tax rate under this section and in each calendar year thereafter. The ~~department~~

budget agency shall provide for a full transition to certification of distributions as provided in section 17(a)(1) through 17(a)(2) of this chapter in the manner provided in section 17(c) of this chapter.

SECTION 224. IC 6-3.5-6-28, AS AMENDED BY P.L.224-2007, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 28. (a) This section applies only to Howard County.

(b) Maintaining low property tax rates is essential to economic development, and the use of county option income tax revenues as provided in this section and as needed in the county to fund the operation and maintenance of a jail and juvenile detention center, rather than the use of property taxes, promotes that purpose.

(c) In addition to the rates permitted by sections 8 and 9 of this chapter, the county fiscal body may impose a county option income tax at a rate that does not exceed twenty-five hundredths percent (0.25%) on the adjusted gross income of resident county taxpayers. The tax rate may be adopted in any increment of one hundredth percent (0.01%). Before the county fiscal body may adopt a tax rate under this section, the county fiscal body must make the finding and determination set forth in subsection (d). Section 8(e) of this chapter applies to the application of the additional tax rate to nonresident taxpayers.

(d) In order to impose the county option income tax as provided in this section, the county fiscal body must adopt an ordinance:

(1) finding and determining that revenues from the county option income tax are needed in the county to fund the operation and maintenance of a jail, a juvenile detention center, or both; and

(2) agreeing to freeze the part of any property tax levy imposed in the county for the operation of the jail or juvenile detention center, or both, covered by the ordinance at the rate imposed in the year preceding the year in which a full year of additional county option income tax is certified for distribution to the county under this section for the term in which an ordinance is in effect under this section.

(e) If the county fiscal body makes a determination under subsection (d), the county fiscal body may adopt a tax rate under subsection (c). Subject to the limitations in subsection (c), the county fiscal body may amend an ordinance adopted under this section to increase, decrease, or rescind the additional tax rate imposed under this section. As soon as practicable after the adoption of an ordinance under this section, the county fiscal body shall send a certified copy of the ordinance to the

county auditor, the department of local government finance, and the department of state revenue. An ordinance adopted under this section before April 1 in a year applies to the imposition of county income taxes after June 30 in that year. An ordinance adopted under this section after March 31 of a year initially applies to the imposition of county option income taxes after June 30 of the immediately following year.

(f) The county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section. County option income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 18 of this chapter.

(g) County option income tax revenues derived from the tax rate imposed under this section:

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

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

(h) The department of local government finance shall enforce an agreement under subsection (d)(2).

(i) The ~~department, after reviewing the recommendation of the~~ budget agency shall adjust the certified distribution of a county to provide for an increased distribution of taxes in the immediately following calendar year after the county adopts an increased tax rate under this section and in each calendar year thereafter. The ~~department~~ **budget agency** shall provide for a full transition to certification of distributions as provided in section 17(a)(1) through 17(a)(2) of this chapter in the manner provided in section 17(c) of this chapter.

(j) The department shall separately designate a tax rate imposed under this section in any tax form as the Howard County jail operating and maintenance income tax.

SECTION 225. IC 6-3.5-6-29, AS AMENDED BY P.L.224-2007, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 29. (a) This section applies only to Scott County. Scott County is a county in which:

(1) maintaining low property tax rates is essential to economic development; and

(2) the use of additional county option income tax revenues as provided in this section, rather than the use of property taxes, to

fund:

(A) the financing, construction, acquisition, improvement, renovation, equipping, operation, or maintenance of jail facilities; and

(B) the repayment of bonds issued or leases entered into for the purposes described in clause (A), except operation or maintenance;

promotes the purpose of maintaining low property tax rates.

(b) The county fiscal body may impose the county option income tax on the adjusted gross income of resident county taxpayers at a rate, in addition to the rates permitted by sections 8 and 9 of this chapter, not to exceed twenty-five hundredths percent (0.25%). Section 8(e) of this chapter applies to the application of the additional rate to nonresident taxpayers.

(c) To impose the county option income tax as provided in this section, the county fiscal body must adopt an ordinance finding and determining that additional revenues from the county option income tax are needed in the county to fund:

(1) the financing, construction, acquisition, improvement, renovation, equipping, operation, or maintenance of jail facilities; and

(2) the repayment of bonds issued or leases entered into for the purposes described in subdivision (1), except operation or maintenance.

(d) If the county fiscal body makes a determination under subsection (c), the county fiscal body may adopt an additional tax rate under subsection (b). Subject to the limitations in subsection (b), the county fiscal body may amend an ordinance adopted under this section to increase, decrease, or rescind the additional tax rate imposed under this section. As soon as practicable after the adoption of an ordinance under this section, the county fiscal body shall send a certified copy of the ordinance to the county auditor, the department of local government finance, and the department. An ordinance adopted under this section before June 1, 2006, or August 1 in a subsequent year applies to the imposition of county income taxes after June 30 (in the case of an ordinance adopted before June 1, 2006) or September 30 (in the case of an ordinance adopted in 2007 or thereafter) in that year. An ordinance adopted under this section after May 31, 2006, or July 31 of a subsequent year initially applies to the imposition of county option income taxes after June 30 (in the case of an ordinance adopted before

June 1, 2006) or September 30 (in the case of an ordinance adopted in 2007 or thereafter) of the immediately following year.

(e) If the county imposes an additional tax rate under this section, the county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section. County option income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 18 of this chapter.

(f) County option income tax revenues derived from an additional tax rate imposed under this section:

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

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

(3) may be pledged for the repayment of bonds issued or leases entered into to fund the purposes described in subsection (c)(1), except operation or maintenance.

(g) If the county imposes an additional tax rate under this section, the ~~department, after reviewing the recommendation of the~~ budget agency shall adjust the certified distribution of the county to provide for an increased distribution of taxes in the immediately following calendar year after the county adopts the increased tax rate and in each calendar year thereafter. The ~~department~~ **budget agency** shall provide for a full transition to certification of distributions as provided in section 17(a)(1) through 17(a)(2) of this chapter in the manner provided in section 17(c) of this chapter.

SECTION 226. IC 6-3.5-6-33, AS ADDED BY P.L.224-2007, SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 33. (a) This section applies only to Monroe County.

(b) Maintaining low property tax rates is essential to economic development, and the use of county option income tax revenues as provided in this chapter and as needed in the county to fund the operation and maintenance of a juvenile detention center and other facilities to provide juvenile services, rather than the use of property taxes, promotes that purpose.

(c) In addition to the rates permitted by sections 8 and 9 of this chapter, the county fiscal body may impose an additional county option income tax at a rate of not more than twenty-five hundredths percent (0.25%) on the adjusted gross income of resident county taxpayers if

the county fiscal body makes the finding and determination set forth in subsection (d). Section 8(e) of this chapter applies to the application of the additional rate to nonresident taxpayers.

(d) In order to impose the county option income tax as provided in this section, the county fiscal body must adopt an ordinance:

(1) finding and determining that revenues from the county option income tax are needed in the county to fund the operation and maintenance of a juvenile detention center and other facilities necessary to provide juvenile services; and

(2) agreeing to freeze for the term in which an ordinance is in effect under this section the part of any property tax levy imposed in the county for the operation of the juvenile detention center and other facilities covered by the ordinance at the rate imposed in the year preceding the year in which a full year of additional county option income tax is certified for distribution to the county under this section.

(e) If the county fiscal body makes a determination under subsection (d), the county fiscal body may adopt a tax rate under subsection (c). Subject to the limitations in subsection (c), the county fiscal body may amend an ordinance adopted under this section to increase, decrease, or rescind the additional tax rate imposed under this section. As soon as practicable after the adoption of an ordinance under this section, the county fiscal body shall send a certified copy of the ordinance to the county auditor, the department of local government finance, and the department of state revenue. An ordinance adopted under this section before August 1 in a year applies to the imposition of county income taxes after September 30 in that year. An ordinance adopted under this section after July 31 of a year initially applies to the imposition of county option income taxes after September 30 of the immediately following year.

(f) The county treasurer shall establish a county juvenile detention center revenue fund to be used only for the purposes described in this section. County option income tax revenues derived from the tax rate imposed under this section shall be deposited in the county juvenile detention center revenue fund before a certified distribution is made under section 18 of this chapter.

(g) County option income tax revenues derived from the tax rate imposed under this section:

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

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

(h) The department of local government finance shall enforce an agreement made under subsection (d)(2).

(i) The ~~department, after reviewing the recommendation of the~~ budget agency shall adjust the certified distribution of a county to provide for an increased distribution of taxes in the immediately following calendar year after the county adopts an increased tax rate under this section and in each calendar year thereafter. The ~~department~~ **budget agency** shall provide for a full transition to certification of distributions as provided in section 17(a)(1) through 17(a)(2) of this chapter in the manner provided in section 17(c) of this chapter.

SECTION 227. IC 6-3.5-7-13.1, AS AMENDED BY P.L.146-2008, SECTION 347, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13.1. (a) The fiscal officer of each county, city, or town for a county in which the county economic development tax is imposed shall establish an economic development income tax fund. Except as provided in sections 23, 25, 26, and 27 of this chapter, the revenue received by a county, city, or town under this chapter shall be deposited in the unit's economic development income tax fund.

(b) As used in this subsection, "homestead" means a homestead that is eligible for a standard deduction under IC 6-1.1-12-37. Except as provided in sections 15, 23, 25, 26, and 27 of this chapter, revenues from the county economic development income tax may be used as follows:

(1) By a county, city, or town for economic development projects, for paying, notwithstanding any other law, under a written agreement all or a part of the interest owed by a private developer or user on a loan extended by a financial institution or other lender to the developer or user if the proceeds of the loan are or are to be used to finance an economic development project, for the retirement of bonds under section 14 of this chapter for economic development projects, for leases under section 21 of this chapter, or for leases or bonds entered into or issued prior to the date the economic development income tax was imposed if the purpose of the lease or bonds would have qualified as a purpose under this chapter at the time the lease was entered into or the bonds were issued.

(2) By a county, city, or town for:

(A) the construction or acquisition of, or remedial action with respect to, a capital project for which the unit is empowered to issue general obligation bonds or establish a fund under any statute listed in IC 6-1.1-18.5-9.8;

(B) the retirement of bonds issued under any provision of Indiana law for a capital project;

(C) the payment of lease rentals under any statute for a capital project;

(D) contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning and implementing economic development projects;

(E) operating expenses of a governmental entity that plans or implements economic development projects;

(F) to the extent not otherwise allowed under this chapter, funding substance removal or remedial action in a designated unit; or

(G) funding of a revolving fund established under IC 5-1-14-14.

(3) By a county, city, or town for any lawful purpose for which money in any of its other funds may be used.

(4) By a city or county described in IC 36-7.5-2-3(b) for making transfers required by IC 36-7.5-4-2. If the county economic development income tax rate is increased after April 30, 2005, in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), the first three million five hundred thousand dollars ($3,500,000) of the tax revenue that results each year from the tax rate increase shall be used by the county **or by eligible municipalities (as defined in IC 36-7.5-1-11.3) in the county** only to make the county's transfer required by IC 36-7.5-4-2. The first three million five hundred thousand dollars ($3,500,000) of the tax revenue that results each year from the tax rate increase shall be paid by the county treasurer to the treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2 before certified distributions are made to the county or any cities or towns in the county under this chapter from the tax revenue that results each year from the tax rate increase. **If a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred**

forty-eight thousand (148,000) ceases to be a member of the northwest Indiana regional development authority under IC 36-7.5 but two (2) or more municipalities in the county have become members of the northwest Indiana regional development authority as authorized by IC 36-7.5-2-3(i), the county treasurer shall continue to transfer the three million five hundred thousand dollars ($3,500,000) to the treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2 before certified distributions are made to the county or any cities or towns in the county. In a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), all of the tax revenue that results each year from the tax rate increase that is in excess of the first three million five hundred thousand dollars ($3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for homestead credits under subdivision (5).

(5) This subdivision applies only in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). All of the tax revenue that results each year from a tax rate increase described in subdivision (4) that is in excess of the first three million five hundred thousand dollars ($3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for homestead credits under this subdivision. The following apply to homestead credits provided under this subdivision:

(A) The homestead credits must be applied uniformly to provide a homestead credit for homesteads in the county, city, or town.

(B) The homestead credits shall be treated for all purposes as property tax levies.

(C) The homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(D) The department of local government finance shall determine the homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to

provide homestead credits in that year.

(6) This subdivision applies only in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). A county or a city or town in the county may use county economic development income tax revenue to provide homestead credits in the county, city, or town. The following apply to homestead credits provided under this subdivision:

(A) The county, city, or town fiscal body must adopt an ordinance authorizing the homestead credits. The ordinance must:

(i) be adopted before September 1 of a year to apply to property taxes first due and payable in the following year; and

(ii) specify the amount of county economic development income tax revenue that will be used to provide homestead credits in the following year.

(B) A county, city, or town fiscal body that adopts an ordinance under this subdivision must forward a copy of the ordinance to the county auditor and the department of local government finance not more than thirty (30) days after the ordinance is adopted.

(C) The homestead credits must be applied uniformly to increase the homestead credit under IC 6-1.1-20.9 for homesteads in the county, city, or town (for property taxes first due and payable before January 1, 2009) or to provide a homestead credit for homesteads in the county, city, or town (for property taxes first due and payable after December 31, 2008).

(D) The homestead credits shall be treated for all purposes as property tax levies.

(E) The homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(F) The department of local government finance shall determine the homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide homestead credits in that year.

(7) For a regional venture capital fund established under section 13.5 of this chapter or a local venture capital fund established under section 13.6 of this chapter.

(8) This subdivision applies only to a county:

(A) that has a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000); and

(B) in which:

(i) the county fiscal body has adopted an ordinance under IC 36-7.5-2-3(e) providing that the county is joining the northwest Indiana regional development authority; and

(ii) the fiscal body of the city described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the city is joining the development authority.

Revenue from the county economic development income tax may be used by a county or a city described in this subdivision for making transfers required by IC 36-7.5-4-2. In addition, if the county economic development income tax rate is increased after June 30, 2006, in the county, the first three million five hundred thousand dollars ($3,500,000) of the tax revenue that results each year from the tax rate increase shall be used by the county only to make the county's transfer required by IC 36-7.5-4-2. The first three million five hundred thousand dollars ($3,500,000) of the tax revenue that results each year from the tax rate increase shall be paid by the county treasurer to the treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2 before certified distributions are made to the county or any cities or towns in the county under this chapter from the tax revenue that results each year from the tax rate increase. All of the tax revenue that results each year from the tax rate increase that is in excess of the first three million five hundred thousand dollars ($3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for homestead credits under subdivision (9).

(9) This subdivision applies only to a county described in subdivision (8). All of the tax revenue that results each year from a tax rate increase described in subdivision (8) that is in excess of the first three million five hundred thousand dollars ($3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for homestead

credits under this subdivision. The following apply to homestead credits provided under this subdivision:

(A) The homestead credits must be applied uniformly to provide a homestead credit for homesteads in the county, city, or town.

(B) The homestead credits shall be treated for all purposes as property tax levies.

(C) The homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(D) The department of local government finance shall determine the homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide homestead credits in that year.

(c) As used in this section, an economic development project is any project that:

(1) the county, city, or town determines will:

(A) promote significant opportunities for the gainful employment of its citizens;

(B) attract a major new business enterprise to the unit; or

(C) retain or expand a significant business enterprise within the unit; and

(2) involves an expenditure for:

(A) the acquisition of land;

(B) interests in land;

(C) site improvements;

(D) infrastructure improvements;

(E) buildings;

(F) structures;

(G) rehabilitation, renovation, and enlargement of buildings and structures;

(H) machinery;

(I) equipment;

(J) furnishings;

(K) facilities;

(L) administrative expenses associated with such a project, including contract payments authorized under subsection (b)(2)(D);

(M) operating expenses authorized under subsection (b)(2)(E); or

(N) to the extent not otherwise allowed under this chapter, substance removal or remedial action in a designated unit;

or any combination of these.

(d) If there are bonds outstanding that have been issued under section 14 of this chapter or leases in effect under section 21 of this chapter, a county, city, or town may not expend money from its economic development income tax fund for a purpose authorized under subsection (b)(3) in a manner that would adversely affect owners of the outstanding bonds or payment of any lease rentals due.

SECTION 228. IC 6-3.5-7-11, AS AMENDED BY P.L.1-2009, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 11. (a) Revenue derived from the imposition of the county economic development income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it.

(b) Before August 2 of each calendar year, the ~~department, after reviewing the recommendation of the~~ budget agency, shall certify to the county auditor of each adopting county the sum of the amount of county economic development income tax revenue that the ~~department~~ **budget agency** determines has been:

(1) received from that county for a taxable year ending before the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted ~~(as determined after review of the recommendation of the budget agency)~~ for refunds of county economic development income tax made in the state fiscal year plus the amount of interest in the county's account that has been accrued and has not been included in a certification made in a preceding year. The amount certified is the county's certified distribution, which shall be distributed on the dates specified in section 16 of this chapter for the following calendar year.

(c) The amount certified under subsection (b) shall be adjusted under subsections (d), (e), (f), (g), and (h). The budget agency shall provide the county council with an informative summary of the calculations used to determine the certified distribution. The summary of calculations must include:

(1) the amount reported on individual income tax returns processed by the department during the previous fiscal year;

(2) adjustments for over distributions in prior years;

(3) adjustments for clerical or mathematical errors in prior years;

(4) adjustments for tax rate changes; and

(5) the amount of excess account balances to be distributed under IC 6-3.5-7-17.3.

(d) The ~~department~~ **budget agency** shall certify an amount less than the amount determined under subsection (b) if the ~~department, after reviewing the recommendation of the~~ budget agency determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The ~~department, after reviewing the recommendation of the~~ budget agency may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(e) ~~After reviewing the recommendation of~~ The budget agency ~~the department~~ shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The ~~department, after reviewing the recommendation of the~~ budget agency may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(f) The ~~department, after reviewing the recommendation of the~~ budget agency shall adjust the certified distribution of a county to provide the county with the distribution required under section 16(b) of this chapter.

(g) The ~~department, after reviewing the recommendation of the~~ budget agency shall adjust the certified distribution of a county to provide the county with the amount of any tax increase imposed under section 25 or 26 of this chapter to provide additional homestead credits as provided in those provisions.

(h) This subsection applies to a county that:

(1) initially imposed the county economic development income tax; or

(2) increases the county economic development income rate;

under this chapter in the same calendar year in which the ~~department~~ **budget agency** makes a certification under this section. The ~~department, after reviewing the recommendation of the~~ budget agency shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each

calendar year thereafter. The ~~department~~ **budget agency** shall provide for a full transition to certification of distributions as provided in subsection (b)(1) through (b)(2) in the manner provided in subsection (d).

SECTION 229. IC 6-3.5-7-12, AS AMENDED BY P.L.146-2008, SECTION 346, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) Except as provided in sections 23, 25, 26, 27, and 28 of this chapter, the county auditor shall distribute in the manner specified in this section the certified distribution to the county.

(b) Except as provided in subsections (c) and (h) and sections 15 and 25 of this chapter, **and subject to adjustment as provided in IC 36-8-19-7.5,** the amount of the certified distribution that the county and each city or town in a county is entitled to receive during May and November of each year equals the product of the following:

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

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

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

(B) for a county, the welfare allocation amount.

The denominator of the fraction equals the sum of the total property taxes that are first due and payable to the county and all cities and towns of the county during the calendar year in which the month falls, plus the welfare allocation amount. The welfare allocation amount is an amount equal to the sum of the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund and, if the county received a certified distribution under this chapter in 2008, the property taxes imposed by the county in 2008 for the county's county medical assistance to wards fund, family and children's fund, children's psychiatric residential treatment services fund, county hospital care for the indigent fund, and children with special health care needs county fund.

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

apply if an ordinance is adopted under this subsection:

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

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

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

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

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

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

(1) The county.

(2) A city or town in the county.

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

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

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

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

(h) In a county having a consolidated city, only the consolidated city is entitled to the certified distribution, subject to the requirements of

sections 15, 25, and 26 of this chapter.

SECTION 230. IC 6-3.5-7-17.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 17.3. (a) If ~~after receiving a recommendation from~~ the budget agency ~~the department~~ determines that a sufficient balance exists in a county account in excess of the amount necessary, when added to other money that will be deposited in the account after the date of the ~~recommendation,~~ **determination,** to make certified distributions to the county in the ensuing year, the ~~department~~ **budget agency** shall make a supplemental distribution to a county from the county's special account.

(b) A supplemental distribution described in subsection (a) must be:

(1) made in January of the ensuing calendar year; and

(2) allocated in the same manner as certified distributions for deposit in a civil unit's rainy day fund established under IC 36-1-8-5.1.

(c) A determination under this section must be made before October 2.

SECTION 231. IC 6-4.1-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. The inheritance tax imposed as a result of a decedent's death is a lien on the property transferred by the decedent. Except as otherwise provided in IC 6-4.1-6-6(b), the inheritance tax accrues and the lien attaches at the time of the decedent's death. The lien terminates when the inheritance tax is paid, when IC 6-4.1-4-0.5 provides for the termination of the lien, or ~~five (5)~~ **ten (10)** years after the date of the decedent's death, whichever occurs first. In addition to the lien, the transferee of the property and any personal representative or trustee who has possession of or control over the property are personally liable for the inheritance tax.

SECTION 232. IC 6-4.1-10-1, AS AMENDED BY P.L.211-2007, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A person may file with the department of state revenue a claim for the refund of inheritance or Indiana estate tax which has been erroneously or illegally collected. Except as provided in section 2 of this chapter, the person must file the claim within three (3) years after the tax is paid or within one (1) year after the tax is finally determined, whichever is later.

(b) The amount of the refund that a person is entitled to receive under this chapter equals the amount of the erroneously or illegally collected tax, plus interest calculated as specified in subsection (c).

(c) If a tax payment that has been erroneously or illegally collected is not refunded within ninety (90) days after **the later of** the date on which:

(1) the refund claim is filed with the department of state revenue; **or**

(2) the inheritance tax return is received by the department of state revenue;

interest accrues at the rate of six percent (6%) per annum computed from the date ~~the refund claim is filed~~ **under subdivision (1) or (2), whichever applies,** until the tax payment is refunded.

SECTION 233. IC 6-5.5-1-2, AS AMENDED BY P.L.223-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted gross income" means taxable income as defined in Section 63 of the Internal Revenue Code, adjusted as follows:

(1) Add the following amounts:

(A) An amount equal to a deduction allowed or allowable under Section 166, Section 585, or Section 593 of the Internal Revenue Code.

(B) An amount equal to a deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(C) An amount equal to a deduction or deductions allowed or allowable under Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by a state of the United States or levied at the local level by any subdivision of a state of the United States.

(D) The amount of interest excluded under Section 103 of the Internal Revenue Code or under any other federal law, minus the associated expenses disallowed in the computation of taxable income under Section 265 of the Internal Revenue Code.

(E) An amount equal to the deduction allowed under Section 172 or 1212 of the Internal Revenue Code for net operating losses or net capital losses.

(F) For a taxpayer that is not a large bank (as defined in Section 585(c)(2) of the Internal Revenue Code), an amount equal to the recovery of a debt, or part of a debt, that becomes worthless to the extent a deduction was allowed from gross income in a prior taxable year under Section 166(a) of the

Internal Revenue Code.

(G) Add the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(H) Add the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(I) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(J) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(K) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified restaurant property in service during the taxable year and that was

classified as 15-year property under Section 168(e)(3)(E)(v) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(L) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified retail improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(ix) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(M) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that claimed the special allowance for qualified disaster assistance property under Section 168(n) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the special allowance not been claimed for the property.

(N) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 179C of the Internal Revenue Code to expense costs for qualified refinery property equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(O) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 181 of the Internal Revenue Code to expense costs for a qualified film or television production equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(P) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that treated a loss from the sale or exchange of preferred stock in:

(i) the Federal National Mortgage Association, established under the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.); or

(ii) the Federal Home Loan Mortgage Corporation,

established under the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.);

as an ordinary loss under Section 301 of the Emergency Economic Stabilization Act of 2008 in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had the loss not been treated as an ordinary loss.

(Q) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code for active financing income under Subpart F, Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

(2) Subtract the following amounts:

(A) Income that the United States Constitution or any statute of the United States prohibits from being used to measure the tax imposed by this chapter.

(B) Income that is derived from sources outside the United States, as defined by the Internal Revenue Code.

(C) An amount equal to a debt or part of a debt that becomes worthless, as permitted under Section 166(a) of the Internal Revenue Code.

(D) An amount equal to any bad debt reserves that are included in federal income because of accounting method changes required by Section 585(c)(3)(A) or Section 593 of the Internal Revenue Code.

(E) The amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation.

(F) The amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(G) Income that is:

(i) exempt from taxation under IC 6-3-2-21.7; and

(ii) included in the taxpayer's taxable income under the Internal Revenue Code.

(b) In the case of a credit union, "adjusted gross income" for a taxable year means the total transfers to undivided earnings minus dividends for that taxable year after statutory reserves are set aside under IC 28-7-1-24.

(c) In the case of an investment company, "adjusted gross income" means the company's federal taxable income multiplied by the quotient of:

(1) the aggregate of the gross payments collected by the company during the taxable year from old and new business upon investment contracts issued by the company and held by residents of Indiana; divided by

(2) the total amount of gross payments collected during the taxable year by the company from the business upon investment contracts issued by the company and held by persons residing within Indiana and elsewhere.

(d) As used in subsection (c), "investment company" means a person, copartnership, association, limited liability company, or corporation, whether domestic or foreign, that:

(1) is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); and

(2) solicits or receives a payment to be made to itself and issues in exchange for the payment:

(A) a so-called bond;

(B) a share;

(C) a coupon;

(D) a certificate of membership;

(E) an agreement;

(F) a pretended agreement; or

(G) other evidences of obligation;

entitling the holder to anything of value at some future date, if the gross payments received by the company during the taxable year on outstanding investment contracts, plus interest and dividends earned on those contracts (by prorating the interest and dividends earned on investment contracts by the same proportion that certificate reserves (as defined by the Investment Company Act of 1940) is to the company's total assets) is at least fifty percent

(50%) of the company's gross payments upon investment contracts plus gross income from all other sources except dividends from subsidiaries for the taxable year. The term "investment contract" means an instrument listed in clauses (A) through (G).

SECTION 234. IC 6-6-1.1-606.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 606.5. (a) Every person included within the terms of section 606(a) and 606(c) of this chapter shall register with the administrator before engaging in those activities. The administrator shall issue a transportation license to a person who registers with the administrator under this section.

(b) Every person included within the terms of section 606(a) of this chapter who transports gasoline in a vehicle on the highways in Indiana for purposes other than use and consumption by that person may not make a delivery of that gasoline to any person in Indiana other than a licensed distributor except:

(1) when the tax imposed by this chapter on the receipt of the transported gasoline was charged and collected by the parties; and

(2) under the circumstances described in section 205 of this chapter.

(c) Every person included within the terms of section 606(c) of this chapter who transports gasoline in a vehicle upon the highways of Indiana for purposes other than use and consumption by that person may not, on the journey carrying that gasoline to points outside Indiana, make delivery of that fuel to any person in Indiana.

(d) Every transporter of gasoline included within the terms of section 606(a) and ~~section~~ 606(c) of this chapter who transports gasoline upon the highways of Indiana for purposes other than use and consumption by that person shall at the time of registration and on an annual basis list with the administrator a description of all vehicles, including the vehicles' license numbers, to be used on the highways of Indiana in transporting gasoline from:

(1) points outside Indiana to points inside Indiana; and

(2) points inside Indiana to points outside Indiana.

(e) The description that subsection (d) requires shall contain the information that is reasonably required by the administrator including the carrying capacity of the vehicle. When the vehicle is a tractor-trailer type, the trailer is the vehicle to be described. When additional vehicles are placed in service or when a vehicle previously listed is retired from service during the year, the administrator shall be

notified within ten (10) days of the change so that the listing of the vehicles may be kept accurate.

(f) A distributor's or an Indiana transportation license is required for a person or the person's agent acting in the person's behalf to operate a vehicle for the purpose of delivering gasoline within the boundaries of Indiana when the vehicle has a total tank capacity of at least eight hundred fifty (850) gallons.

(g) The operator of a vehicle to which this section applies shall at all times when engaged in the transporting of gasoline on the highways have with the vehicle an invoice or manifest showing the origin, quantity, nature, and destination of the gasoline that is being transported.

(h) The department shall provide for relief if a shipment of gasoline is legitimately diverted from the represented destination state after the shipping paper has been issued by a terminal operator or if a terminal operator failed to cause proper information to be printed on the shipping paper. Provisions for relief under this subsection:

(1) must require that the shipper or its agent provide notification to the department before a diversion or correction if an intended diversion or correction is to occur; and

(2) must be consistent with the refund provisions of this chapter.

SECTION 235. IC 6-6-4.1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) Except as authorized under section 13 of this chapter, a carrier may operate a commercial motor vehicle upon the highways in Indiana only if the carrier has been issued an annual permit, cab card, and emblem under this section.

(b) The department shall issue:

(1) an annual permit; and

(2) a cab card and an emblem for each commercial motor vehicle that will be operated by the carrier upon the highways in Indiana;

to a carrier who applies for an annual permit and pays to the department an annual permit fee of twenty-five dollars ($25) **not later than September 1 of the year before the annual permit is effective under subsection (c).**

(c) The annual permit, cab card, and emblem are effective from January 1 of each year through December 31 of the same year. The department may extend the expiration date of the annual permit, cab card, and emblem for no more than sixty (60) days. The annual permit,

each cab card, and each emblem issued to a carrier remain the property of this state and may be suspended or revoked by the department for any violation of this chapter or of the rules concerning this chapter adopted by the department under IC 4-22-2.

(d) As evidence of compliance with this section, and for the purpose of enforcement, a carrier shall display on each commercial motor vehicle an emblem when the vehicle is being operated by the carrier in Indiana. The carrier shall affix the emblem to the vehicle in the location designated by the department. The carrier shall display in each vehicle the cab card issued by the department. The carrier shall retain the original annual permit at the address shown on the annual permit. During the month of December, the carrier shall display the cab card and emblem that are valid through December 31 or a full year cab card and emblem issued to the carrier for the ensuing twelve (12) months. If the department grants an extension of the expiration date, the carrier shall continue to display the cab card and emblem upon which the extension was granted.

(e) If a commercial motor vehicle is operated by more than one (1) carrier, as evidence of compliance with this section and for purposes of enforcement each carrier shall display in the commercial motor vehicle a reproduced copy of the carrier's annual permit when the vehicle is being operated by the carrier in Indiana.

(f) A person who fails to display an emblem required by this section on a commercial motor vehicle, does not have proof in the vehicle that the annual permit has been obtained, and operates that vehicle on an Indiana highway commits a Class C infraction. Each day of operation without an emblem constitutes a separate infraction. Notwithstanding IC 34-28-5-4, a judgment of not less than one hundred dollars ($100) shall be entered for each Class C infraction under this subsection.

(g) A person who displays an altered, false, or fictitious cab card required by this section in a commercial motor vehicle, does not have proof in the vehicle that the annual permit has been obtained, and operates that vehicle on an Indiana highway commits a Class C infraction. Each day of operation with an altered, false, or fictitious cab card constitutes a separate infraction.

SECTION 236. IC 6-6-4.1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) A carrier may, in lieu of paying the tax imposed under this chapter that would otherwise result from the operation of a particular commercial motor vehicle, obtain from the department a trip permit authorizing the carrier

to operate the commercial motor vehicle for a period of five (5) consecutive days. The department shall specify the beginning and ending days on the face of the permit. The fee for a trip permit for each commercial motor vehicle is fifty dollars ($50). The report otherwise required under section 10 of this chapter is not required with respect to a vehicle for which a trip permit has been issued under this subsection.

(b) The department may issue a temporary written authorization if unforeseen or uncertain circumstances require operations by a carrier of a commercial motor vehicle for which neither a trip permit described in subsection (a) nor an annual permit described in section 12 of this chapter has been obtained. A temporary authorization may be issued only if the department finds that undue hardship would result if operation under a temporary authorization were prohibited. A carrier who receives a temporary authorization shall:

(1) pay the trip permit fee at the time the temporary authorization is issued; or

(2) subsequently apply for and obtain an annual permit.

(c) A carrier may obtain an International Fuel Tax Agreement (IFTA) repair and maintenance permit to:

(1) travel from another state into Indiana to repair or maintain any of the carrier's motor vehicles, semitrailers (as defined in IC 9-13-2-164), or trailers (as defined in IC 9-13-2-184); and

(2) return to the same state after the repair or maintenance is completed.

The permit allows the travel described in this section. In addition to any other fee established in this chapter, and instead of paying the quarterly motor fuel tax imposed under this chapter, a carrier may pay an annual IFTA repair and maintenance fee of forty dollars ($40) and receive an IFTA annual repair and maintenance permit. The IFTA annual repair and maintenance permit and fee applies to all of the motor vehicles operated by a carrier. The IFTA annual repair and maintenance permit is not transferable to another carrier. A carrier may not carry cargo or passengers under the IFTA annual repair and maintenance permit. All fees collected under this subsection shall be deposited in the motor carrier regulation fund (IC 8-2.1-23). The report otherwise required under section 10 of this chapter is not required with respect to a motor vehicle that is operated under an IFTA annual repair and maintenance permit.

(d) A carrier may obtain an International Registration Plan (IRP) repair and maintenance permit to:

(1) travel from another state into Indiana to repair or maintain any of the carrier's motor vehicles, semitrailers (as defined in IC 9-13-2-164), or trailers (as defined in IC 9-13-2-184); and

(2) return to the same state after the repair or maintenance is completed.

The permit allows the travel described in this section. In addition to any other fee established in this chapter, and instead of paying apportioned or temporary IRP fees under IC 9-18-2 or IC 9-18-7, a carrier may pay an annual IRP repair and maintenance fee of forty dollars ($40) and receive an IRP annual repair and maintenance permit. The IRP annual repair and maintenance permit and fee applies to all of the motor vehicles operated by a carrier. The IRP annual repair and maintenance permit is not transferable to another carrier. A carrier may not carry cargo or passengers under the IRP annual repair and maintenance permit. All fees collected under this subsection shall be deposited in the motor carrier regulation fund (IC 8-2.1-23).

(e) A person may obtain a repair and maintenance permit to:

(1) move an unregistered off-road vehicle from a quarry or mine to a maintenance or repair facility; and

(2) return the unregistered off-road vehicle to its place of origin.

The fee for the permit is forty dollars ($40). The permit is an annual permit and applies to all unregistered off-road vehicles from the same quarry or mine.

~~(e)~~ **(f)** A carrier may obtain a repair, maintenance, and relocation permit to:

(1) move a yard tractor from a terminal or loading or spotting facility to:

(A) a maintenance or repair facility; or

(B) another terminal or loading or spotting facility; and

(2) return the yard tractor to its place of origin.

The fee for the permit is forty dollars ($40). The permit is an annual permit and applies to all yard tractors operated by the carrier. The permit is not transferable to another carrier. A carrier may not carry cargo or transport or draw a semitrailer or other vehicle under the permit. A carrier may operate a yard tractor under the permit instead of paying the tax imposed under this chapter. A yard tractor that is being operated on a public highway under this subsection must display a license plate issued under IC 9-18-32. As used in this section, "yard tractor" has the meaning set forth under IC 9-13-2-201.

~~(f)~~ **(g)** The department shall establish procedures, by rules adopted under IC 4-22-2, for:

(1) the issuance and use of trip permits, temporary authorizations, and repair and maintenance permits; and

(2) the display in commercial motor vehicles of evidence of compliance with this chapter.

SECTION 237. IC 6-6-5-10, AS AMENDED BY P.L.146-2008, SECTION 353, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) The bureau shall establish procedures necessary for the collection of the tax imposed by this chapter and for the proper accounting for the same. The necessary forms and records shall be subject to approval by the state board of accounts.

(b) The county treasurer, upon receiving the excise tax collections, shall receipt such collections into a separate account for settlement thereof at the same time as property taxes are accounted for and settled in June and December of each year, with the right and duty of the treasurer and auditor to make advances prior to the time of final settlement of such property taxes in the same manner as provided in IC 5-13-6-3.

(c) As used in this subsection, "taxing district" has the meaning set forth in IC 6-1.1-1-20, "taxing unit" has the meaning set forth in IC 6-1.1-1-21, and "tuition support levy" refers to a school corporation's tuition support property tax levy under IC 20-45-3-11 (repealed) for the school corporation's general fund. The county auditor shall determine the total amount of excise taxes collected for each taxing district in the county and the amount so collected (and the distributions received under section 9.5 of this chapter) shall be apportioned and distributed among the respective funds of the taxing units in the same manner and at the same time as property taxes are apportioned and distributed **(subject to adjustment as provided in IC 36-8-19-7.5).** However, for purposes of determining distributions under this section for 2009 and each year thereafter, a state welfare and tuition support allocation shall be deducted from the total amount available for apportionment and distribution to taxing units under this section before any apportionment and distribution is made. The county auditor shall remit the state welfare and tuition support allocation to the treasurer of state for deposit, as directed by the budget agency. The amount of the state welfare and tuition support allocation for a county for a particular year is equal to the result determined under STEP

FOUR of the following formula:

STEP ONE: Determine the result of the following:

(A) Separately for 1997, 1998, and 1999 for each taxing district in the county, determine the result of:

(i) the amount appropriated in the year by the county from the county's county welfare fund and county welfare administration fund; divided by

(ii) the total amounts appropriated by all taxing units in the county for the same year.

(B) Determine the sum of the clause (A) amounts.

(C) Divide the clause (B) amount by three (3).

(D) Determine the result of:

(i) the amount of excise taxes allocated to the taxing district that would otherwise be available for distribution to taxing units in the taxing district; multiplied by

(ii) the clause (C) amount.

STEP TWO: Determine the result of the following:

(A) Separately for 2006, 2007, and 2008 for each taxing district in the county, determine the result of:

(i) the tax rate imposed in the taxing district for the county's county medical assistance to wards fund, family and children's fund, children's psychiatric residential treatment services fund, county hospital care for the indigent fund, children with special health care needs county fund, plus, in the case of Marion County, the tax rate imposed by the health and hospital corporation that was necessary to raise thirty-five million dollars ($35,000,000) from all taxing districts in the county; divided by

(ii) the aggregate tax rate imposed in the taxing district for the same year.

(B) Determine the sum of the clause (A) amounts.

(C) Divide the clause (B) amount by three (3).

(D) Determine the result of:

(i) the amount of excise taxes allocated to the taxing district that would otherwise be available for distribution to taxing units in the taxing district after subtracting the STEP ONE (D) amount for the same taxing district; multiplied by

(ii) the clause (C) amount.

(E) Determine the sum of the clause (D) amounts for all taxing districts in the county.

STEP THREE: Determine the result of the following:

(A) Separately for 2006, 2007, and 2008 for each taxing district in the county, determine the result of:

(i) the tuition support levy tax rate imposed in the taxing district plus the tax rate imposed by the school corporation for the school corporation's special education preschool fund in the district; divided by

(ii) the aggregate tax rate imposed in the taxing district for the same year.

(B) Determine the sum of the clause (A) amounts.

(C) Divide the clause (B) amount by three (3).

(D) Determine the result of:

(i) the amount of excise taxes allocated to the taxing district that would otherwise be available for distribution to taxing units in the taxing district after subtracting the STEP ONE (D) amount for the same taxing district; multiplied by

(ii) the clause (C) amount.

(E) Determine the sum of the clause (D) amounts for all taxing districts in the county.

STEP FOUR: Determine the sum of the STEP ONE, STEP TWO, and STEP THREE amounts for the county.

If the boundaries of a taxing district change after the years for which a ratio is calculated under STEP ONE, STEP TWO, or STEP THREE, the budget agency shall establish a ratio for the new taxing district that reflects the tax rates imposed in the predecessor taxing districts.

(d) Such determination shall be made from copies of vehicle registration forms furnished by the bureau of motor vehicles. Prior to such determination, the county assessor of each county shall, from copies of registration forms, cause information pertaining to legal residence of persons owning taxable vehicles to be verified from the assessor's records, to the extent such verification can be so made. The assessor shall further identify and verify from the assessor's records the several taxing units within which such persons reside.

(e) Such verifications shall be done by not later than thirty (30) days after receipt of vehicle registration forms by the county assessor, and the assessor shall certify such information to the county auditor for the auditor's use as soon as it is checked and completed.

SECTION 238. IC 6-6-5.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 1. (a) Unless defined in this section, terms used in this chapter have the meaning set

forth in the International Registration Plan or in IC 6-6-5 (motor vehicle excise tax). Definitions set forth in the International Registration Plan, as applicable, prevail unless given a different meaning in this section or in rules adopted under authority of this chapter. The definitions in this section apply throughout this chapter.

(b) As used in this chapter, "base revenue" means the minimum amount of commercial vehicle excise tax revenue that a taxing unit will receive in a year.

(c) As used in this chapter, "commercial vehicle" means any of the following:

(1) An Indiana-based vehicle subject to apportioned registration under the International Registration Plan.

(2) A vehicle subject to apportioned registration under the International Registration Plan and based and titled in a state other than Indiana subject to the conditions of the International Registration Plan.

(3) A truck, **road tractor,** tractor, trailer, semitrailer, or truck-tractor subject to registration under IC 9-18.

(d) As used in this chapter, "declared gross weight" means the weight at which a vehicle is registered with:

(1) the bureau; or

(2) the International Registration Plan.

(e) As used in this chapter, "department" means the department of state revenue.

(f) As used in this chapter, "fleet" means one (1) or more apportionable vehicles.

(g) As used in this chapter, "gross weight" means the total weight of a vehicle or combination of vehicles without load, plus the weight of any load on the vehicle or combination of vehicles.

(h) As used in this chapter, "Indiana-based" means a vehicle or fleet of vehicles that is base-registered in Indiana under the terms of the International Registration Plan.

(i) As used in this chapter, "in-state miles" means the total number of miles operated by a commercial vehicle or fleet of commercial vehicles in Indiana during the preceding year.

(j) As used in this chapter, "motor vehicle" has the meaning set forth in IC 9-13-2-105(a).

(k) As used in this chapter, "owner" means the person in whose name the commercial vehicle is registered under IC 9-18 or the International Registration Plan.

(l) As used in this chapter, "preceding year" means a period of twelve (12) consecutive months fixed by the department which shall be within the eighteen (18) months immediately preceding the commencement of the registration year for which proportional registration is sought.

(m) As used in this chapter, "road tractor" has the meaning set forth in IC 9-13-2-156.

~~(m)~~ **(n)** As used in this chapter, "semitrailer" has the meaning set forth in IC 9-13-2-164(a).

~~(n)~~ **(o)** As used in this chapter, "tractor" has the meaning set forth in IC 9-13-2-180.

~~(o)~~ **(p)** As used in this chapter, "trailer" has the meaning set forth in IC 9-13-2-184(a).

~~(p)~~ **(q)** As used in this chapter, "truck" has the meaning set forth in IC 9-13-2-188(a).

~~(q)~~ **(r)** As used in this chapter, "truck-tractor" has the meaning set forth in IC 9-13-2-189(a).

~~(r)~~ **(s)** As used in this chapter, "vehicle" means a motor vehicle, trailer, or semitrailer subject to registration under IC 9-18 as a condition of its operation on the public highways pursuant to the motor vehicle registration laws of the state.

SECTION 239. IC 6-6-5.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 7. (a) For calendar years that begin after December 31, 2000, the annual excise tax for a commercial vehicle will be determined by the motor carrier services division on or before October 1 of each year in accordance with the following formula:

STEP ONE: Determine the total amount of base revenue to be distributed from the commercial vehicle excise tax fund to all taxing units in Indiana during the calendar year for which the tax is first due and payable. For calendar year 2001, the total amount of base revenue for all taxing units shall be determined as provided in section 19 of this chapter. For calendar years that begin after December 31, 2001, **and before January 1, 2009,** the total amount of base revenue for all taxing units shall be determined by multiplying the previous year's base revenue for all taxing units by one hundred five percent (105%). **For calendar years that begin after December 31, 2008, the total amount of base revenue for all taxing units shall be determined as provided in section 19 of this chapter.**

STEP TWO: Determine the sum of fees paid to register the following commercial vehicles in Indiana under the following statutes during the fiscal year that ends June 30 immediately preceding the calendar year for which the tax is first due and payable:

(A) Total registration fees collected under IC 9-29-5-3 for commercial vehicles with a declared gross weight in excess of eleven thousand (11,000) pounds, including trucks, tractors not used with semitrailers, traction engines, and other similar vehicles used for hauling purposes;

(B) Total registration fees collected under IC 9-29-5-5 for tractors used with semitrailers;

(C) Total registration fees collected under IC 9-29-5-6 for semitrailers used with tractors;

(D) Total registration fees collected under IC 9-29-5-4 for trailers having a declared gross weight in excess of three thousand (3,000) pounds; and

(E) Total registration fees collected under IC 9-29-5-13 for trucks, tractors and semitrailers used in connection with agricultural pursuits usual and normal to the user's farming operation, multiplied by two hundred percent (200%);

STEP THREE: Determine the tax factor by dividing the STEP ONE result by the STEP TWO result.

(b) Except as otherwise provided in this chapter, the annual excise tax for commercial vehicles with a declared gross weight in excess of eleven thousand (11,000) pounds, including trucks, tractors not used with semitrailers, traction engines, and other similar vehicles used for hauling purposes, shall be determined by multiplying the registration fee under IC 9-29-5-3 by the tax factor determined in subsection (a).

(c) Except as otherwise provided in this chapter, the annual excise tax for tractors used with semitrailers shall be determined by multiplying the registration fee under IC 9-29-5-5 by the tax factor determined in subsection (a).

(d) Except as otherwise provided in this chapter, the annual excise tax for trailers having a declared gross weight in excess of three thousand (3,000) pounds shall be determined by multiplying the registration fee under IC 9-29-5-4 by the tax factor determined in subsection (a).

(e) The annual excise tax for a semitrailer shall be determined by multiplying the average annual registration fee under IC 9-29-5-6 by

the tax factor determined in subsection (a). The average annual registration fee for a semitrailer under IC 9-29-5-6 is sixteen dollars and seventy-five cents ($16.75).

(f) The annual excise tax determined under this section shall be rounded upward to the next full dollar amount.

SECTION 240. IC 6-6-5.5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 19. (a) As used in this section, "assessed value" means an amount equal to the true tax value of commercial vehicles that:

(1) are subject to the commercial vehicle excise tax under this chapter; and

(2) would have been subject to assessment as personal property on March 1, 2000, under the law in effect before January 1, 2000.

(b) For calendar year 2001, a taxing unit's base revenue shall be determined as provided in subsection (f). For calendar years that begin after December 31, 2001, **and before January 1, 2009,** a taxing unit's base revenue shall be determined by multiplying the previous year's base revenue by one hundred five percent (105%). **For calendar years that begin after December 31, 2008, a taxing unit's base revenue is equal to:**

(1) the amount of commercial vehicle excise tax collected during the previous state fiscal year; multiplied by

(2) the taxing unit's percentage as determined in subsection (f) for calendar year 2001.

(c) The amount of commercial vehicle excise tax distributed to the taxing units of Indiana from the commercial vehicle excise tax fund shall be determined in the manner provided in this section. ~~On or before June 1, 2000, each township assessor of a county shall deliver to the county assessor a list that states by taxing district the total assessed value as shown on the information returns filed with the assessor on or before May 15, 2000.~~

(d) On or before July 1, 2000, each county assessor shall certify to the county auditor the assessed value of commercial vehicles in every taxing district.

(e) On or before August 1, 2000, the county auditor shall certify the following to the department of local government finance:

(1) The total assessed value of commercial vehicles in the county.

(2) The total assessed value of commercial vehicles in each taxing district of the county.

(f) The department of local government finance shall determine

each taxing unit's base revenue by applying the current tax rate for each taxing district to the certified assessed value from each taxing district. The department of local government finance shall also determine the following:

(1) The total amount of base revenue to be distributed from the commercial vehicle excise tax fund in 2001 to all taxing units in Indiana.

(2) The total amount of base revenue to be distributed from the commercial vehicle excise tax fund in 2001 to all taxing units in each county.

(3) Each county's total distribution percentage. A county's total distribution percentage shall be determined by dividing the total amount of base revenue to be distributed in 2001 to all taxing units in the county by the total base revenue to be distributed statewide.

(4) Each taxing unit's distribution percentage. A taxing unit's distribution percentage shall be determined by dividing each taxing unit's base revenue by the total amount of base revenue to be distributed in 2001 to all taxing units in the county.

(g) The department of local government finance shall certify each taxing unit's base revenue and distribution percentage for calendar year 2001 to the auditor of state on or before September 1, 2000.

(h) The auditor of state shall keep permanent records of each taxing unit's base revenue and distribution percentage for calendar year 2001 for purposes of determining the amount of money each taxing unit in Indiana is entitled to receive in calendar years that begin after December 31, 2001.

SECTION 241. IC 6-6-5.5-20, AS AMENDED BY P.L.146-2008, SECTION 354, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 20. (a) On or before May 1, subject to subsections (c) and (d), the auditor of state shall distribute to each county auditor an amount equal to fifty percent (50%) of the ~~total base revenue to be distributed to all taxing units in the county for that year.~~ **product of:**

(1) the county's distribution percentage; multiplied by

(2) the total commercial vehicle excise tax deposited in the commercial vehicle excise tax fund in the preceding calendar year.

(b) On or before December 1, subject to subsections (c) and (d), the auditor of state shall distribute to each county auditor an amount equal

to ~~the greater of the following:~~

~~(1) Fifty percent (50%) of the total base revenue to be distributed to all taxing units in the county for that year.~~

~~(2) The product of the county's distribution percentage multiplied by the total commercial vehicle excise tax revenue deposited in the commercial vehicle excise tax fund.~~ **fifty percent (50%) of the product of:**

(1) the county's distribution percentage; multiplied by

(2) the total commercial vehicle excise tax deposited in the commercial vehicle excise tax fund in the preceding calendar year.

(c) Before distributing the amounts under subsections (a) and (b), the auditor of state shall deduct for a county unit an amount for deposit in a state fund, as directed by the budget agency, equal to the result determined under STEP FIVE of the following formula:

STEP ONE: Separately for 2006, 2007, and 2008, determine the result of:

(A) the tax rate imposed by the county in the year for the county's county medical assistance to wards fund, family and children's fund, children's psychiatric residential treatment services fund, county hospital care for the indigent fund, children with special health care needs county fund, plus, in the case of Marion County, the tax rate imposed by the health and hospital corporation that was necessary to raise thirty-five million dollars ($35,000,000) from all taxing districts in the county; divided by

(B) the aggregate tax rate imposed by the county unit and, in the case of Marion County, the health and hospital corporation in the year.

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

STEP THREE: Divide the STEP TWO result by three (3).

STEP FOUR: Determine the amount that would otherwise be distributed to the county under subsection (a) or (b), as appropriate, without regard to this subsection.

STEP FIVE: Determine the result of:

(A) the STEP THREE amount; multiplied by

(B) the STEP FOUR result.

(d) Before distributing the amounts under subsections (a) and (b), the auditor of state shall deduct for a school corporation an amount for deposit in a state fund, as directed by the budget agency, equal to the

result determined under STEP FIVE of the following formula:

STEP ONE: Separately for 2006, 2007, and 2008, determine the result of:

(A) the tax rate imposed by the school corporation in the year for the tuition support levy under IC 6-1.1-19-1.5 (repealed) or IC 20-45-3-11 (repealed) for the school corporation's general fund plus the tax rate imposed by the school corporation for the school corporation's special education preschool fund; divided by

(B) the aggregate tax rate imposed by the school corporation in the year.

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

STEP THREE: Divide the STEP TWO result by three (3).

STEP FOUR: Determine the amount of commercial vehicle excise tax that would otherwise be distributed to the school corporation under subsection (a) or (b), as appropriate, without regard to this subsection.

STEP FIVE: Determine the result of:

(A) the STEP FOUR amount; multiplied by

(B) the STEP THREE result.

(e) Upon receipt, the county auditor shall distribute to the taxing units an amount equal to the product of the taxing unit's distribution percentage multiplied by the total distributed to the county under this section. The amount determined shall be apportioned and distributed among the respective funds of each taxing unit in the same manner and at the same time as property taxes are apportioned and distributed **(subject to adjustment as provided in IC 36-8-19-7.5 after December 31, 2009).**

(f) In the event that sufficient funds are not available in the commercial vehicle excise tax fund for the distributions required by subsection (a) and subsection (b)(1), the auditor of state shall transfer funds from the commercial vehicle excise tax reserve fund.

(g) The auditor of state shall, not later than July 1 of each year, furnish to each county auditor an estimate of the amounts to be distributed to the counties under this section during the next calendar year. Before August 1, each county auditor shall furnish to the proper officer of each taxing unit of the county an estimate of the amounts to be distributed to the taxing units under this section during the next calendar year and the budget of each taxing unit shall show the

estimated amounts to be received for each fund for which a property tax is proposed to be levied.

SECTION 242. IC 6-6-6.5-21, AS AMENDED BY P.L.146-2008, SECTION 355, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) The department shall allocate each aircraft excise tax payment collected by it to the county in which the aircraft is usually located when not in operation or to the aircraft owner's county of residence if based out of state. The department shall distribute to each county treasurer on a quarterly basis the aircraft excise taxes which were collected by the department during the preceding three (3) months and which the department has allocated to that county. The distribution shall be made on or before the fifteenth of the month following each quarter and the first distribution each year shall be made in April.

(b) Concurrently with making a distribution of aircraft excise taxes, the department shall send an aircraft excise tax report to the county treasurer and the county auditor. The department shall prepare the report on the form prescribed by the state board of accounts. The aircraft excise tax report must include aircraft identification, owner information, and excise tax payment, and must indicate the county where the aircraft is normally kept when not in operation. The department shall, in the manner prescribed by the state board of accounts, maintain records concerning the aircraft excise taxes received and distributed by it.

(c) Except as provided in section 21.5 of this chapter, each county treasurer shall deposit money received by ~~him~~ **the treasurer** under this chapter in a separate fund to be known as the "aircraft excise tax fund". The money in the aircraft excise tax fund shall be distributed to the taxing units of the county in the manner prescribed in subsection (d).

(d) As used in this subsection, "taxing district" has the meaning set forth in IC 6-1.1-1-20, "taxing unit" has the meaning set forth in IC 6-1.1-1-21, and "tuition support levy" refers to a school corporation's tuition support property tax levy under IC 20-45-3-11 (repealed) for the school corporation's general fund. In order to distribute the money in the county aircraft excise tax fund to the taxing units of the county, the county auditor shall first allocate the money in the fund among the taxing districts of the county. In making these allocations, the county auditor shall allocate to a taxing district the excise taxes collected with respect to aircraft usually located in the taxing district when not in operation. Subject to this subsection, the

money allocated to a taxing district shall be apportioned and distributed among the taxing units of that taxing district in the same manner and at the same time that the property taxes are apportioned and distributed **(subject to adjustment as provided in IC 36-8-19-7.5).** For purposes of determining the distribution for a year under this section for a taxing unit, a state welfare and tuition support allocation shall be deducted from the total amount available for apportionment and distribution to taxing units under this section before any apportionment and distribution is made. The county auditor shall remit the state welfare and tuition support allocation to the treasurer of state for deposit as directed by the budget agency. The amount of the state welfare and tuition support allocation for a county for a particular year is equal to the result determined under STEP THREE of the following formula:

STEP ONE: Determine the result of the following:

(A) Separately for 2006, 2007, and 2008 for each taxing district in the county, determine the result of:

(i) the tax rate imposed in the taxing district for the county's county medical assistance to wards fund, family and children's fund, children's psychiatric residential treatment services fund, county hospital care for the indigent fund, children with special health care needs county fund, plus, in the case of Marion County, the tax rate imposed by the health and hospital corporation that was necessary to raise thirty-five million dollars ($35,000,000) from all taxing districts in the county; divided by

(ii) the aggregate tax rate imposed in the taxing district for the same year.

(B) Determine the sum of the clause (A) amounts.

(C) Divide the clause (B) amount by three (3).

(D) Determine the result of:

(i) the amount of excise taxes allocated to the taxing district that would otherwise be available for distribution to taxing units in the taxing district; multiplied by

(ii) the clause (C) amount.

(E) Determine the sum of the clause (D) amounts for all taxing districts in the county.

STEP TWO: Determine the result of the following:

(A) Separately for 2006, 2007, and 2008 for each taxing district in the county, determine the result of:

(i) the tuition support levy tax rate imposed in the taxing

district plus the tax rate imposed by the school corporation for the school corporation's special education preschool fund in the district; divided by

(ii) the aggregate tax rate imposed in the taxing district for the same year.

(B) Determine the sum of the clause (A) amounts.

(C) Divide the clause (B) amount by three (3).

(D) Determine the result of:

(i) the amount of excise taxes allocated to the taxing district that would otherwise be available for distribution to taxing units in the taxing district; multiplied by

(ii) the clause (C) amount.

(E) Determine the sum of the clause (D) amounts for all taxing districts in the county.

STEP THREE: Determine the sum of the STEP ONE and STEP TWO amounts for the county.

If the boundaries of a taxing district change after the years for which a ratio is calculated under STEP ONE or STEP TWO, the budget agency shall establish a ratio for the new taxing district that reflects the tax rates imposed in the predecessor taxing districts.

(e) Within thirty (30) days following the receipt of excise taxes from the department, the county treasurer shall file a report with the county auditor concerning the aircraft excise taxes collected by the county treasurer. The county treasurer shall file the report on the form prescribed by the state board of accounts. The county treasurer shall, in the manner and at the times prescribed in IC 6-1.1-27, make a settlement with the county auditor for the aircraft excise taxes collected by the county treasurer. The county treasurer shall, in the manner prescribed by the state board of accounts, maintain records concerning the aircraft excise taxes received and distributed by ~~him.~~ **the treasurer.**

SECTION 243. IC 6-6-6.5-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 23. **(a)** The department ~~may~~ **shall** require the owner of an airport or any person or persons leasing or subleasing space from an airport owner for the purpose of storing, renting, or selling aircraft to submit reports to the department listing the aircraft based at that airport. The reports shall identify the aircraft by Federal Aviation Administration number.

(b) An airport owner or any other person required to submit a report under subsection (a) is subject to a civil penalty of one hundred dollars ($100) for each aircraft that should have been and

was not properly included on the report.

SECTION 244. IC 6-6-9.7-7, AS AMENDED BY P.L.214-2005, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) The city-county council of a county that contains a consolidated city may adopt an ordinance to impose an excise tax, known as the county supplemental auto rental excise tax, upon the rental of passenger motor vehicles and trucks in the county for periods of less than thirty (30) days. The ordinance must specify that the tax expires December 31, 2027.

(b) Except as provided in subsection (c), the county supplemental auto rental excise tax that may be imposed upon the rental of a passenger motor vehicle or truck equals two percent (2%) of the gross retail income received by the retail merchant for the rental.

(c) On or before June 30, 2005, the city-county council may, by ordinance adopted by a majority of the members elected to the city-county council, increase the tax imposed under subsection (a) from two percent (2%) to four percent (4%). The ordinance must specify that:

(1) if on December 31, 2027, there are obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the original two percent (2%) rate imposed under subsection (a) continues to be levied after its original expiration date set forth in subsection (a) and through December 31, 2040; and

(2) the additional rate authorized under this subsection expires on:

(A) January 1, 2041;

(B) January 1, 2010, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under IC 5-1-17-26; or

(C) October 1, 2005, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under a lease or a sublease of an existing capital improvement entered into under IC 5-1-17, unless waived by the budget director.

(d) The amount collected from that portion of county supplemental auto rental excise tax imposed under:

(1) subsection (b) and collected after December 31, 2027; and

(2) under subsection (c);

shall, in the manner provided by section 11 of this chapter, be distributed to the capital improvement board of managers operating in a consolidated city or its designee. So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the capital improvement board of managers or its designee shall deposit the revenues received under this subsection in a special fund, which may be used only for the payment of the obligations described in this subsection.

(e) After January 1, 2013, and before March 1, 2013, the city-county council may, by ordinance adopted by a majority of the members elected to the city-county council, increase the tax rate imposed under subsection (a) by not more than two percent (2%). The amount collected from an increase adopted under this subsection shall be deposited in the sports and convention facilities operating fund established by IC 36-7-31-16.

~~(e)~~ **(f)** If a city-county council adopts an ordinance under subsection (a), ~~or~~ (c), **or (e),** the city-county council shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

~~(f)~~ **(g)** If a city-county council adopts an ordinance under subsection (a), ~~or~~ (c), ~~prior to June 1,~~ **or (e) on or before the fifteenth day of a month,** the county supplemental auto rental excise tax applies to auto rentals after ~~June 30 of the year~~ **the last day of the month** in which the ordinance is adopted. If the city-county council adopts an ordinance under subsection (a), ~~or~~ (c), ~~or~~ or **(e)** after ~~June 1,~~ **the fifteenth day of a month,** the county supplemental auto rental excise tax applies to auto rentals after the last day of the month **following the month** in which the ordinance is adopted.

SECTION 245. IC 6-6-11-31, AS AMENDED BY P.L.146-2008, SECTION 357, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 31. (a) A boat excise tax fund is established in each county. Each county treasurer shall deposit in the fund the taxes received under this chapter.

(b) As used in this subsection, "taxing district" has the meaning set forth in IC 6-1.1-1-20, "taxing unit" has the meaning set forth in

IC 6-1.1-1-21, and "tuition support levy" refers to a school corporation's tuition support property tax levy under IC 20-45-3-11 (repealed) for the school corporation's general fund. The excise tax money in the county boat excise tax fund shall be distributed to the taxing units of the county. The county auditor shall allocate the money in the fund among the taxing districts of the county based on the tax situs of each boat. Subject to this subsection, the money allocated to the taxing units shall be apportioned and distributed among the funds of the taxing units in the same manner and at the same time that property taxes are apportioned and distributed **(subject to adjustment as provided in IC 36-8-19-7.5).** For purposes of determining the distribution for a year under this section for a taxing unit, a state welfare and tuition support allocation shall be deducted from the total amount available for apportionment and distribution to taxing units under this section before any apportionment and distribution is made. The county auditor shall remit the state welfare and tuition support allocation to the treasurer of state for deposit as directed by the budget agency. The amount of the state welfare and tuition support allocation for a county for a particular year is equal to the result determined under STEP THREE of the following formula:

STEP ONE: Determine the result of the following:

(A) Separately for 2006, 2007, and 2008 for each taxing district in the county, determine the result of:

(i) the tax rate imposed in the taxing district for the county's county medical assistance to wards fund, family and children's fund, children's psychiatric residential treatment services fund, county hospital care for the indigent fund, children with special health care needs county fund, plus, in the case of Marion County, the tax rate imposed by the health and hospital corporation that was necessary to raise thirty-five million dollars ($35,000,000) from all taxing districts in the county; divided by

(ii) the aggregate tax rate imposed in the taxing district for the same year.

(B) Determine the sum of the clause (A) amounts.

(C) Divide the clause (B) amount by three (3).

(D) Determine the result of:

(i) the amount of excise taxes allocated to the taxing district that would otherwise be available for distribution to taxing units in the taxing district; multiplied by

(ii) the clause (C) amount.

(E) Determine the sum of the clause (D) amounts for all taxing districts in the county.

STEP TWO: Determine the result of the following:

(A) Separately for 2006, 2007, and 2008 for each taxing district in the county, determine the result of:

(i) the tuition support levy tax rate imposed in the taxing district plus the tax rate imposed by the school corporation for the school corporation's special education preschool fund in the district; divided by

(ii) the aggregate tax rate imposed in the taxing district for the same year.

(B) Determine the sum of the clause (A) amounts.

(C) Divide the clause (B) amount by three (3).

(D) Determine the result of:

(i) the amount of excise taxes allocated to the taxing district that would otherwise be available for distribution to taxing units in the taxing district; multiplied by

(ii) the clause (C) amount.

(E) Determine the sum of the clause (D) amounts for all taxing districts in the county.

STEP THREE: Determine the sum of the STEP ONE and STEP TWO amounts for the county.

If the boundaries of a taxing district change after the years for which a ratio is calculated under STEP ONE or STEP TWO, the budget agency shall establish a ratio for the new taxing district that reflects the tax rates imposed in the predecessor taxing districts.

SECTION 246. IC 6-7-1-28.1, AS AMENDED BY P.L.3-2008, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 28.1. The taxes, registration fees, fines, or penalties collected under this chapter shall be deposited in the following manner:

(1) Four and twenty-two hundredths percent (4.22%) of the money shall be deposited in a fund to be known as the cigarette tax fund.

(2) Six-tenths percent (0.6%) of the money shall be deposited in a fund to be known as the mental health centers fund.

(3) ~~Fifty-three and sixty-eight hundredths percent (53.68%)~~ **Fifty-four and five-tenths percent (54.5%)** of the money shall be deposited in the state general fund.

(4) Five and forty-three hundredths percent (5.43%) of the money shall be deposited into the pension relief fund established in IC 5-10.3-11.

(5) Twenty-seven and five hundredths percent (27.05%) of the money shall be deposited in the Indiana check-up plan trust fund established by IC 12-15-44.2-17.

(6) Two and forty-six hundredths percent (2.46%) of the money shall be deposited in the state general fund for the purpose of paying appropriations for Medicaid—Current Obligations, for provider reimbursements.

(7) ~~Four and one-tenth~~ **Five and seventy-four hundredths** percent ~~(4.1%)~~ **(5.74%)** of the money shall be deposited in the ~~state general fund for the purpose of paying any appropriation for a health initiative.~~ **state retiree health benefit trust fund established by IC 5-10-8-8.5.**

~~(8) Two and forty-six hundredths percent (2.46%) of the money shall be deposited in the state general fund for the purpose of reimbursing the state general fund for a tax credit provided under IC 6-3.1-31.~~

The money in the cigarette tax fund, the mental health centers fund, the Indiana check-up plan trust fund, or the pension relief fund at the end of a fiscal year does not revert to the state general fund. However, if in any fiscal year, the amount allocated to a fund under subdivision (1) or (2) is less than the amount received in fiscal year 1977, then that fund shall be credited with the difference between the amount allocated and the amount received in fiscal year 1977, and the allocation for the fiscal year to the fund under subdivision (3) shall be reduced by the amount of that difference. Money deposited under subdivisions (6) through ~~(8)~~ **(7)** may not be used for any purpose other than the purpose stated in the subdivision.

SECTION 247. IC 6-8.1-1-1, AS AMENDED BY P.L.1-2009, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the slot machine wagering tax (IC 4-35-8); the type II gambling game excise tax (IC 4-36-9); the gross income tax (IC 6-2.1) (repealed); the utility receipts and utility services use taxes (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county

adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the excise tax imposed on recreational vehicles and truck campers (IC 6-6-5.1); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); **the regional transportation improvement income tax (IC 8-24-17);** the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer.

SECTION 248. IC 6-8.1-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. The department has the sole authority to furnish forms used in the administration and collection of the listed taxes, **including reporting of information in an electronic format.**

SECTION 249. IC 6-8.1-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) The department may audit any returns filed in respect to the listed taxes, may appraise property if the property's value relates to the administration or enforcement of the listed taxes, may audit gasoline distributors for financial responsibility, and may investigate any matters relating to the listed taxes.

(b) The department may audit any returns with respect to the listed taxes using statistical sampling. If the taxpayer and the department agree to a sampling method to be used, the sampling method is binding on the taxpayer and the department in determining the total amount of additional tax due or amounts to

be refunded.

~~(b)~~ **(c)** For purposes of conducting its audit or investigative functions, the department may:

(1) subpoena the production of evidence;

(2) subpoena witnesses; and

(3) question witnesses under oath.

The department may serve its subpoenas, or it may order the sheriff of the county in which the witness or evidence is located to serve the subpoenas.

~~(c)~~ **(d)** The department may enforce its audit and investigatory powers by petitioning for a court order in any court of competent jurisdiction located in the county where the tax is due or in the county in which the evidence or witness is located. If the evidence or witness is not located in Indiana or if the department does not know the location of the evidence or witness, the department may file the petition in a court of competent jurisdiction in Marion County. The petition to the court must state the evidence or testimony subpoenaed and must allege that the subpoena was served but that the person did not comply with the terms of that subpoena.

~~(d)~~ **(e)** Upon receiving a proper petition under subsection ~~(c),~~ **(d),** the court shall promptly issue an order which:

(1) sets a hearing on the petition on a date not more than ten (10) days after the date of the order; and

(2) orders the person to appear at the hearing prepared to produce the subpoenaed evidence and give the subpoenaed testimony.

If the defendant is unable to show good cause for not producing the evidence or giving the testimony, the court shall order the defendant to comply with the subpoena.

~~(e)~~ **(f)** If the defendant fails to obey the court order, the court may punish the defendant for contempt.

~~(f)~~ **(g)** Officers serving subpoenas or court orders and witnesses appearing in court are entitled to the normal compensation provided by law in civil cases. The department shall pay the compensation costs from the money appropriated for the administration of the listed taxes.

~~(g)~~ **(h)** County treasurers investigating tax matters under IC 6-9 have:

(1) concurrent jurisdiction with the department;

(2) the audit, investigatory, appraisal, and enforcement powers described in this section; and

(3) authority to recover court costs, fees, and other expenses

related to an audit, investigatory, appraisal, or enforcement action under this section.

SECTION 250. IC 6-8.1-3-16, AS AMENDED BY P.L.177-2005, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 16. (a) The department shall prepare a list of all outstanding tax warrants for listed taxes each month. The list shall identify each taxpayer liable for a warrant by name, address, amount of tax, and either Social Security number or employer identification number. Unless the department renews the warrant, the department shall exclude from the list a warrant issued more than ten (10) years before the date of the list. The department shall certify a copy of the list to the bureau of motor vehicles.

(b) The department shall prescribe and furnish tax release forms for use by tax collecting officials. A tax collecting official who collects taxes in satisfaction of an outstanding warrant shall issue to the taxpayers named on the warrant a tax release stating that the tax has been paid. The department may also issue a tax release:

(1) to a taxpayer who has made arrangements satisfactory to the department for the payment of the tax; or

(2) by action of the commissioner under IC 6-8.1-8-2(k).

(c) The department may not issue or renew:

(1) a certificate under IC 6-2.5-8;

(2) a license under IC 6-6-1.1 or IC 6-6-2.5; or

(3) a permit under IC 6-6-4.1;

to a taxpayer whose name appears on the most recent monthly warrant list, unless that taxpayer pays the tax, makes arrangements satisfactory to the department for the payment of the tax, or a release is issued under IC 6-8.1-8-2(k).

(d) The bureau of motor vehicles shall, before issuing the title to a motor vehicle under IC 9-17, determine whether the purchaser's or assignee's name is on the most recent monthly warrant list. If the purchaser's or assignee's name is on the list, the bureau shall enter as a lien on the title the name of the state as the lienholder unless the bureau has received notice from the commissioner under IC 6-8.1-8-2(k). The tax lien on the title:

(1) is subordinate to a perfected security interest (as defined and perfected in accordance with IC 26-1-9.1); and

(2) shall otherwise be treated in the same manner as other title liens.

(e) The commissioner is the custodian of all titles for which the state

is the sole lienholder under this section. Upon receipt of the title by the department, the commissioner shall notify the owner of the department's receipt of the title.

(f) The department shall reimburse the bureau of motor vehicles for all costs incurred in carrying out this section.

(g) Notwithstanding IC 6-8.1-8, a person who is authorized to collect taxes, interest, or penalties on behalf of the department under IC 6-3 or IC 6-3.5 may not, except as provided in subsection (h) or (i), receive a fee for collecting the taxes, interest, or penalties if:

(1) the taxpayer pays the taxes, interest, or penalties as consideration for the release of a lien placed under subsection (d) on a motor vehicle title; or

(2) the taxpayer has been denied a certificate or license under subsection (c) within sixty (60) days before the date the taxes, interest, or penalties are collected.

(h) In the case of a sheriff, subsection (g) does not apply if:

(1) the sheriff collects the taxes, interest, or penalties within sixty (60) days after the date the sheriff receives the tax warrant; or

(2) the sheriff collects the taxes, interest, or penalties through the sale or redemption, in a court proceeding, of a motor vehicle that has a lien placed on its title under subsection (d).

(i) In the case of a person other than a sheriff:

(1) subsection (g)(2) does not apply if the person collects the taxes, interests, or penalties within sixty (60) days after the date the commissioner employs the person to make the collection; and

(2) subsection (g)(1) does not apply if the person collects the taxes, interest, or penalties through the sale or redemption, in a court proceeding, of a motor vehicle that has a lien placed on its title under subsection (d).

(j) IC 5-14-3-4, IC 6-8.1-7-1, and any other law exempting information from disclosure by the department ~~does~~ **do** not apply to this subsection. ~~From the list prepared under subsection (a),~~ The department shall ~~compile each month~~ **prepare** a list of ~~the taxpayers subject to tax warrants that:~~

~~(1) were issued at least twenty-four (24) months before the date of the list; and~~

~~(2) are for amounts that exceed one thousand dollars ($1,000).~~

retail merchants whose registered retail merchant certificate has not been renewed under IC 6-2.5-8-1(g) or whose registered retail merchant certificate has been revoked under IC 6-2.5-8-7. The list

compiled under this subsection must identify each ~~taxpayer liable for a warrant~~ **retail merchant** by name **(including any name under which the retail merchant is doing business),** address, and ~~amount of tax.~~ **county.** The department shall publish the list compiled under this subsection on ~~accessIndiana~~ **the department's Internet web site** (as operated under IC 4-13.1-2) and make the list available for public inspection and copying under IC 5-14-3. The department or an agent, employee, or officer of the department is immune from liability for the publication of information under this subsection.

~~(k) The department may not publish a list under subsection (j) that identifies a particular taxpayer unless at least two (2) weeks before the publication of the list the department sends notice to the taxpayer stating that the taxpayer:~~

~~(1) is subject to a tax warrant that:~~

~~(A) was issued at least twenty-four (24) months before the date of the notice; and~~

~~(B) is for an amount that exceeds one thousand dollars ($1,000); and~~

~~(2) will be identified on a list to be published on accessIndiana unless a tax release is issued to the taxpayer under subsection (b).~~

~~(l) The department may not publish a list under subsection (j) after June 30, 2006.~~

SECTION 251. IC 6-8.1-5-2, AS AMENDED BY P.L.131-2008, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Except as otherwise provided in this section, the department may not issue a proposed assessment under section 1 of this chapter more than three (3) years after the latest of the date the return is filed, or ~~any~~ **either** of the following:

(1) The due date of the return. ~~or~~

(2) In the case of a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax, the end of the calendar year which contains the taxable period for which the return is filed.

(b) If a person files **a utility receipts tax return (IC 6-2.3),** an adjusted gross income tax (IC 6-3), supplemental net income tax (IC 6-3-8) (repealed), county adjusted gross income tax (IC 6-3.5-1.1), county option income tax (IC 6-3.5-6), or financial institutions tax (IC 6-5.5) return that understates the person's income, as that term is defined in the particular income tax law, by at least twenty-five percent

(25%), the proposed assessment limitation is six (6) years instead of the three (3) years provided in subsection (a).

(c) In the case of the motor vehicle excise tax (IC 6-6-5), the tax shall be assessed as provided in IC 6-6-5-5 and IC 6-6-5-6 and shall include the penalties and interest due on all listed taxes not paid by the due date. A person that fails to properly register a vehicle as required by IC 9-18 and pay the tax due under IC 6-6-5 is considered to have failed to file a return for purposes of this article.

(d) In the case of the commercial vehicle excise tax imposed under IC 6-6-5.5, the tax shall be assessed as provided in IC 6-6-5.5 and shall include the penalties and interest due on all listed taxes not paid by the due date. A person that fails to properly register a commercial vehicle as required by IC 9-18 and pay the tax due under IC 6-6-5.5 is considered to have failed to file a return for purposes of this article.

(e) In the case of the excise tax imposed on recreational vehicles and truck campers under IC 6-6-5.1, the tax shall be assessed as provided in IC 6-6-5.1 and must include the penalties and interest due on all listed taxes not paid by the due date. A person who fails to properly register a recreational vehicle as required by IC 9-18 and pay the tax due under IC 6-6-5.1 is considered to have failed to file a return for purposes of this article. A person who fails to pay the tax due under IC 6-6-5.1 on a truck camper is considered to have failed to file a return for purposes of this article.

(f) If a person files a fraudulent, unsigned, or substantially blank return, or if a person does not file a return, there is no time limit within which the department must issue its proposed assessment.

(g) If any part of a listed tax has been erroneously refunded by the department, the erroneous refund may be recovered through the assessment procedures established in this chapter. An assessment issued for an erroneous refund must be issued:

(1) within two (2) years after making the refund; or

(2) within five (5) years after making the refund if the refund was induced by fraud or misrepresentation.

~~(g)~~ **(h)** If, before the end of the time within which the department may make an assessment, the department and the person agree to extend that assessment time period, the period may be extended according to the terms of a written agreement signed by both the department and the person. The agreement must contain:

(1) the date to which the extension is made; and

(2) a statement that the person agrees to preserve the person's

records until the extension terminates.

The department and a person may agree to more than one (1) extension under this subsection.

~~(h)~~ **(i)** If a taxpayer's federal income tax liability for a taxable year is modified due to the assessment of a federal deficiency or the filing of an amended federal income tax return, then the date by which the department must issue a proposed assessment under section 1 of this chapter for tax imposed under IC 6-3 is extended to six (6) months after the date on which the notice of modification is filed with the department by the taxpayer.

SECTION 252. IC 6-8.1-6-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.5. A taxpayer that is required under IC 6-3-4-1 to file a return ~~may~~ **shall** round to the nearest whole dollar an amount or item reported on the return. The following apply if an amount or item is rounded:

(1) An amount or item of at least fifty cents ($0.50) must be rounded up to the nearest whole dollar.

(2) An amount or item of less than fifty cents ($0.50) must be rounded down to the nearest whole dollar.

SECTION 253. IC 6-8.1-6-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8. (a) Beginning after December 31, 2010, the department in cooperation with the department of local government finance and the budget agency shall provide information annually that:**

(1) identifies the total number of individual taxpayers that live within a particular incorporated city or town;

(2) identifies the total individual adjusted gross income of those taxpayers; and

(3) includes any other information that:

(A) can be abstracted from the taxpayers' individual income tax returns; and

(B) is necessary to obtain information concerning individual income taxation under IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-3.5-7;

as agreed to by the department and the legislative services agency.

(b) As used in this subsection, "authorized agency" refers to the legislative services agency or the budget agency. As used in this subsection, "director" refers to the executive director of the legislative services agency or the director of the budget agency. The

department shall provide access to the information described in subsection (a) in electronic format to an authorized agency:

(1) upon receipt of a written request from the director of the authorized agency; and

(2) upon the director's agreement that any information accessed (other than aggregate data) will be kept confidential and used solely for official purposes.

SECTION 254. IC 6-8.1-7-1, AS AMENDED BY P.L.44-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating to any of the listed taxes, including required information derived from a federal return, except to:

(1) members and employees of the department;

(2) the governor;

(3) the attorney general or any other legal representative of the state in any action in respect to the amount of tax due under the provisions of the law relating to any of the listed taxes; or

(4) any authorized officers of the United States;

when it is agreed that the information is to be confidential and to be used solely for official purposes.

(b) The information described in subsection (a) may be revealed upon the receipt of a certified request of any designated officer of the state tax department of any other state, district, territory, or possession of the United States when:

(1) the state, district, territory, or possession permits the exchange of like information with the taxing officials of the state; and

(2) it is agreed that the information is to be confidential and to be used solely for tax collection purposes.

(c) The information described in subsection (a) relating to a person on public welfare or a person who has made application for public welfare may be revealed to the director of the division of family resources, and to any director of a county office of the division of family resources located in Indiana, upon receipt of a written request

from either director for the information. The information shall be treated as confidential by the directors. In addition, the information described in subsection (a) relating to a person who has been designated as an absent parent by the state Title IV-D agency shall be made available to the state Title IV-D agency upon request. The information shall be subject to the information safeguarding provisions of the state and federal Title IV-D programs.

(d) The name, address, Social Security number, and place of employment relating to any individual who is delinquent in paying educational loans owed to a postsecondary educational institution may be revealed to that institution if it provides proof to the department that the individual is delinquent in paying for educational loans. This information shall be provided free of charge to approved postsecondary educational institutions (as defined by IC 21-7-13-6(a)). The department shall establish fees that all other institutions must pay to the department to obtain information under this subsection. However, these fees may not exceed the department's administrative costs in providing the information to the institution.

(e) The information described in subsection (a) relating to reports submitted under IC 6-6-1.1-502 concerning the number of gallons of gasoline sold by a distributor and IC 6-6-2.5 concerning the number of gallons of special fuel sold by a supplier and the number of gallons of special fuel exported by a licensed exporter or imported by a licensed transporter may be released by the commissioner upon receipt of a written request for the information.

(f) The information described in subsection (a) may be revealed upon the receipt of a written request from the administrative head of a state agency of Indiana when:

(1) the state agency shows an official need for the information; and

(2) the administrative head of the state agency agrees that any information released will be kept confidential and will be used solely for official purposes.

(g) The information described in subsection (a) may be revealed upon the receipt of a written request from the chief law enforcement officer of a state or local law enforcement agency in Indiana when it is agreed that the information is to be confidential and to be used solely for official purposes.

(h) The name and address of retail merchants, including township, as specified in IC 6-2.5-8-1(j) may be released solely for tax collection

purposes to township assessors and county assessors.

(i) The department shall notify the appropriate innkeepers' tax board, bureau, or commission that a taxpayer is delinquent in remitting innkeepers' taxes under IC 6-9.

(j) All information relating to the delinquency or evasion of the motor vehicle excise tax may be disclosed to the bureau of motor vehicles in Indiana and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.

(k) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(l) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable under the International Registration Plan may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(m) All information relating to the delinquency or evasion of the excise taxes imposed on recreational vehicles and truck campers that are payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.1.

(n) This section does not apply to:

(1) the beer excise tax, **including brand and packaged type** (IC 7.1-4-2);

(2) the liquor excise tax (IC 7.1-4-3);

(3) the wine excise tax (IC 7.1-4-4);

(4) the hard cider excise tax (IC 7.1-4-4.5);

(5) the malt excise tax (IC 7.1-4-5);

(6) the motor vehicle excise tax (IC 6-6-5);

(7) the commercial vehicle excise tax (IC 6-6-5.5); and

(8) the fees under IC 13-23.

(o) The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and addiction and the alcohol and tobacco commission solely for the purpose of the list prepared under IC 6-2.5-6-14.2.

SECTION 255. IC 6-8.1-8-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: **Sec. 1.7. The department may require a person who is paying the person's outstanding gross retail tax or withholding tax liability using periodic payments to make the periodic payment by electronic funds transfer through an automatic withdrawal from the person's account at a financial institution.**

SECTION 256. IC 6-8.1-9-1, AS AMENDED BY P.L.131-2008, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as provided in subsections (f) and (g), in order to obtain the refund, the person must file the claim with the department within three (3) years after the latter of the following:

(1) The due date of the return.

(2) The date of payment.

For purposes of this section, the due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax is the end of the calendar year which contains the taxable period for which the return is filed. The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund.

(b) When the department receives a claim for refund, the department shall consider the claim for refund and shall, if the taxpayer requests, hold a hearing on the claim for refund to obtain and consider additional evidence. After considering the claim and all evidence relevant to the claim, the department shall issue a decision on the claim, stating the part, if any, of the refund allowed and containing a statement of the reasons for any part of the refund that is denied. The department shall mail a copy of the decision to the person who filed the claim. If the department allows the full amount of the refund claim, a warrant for the payment of the claim is sufficient notice of the decision.

(c) If the person disagrees with any part of the department's decision, the person may appeal the decision, regardless of whether or not the person protested the tax payment or whether or not the person has accepted a refund. The person must file the appeal with the tax court. The tax court does not have jurisdiction to hear a refund appeal

suit, if:

(1) the appeal is filed more than three (3) years after the date the claim for refund was filed with the department;

(2) the appeal is filed more than ninety (90) days after the date the department mails the decision of denial to the person; or

(3) the appeal is filed both before the decision is issued and before the one hundred eighty-first day after the date the person files the claim for refund with the department.

(d) The tax court shall hear the appeal de novo and without a jury, and after the hearing may order or deny any part of the appealed refund. The court may assess the court costs in any manner that it feels is equitable. The court may enjoin the collection of any of the listed taxes under IC 33-26-6-2. The court may also allow a refund of taxes, interest, and penalties that have been paid to and collected by the department.

(e) With respect to the motor vehicle excise tax, this section applies only to penalties and interest paid on assessments of the motor vehicle excise tax. Any other overpayment of the motor vehicle excise tax is subject to IC 6-6-5.

(f) If a taxpayer's federal income tax liability for a taxable year is modified by the Internal Revenue Service, and the modification would result in a reduction of the tax legally due, the due date by which the taxpayer must file a claim for refund with the department is the later of:

(1) the date determined under subsection (a); or

(2) the date that is six (6) months after the date on which the taxpayer is notified of the modification by the Internal Revenue Service.

(g) If an agreement to extend the assessment time period is entered into under ~~IC 6-8.1-5-2(g),~~ **IC 6-8.1-5-2(h),** the period during which a person may file a claim for a refund under subsection (a) is extended to the same date to which the assessment time period is extended.

SECTION 257. IC 6-8.1-9-2, AS AMENDED BY P.L.111-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) If the department finds that a person has paid more tax for a taxable year than is legally due, the department shall apply the amount of the excess against any amount of that same tax that is assessed and is currently due. The department may then apply any remaining excess against any of the listed taxes that have been assessed against the person and that are currently due. **Subject to subsection (c),** if any excess remains after the department has applied

the overpayment against the person's tax liabilities, the department shall either refund the amount to the person or, at the person's request, credit the amount to the person's future tax liabilities.

(b) **Subject to subsection (c),** if a court determines that a person has paid more tax for a taxable year than is legally due, the department shall refund the excess amount to the person.

(c) As used in this subsection, "pass through entity"means a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2), a partnership, a limited liability company, or a limited liability partnership and "pass through income" means a person's distributive share of adjusted gross income for a taxable year attributable to the person's interest in a pass through entity. This subsection applies to a person's overpayment of adjusted gross income tax for a taxable year if:

(1) the person has filed a timely claim for refund with respect to the overpayment under IC 6-8.1-9-1;

(2) the overpayment:

(A) is with respect to a taxable year beginning before January 1, 2009;

(B) is attributable to amounts paid to the department by:

(i) a nonresident shareholder, partner, or member of a pass through entity;

(ii) a pass through entity under IC 6-3-4-12 or IC 6-3-4-13 on behalf of a nonresident shareholder, partner, or member of the pass through entity; or

(iii) a pass through entity under IC 6-3-4-12 or IC 6-3-4-13 on behalf of a nonresident shareholder, partner, or member of another pass through entity; and

(3) the overpayment arises from a determination by the department or a court that the person's pass through income is not includible in the person's adjusted gross income derived from sources within Indiana as a result of the application of IC 6-3-2-2(a)(5) and IC 6-3-2-2.2(g).

The department shall apply the overpayment to the person's liability for taxes that have been assessed and are currently due as provided in subsection (a) and apply any remaining overpayment as a credit or credits in satisfaction of the person's liability for listed taxes in taxable years beginning after December 31, 2008. If the person, including any successor to the person's interest in the overpayment, does not have sufficient liability for listed taxes against which to credit all the remaining overpayment in a taxable

year beginning after December 31, 2008, and ending before January 1, 2019, the taxpayer is not entitled for any taxable year ending after December 31, 2018, to have any part of the remaining overpayment applied, refunded, or credited to the person's liability for listed taxes. If an overpayment or part of an overpayment is required to be applied as a credit under this subsection to the person's liability for listed taxes for a taxable year beginning after December 31, 2008, and has not been determined by the department or a court to meet the conditions of subdivision (3) by the due date of the person's return for a listed tax for a taxable year beginning after December 31, 2008, the department shall refund to the person that part of the overpayment that should have been applied as a credit for such taxable year within ninety (90) days of the date that the department or a court makes the determination that the overpayment meets the conditions of subdivision (3). However, the department may establish a program to refund small overpayment amounts that do not exceed the threshold dollar value established by the department rather than crediting the amounts against tax liability accruing for a taxable year after December 31, 2008. A person that receives a refund or credit under this subsection shall file a report with the department in the form and in the schedule specified by the department that identifies under penalties of perjury the home state or other jurisdiction where the income subject to the refund or credit was reported as income attributable to that state or jurisdiction.

~~(c)~~ **(d)** An excess tax payment that is not refunded or credited against a current or future tax liability within ninety (90) days after the date the refund claim is filed, the date the tax payment was due, or the date the tax was paid, whichever is latest, accrues interest from the date the refund claim is filed at the rate established under IC 6-8.1-10-1 until a date, determined by the department, that does not precede by more than thirty (30) days, the date on which the refund or credit is made.

~~(d)~~ As used in **this** subsection, ~~(c),~~ "refund claim" includes an amended return that indicates an overpayment of tax.

SECTION 258. IC 6-8.1-10-2.1, AS AMENDED BY P.L.211-2007, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 2.1. (a) If a person:

(1) fails to file a return for any of the listed taxes;

(2) fails to pay the full amount of tax shown on the person's return on or before the due date for the return or payment;

(3) incurs, upon examination by the department, a deficiency that is due to negligence;

(4) fails to timely remit any tax held in trust for the state; or

(5) is required to make a payment by electronic funds transfer (as defined in IC 4-8.1-2-7), overnight courier, or personal delivery and the payment is not received by the department by the due date in funds acceptable to the department;

the person is subject to a penalty.

(b) Except as provided in subsection (g), the penalty described in subsection (a) is ten percent (10%) of:

(1) the full amount of the tax due if the person failed to file the return;

(2) the amount of the tax not paid, if the person filed the return but failed to pay the full amount of the tax shown on the return;

(3) the amount of the tax held in trust that is not timely remitted;

(4) the amount of deficiency as finally determined by the department; or

(5) the amount of tax due if a person failed to make payment by electronic funds transfer, overnight courier, or personal delivery by the due date.

(c) For purposes of this section, the filing of a substantially blank or unsigned return does not constitute a return.

(d) If a person subject to the penalty imposed under this section can show that the failure to file a return, pay the full amount of tax shown on the person's return, timely remit tax held in trust, or pay the deficiency determined by the department was due to reasonable cause and not due to willful neglect, the department shall waive the penalty.

(e) A person who wishes to avoid the penalty imposed under this section must make an affirmative showing of all facts alleged as a reasonable cause for the person's failure to file the return, pay the amount of tax shown on the person's return, pay the deficiency, or timely remit tax held in trust, in a written statement containing a declaration that the statement is made under penalty of perjury. The statement must be filed with the return or payment within the time prescribed for protesting departmental assessments. A taxpayer may also avoid the penalty imposed under this section by obtaining a ruling from the department before the end of a particular tax period on the amount of tax due for that tax period.

(f) The department shall adopt rules under IC 4-22-2 to prescribe the circumstances that constitute reasonable cause and negligence for

purposes of this section.

(g) A person who fails to file a return for a listed tax that shows no tax liability for a taxable year, other than an information return (as defined in section 6 of this chapter), on or before the due date of the return shall pay a penalty of ten dollars ($10) for each day that the return is past due, up to a maximum of two hundred fifty dollars ($250).

(h) A:

(1) corporation which otherwise qualifies under IC 6-3-2-2.8(2); ~~but;~~

(2) partnership; or

(3) trust;

that fails to withhold and pay any amount of tax required to be withheld under **IC 6-3-4-12,** IC 6-3-4-13, **or IC 6-3-4-15** shall pay a penalty equal to twenty percent (20%) of the amount of tax required to be withheld under **IC 6-3-4-12,** IC 6-3-4-13, **or IC 6-3-4-15.** This penalty shall be in addition to any penalty imposed by section 6 of this chapter.

(i) Subsections (a) through (c) do not apply to a motor carrier fuel tax return.

(j) If a partnership or an S corporation fails to include all nonresidential individual partners or nonresidential individual shareholders in a composite return as required by IC 6-3-4-12(h) or IC 6-3-4-13(j), a penalty of five hundred dollars ($500) per partnership or S corporation is imposed on the partnership or S corporation.

SECTION 259. IC 6-8.1-10-5, AS AMENDED BY P.L.131-2008, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) If a person makes a tax payment with a check, credit card, debit card, or electronic funds transfer, and the department is unable to obtain payment on the check, credit card, debit card, or electronic funds transfer for its full face amount when the check, credit card, debit card, or electronic funds transfer is presented for payment through normal banking channels, a penalty of ten percent (10%) of the unpaid tax or the value of the check, credit card, debit card, or electronic funds transfer, whichever is smaller, is imposed.

(b) When a penalty is imposed under subsection (a), the department shall notify the person by mail that the check, credit card, debit card, or electronic funds transfer was not honored and that the person has ten (10) days after the date the notice is mailed to pay the tax and the penalty either in cash, by certified check, or other guaranteed payment.

If the person fails to make the payment within the ten (10) day period, the penalty is increased to one hundred percent (100%) multiplied by the value of the check, credit card, debit card, or electronic funds transfer, or the unpaid tax, whichever is smaller.

(c) If a person has been assessed a penalty under subsection (a) more than one (1) time, the department may require all future payments for all listed taxes to be remitted with guaranteed funds.

~~(c)~~ **(d)** If the person subject to the penalty under this section can show that there is reasonable cause for the check, credit card, debit card, or electronic funds transfer not being honored, the department may waive the penalty imposed under this section.

SECTION 260. IC 6-9-8-3, AS AMENDED BY P.L.214-2005, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The tax imposed by section 2 of this chapter shall be at the rate of:

(1) before January 1, 2028, five percent (5%) on the gross income derived from lodging income only, plus an additional one percent (1%) if the fiscal body adopts an ordinance under subsection (b), plus an additional three percent (3%) if the fiscal body adopts an ordinance under subsection (d);

(2) after December 31, 2027, and before January 1, 2041, five percent (5%), plus an additional one percent (1%) if the fiscal body adopts an ordinance under subsection (b), plus an additional three percent (3%) if the fiscal body adopts an ordinance under subsection (d); and

(3) after December 31, 2040, five percent (5%).

(b) In any year subsequent to the initial year in which a tax is imposed under section 2 of this chapter, the fiscal body may, by ordinance adopted by at least two-thirds (2/3) of the members elected to the fiscal body, increase the tax imposed by section 2 of this chapter from five percent (5%) to six percent (6%). The ordinance must specify that the increase in the tax authorized under this subsection expires January 1, 2028.

(c) The amount collected from an increase adopted under subsection (b) shall be transferred to the capital improvement board of managers established by IC 36-10-9-3. The board shall deposit the revenues received under this subsection in a special fund. Money in the special fund may be used only for the payment of obligations incurred to expand a convention center, including:

(1) principal and interest on bonds issued to finance or refinance

the expansion of a convention center; and

(2) lease agreements entered into to expand a convention center.

(d) On or before June 30, 2005, the fiscal body may, by ordinance adopted by a majority of the members elected to the fiscal body, increase the tax imposed by section 2 of this chapter by an additional three percent (3%) to a total rate of eight percent (8%) (or nine percent (9%) if the fiscal body has adopted an ordinance under subsection (b) and that rate remains in effect). The ordinance must specify that the increase in the tax authorized under this subsection expires on:

(1) January 1, 2041;

(2) January 1, 2010, if on that date there are no obligations owed by the capital improvement board of managers to the authority created by IC 5-1-17 or to any state agency under IC 5-1-17-26; or

(3) October 1, 2005, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under a lease or a sublease of an existing capital improvement entered into under IC 5-1-17, unless waived by the budget director.

If the fiscal body adopts an ordinance under this subsection, it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue, and the increase in the tax imposed under this chapter applies to transactions that occur after June 30, 2005.

(e) Before September 1, 2009, the fiscal body may, by ordinance adopted by a majority of the members elected to the fiscal body, increase the tax rate under this chapter by not more than one percent (1%). If the fiscal body adopts an ordinance under this subsection:

(1) it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue; and

(2) the tax applies to transactions after the last day of the month in which the ordinance is adopted, if the city-county council adopts the ordinance on or before the fifteenth day of a month. If the city-county council adopts the ordinance after the fifteenth day of a month, the tax applies to transactions after the last day of the month following the month in which the ordinance is adopted.

The increase in the tax imposed under this subsection continues in effect unless the increase is rescinded.

~~(c)~~ **(f)** The amount collected from an increase adopted under:

(1) subsection (b) and collected after December 31, 2027; and

(2) subsection (d);

shall be transferred to the capital improvement board of managers established by IC 36-10-9-3 or its designee. So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency pursuant to IC 5-1-17-26, the capital improvement board of managers or its designee shall deposit the revenues received under this subsection in a special fund, which may be used only for the payment of the obligations described in this subsection.

(g) The amount collected from an increase adopted under subsection (e) shall be deposited in the sports and convention facilities operating fund established by IC 36-7-31-16.

SECTION 261. IC 6-9-13-2, AS AMENDED BY P.L.214-2005, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Except as provided in subsection (b), the county admissions tax equals five percent (5%) of the price for admission to any event described in section 1 of this chapter.

(b) On or before June 30, 2005, the city-county council may, by ordinance adopted by a majority of the members elected to the city-county council, increase the county admissions tax from five percent (5%) to six percent (6%) of the price for admission to any event described in section 1 of this chapter.

(c) After January 1, 2013, and before March 1, 2013, the city-county council may, by ordinance adopted by a majority of the members elected to the city-county council, increase the county admissions tax rate by not more than four percent (4%) of the price for admission to any event described in section 1 of this chapter. If the city-county council adopts an ordinance under this subsection:

(1) the city-county council shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue; and

(2) the tax applies to transactions after the last day of the month in which the ordinance is adopted, if the city-county council adopts the ordinance on or before the fifteenth day of a month. If the city-county council adopts the ordinance after

the fifteenth day of a month, the tax applies to transactions after the last day of the month following the month in which the ordinance is adopted.

The increase in the tax imposed under this subsection continues in effect unless the increase is rescinded.

~~(c)~~ **(d)** The amount collected from that portion of the county admissions tax imposed under:

(1) subsection (a) and collected after December 31, 2027; and

(2) subsection (b);

shall be distributed to the capital improvement board of managers or its designee. So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the capital improvement board of managers or its designee shall deposit the revenues received from that portion of the county admissions tax imposed under subsection (b) in a special fund, which may be used only for the payment of the obligations described in this subsection.

(e) The amount collected from an increase adopted under subsection (c) shall be deposited in the sports and convention facilities operating fund established by IC 36-7-31-16.

SECTION 262. IC 6-9-42 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 42. Youth Sports Complex Admissions Tax

Sec. 1. As used in this chapter, "complex" refers to a youth sports complex that:

(1) has:

(A) a multipurpose outdoor stadium with at least four thousand (4,000) seats;

(B) indoor sports facilities; and

(C) fields for baseball, soccer, softball, and lacrosse; and

(2) is located in a geographic area that has been annexed by the city before the adoption of an ordinance under section 2 of this chapter.

Sec. 2. (a) Except as provided in subsection (b), after June 30 of a year but before January 1 of the following year, a city fiscal body may adopt an ordinance to impose an excise tax, known as the youth sports complex admissions tax, for the privilege of attending

an event at a complex.

(b) The admissions tax does not apply to the following:

(1) An event sponsored by an educational institution or an association representing an educational institution.

(2) An event sponsored by a religious organization.

(3) An event sponsored by a political organization.

(4) An event for which tickets are sold on a per vehicle or similar basis and not on a per person basis.

(c) If the fiscal body adopts an ordinance under subsection (a), the admissions tax applies to an event ticket purchased after:

(1) December 31 of the calendar year in which the ordinance is adopted; or

(2) a later date that is set forth in the ordinance.

(d) The tax terminates and may not be collected for events that occur after the city has satisfied any outstanding obligations described in section 7(d)(3) of this chapter.

Sec. 3. (a) As used in this section, "paid admission" refers to the price paid by each person who pays a price for admission to any event described in section 2(a) of this chapter. The term does not refer to persons who are entitled to be at an event without having paid a price for admission.

(b) The admission tax equals five percent (5%) of each paid admission to an event at the complex.

Sec. 4. If the city fiscal body adopts an ordinance under section 2 of this chapter, it shall immediately send a certified copy of the ordinance to the city fiscal officer.

Sec. 5. (a) Each person who pays a price for admission to an event described in section 2(a) of this chapter is liable for the tax imposed under this chapter.

(b) The person who collects the price for admission to the complex shall also collect the admissions tax at the same time the price for admission is paid. In addition, the person shall collect the tax as an agent of the city in which the complex is located.

Sec. 6. A person who collects the admissions tax under section 5 of this chapter shall remit the tax collections to the city fiscal officer. The person shall remit the revenues collected during a particular month before the twentieth day of the following month. At the time the tax revenues are remitted, the person shall file an admissions tax return on the form prescribed by the city fiscal body.

Sec. 7. (a) If a tax is imposed under this chapter, the city fiscal

body shall establish a city admissions tax fund.

(b) The city fiscal officer shall deposit money received under section 6 of this chapter in the city admissions tax fund.

(c) Money earned from the investment of money in the city admissions tax fund becomes a part of the fund.

(d) Money in the city admissions tax fund may be used by the city only for the following:

(1) Costs to finance, construct, reconstruct, or improve:

(A) public thoroughfares or highways to improve ingress or egress to and from the complex;

(B) infrastructure, including water and wastewater improvements, serving the complex;

(C) the total cost of all land, rights-of-way, and other property to be acquired by the city for the complex; and

(D) site preparation, drainage, landscaping, and lighting.

(2) All reasonable and necessary architectural, engineering, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and development of the property or the issuance of bonds.

(3) Payment of principal and interest on bonds issued, or lease rentals on leases entered into, by the city to finance the construction, reconstruction, or improvement identified under this subsection. Costs payable under this section include costs of capitalized interest and legal, accounting, and other costs incurred in the issuance of any bonds or the entering into of any leases.

(4) Payment of any access or connection fee imposed on the complex for access to the city's public sewer system, as long as the fee applies to all property owners served and is uniformly assessed within the city's corporate boundaries.

Sec. 8. (a) The city may:

(1) use revenues from the tax collected under this chapter to pay all or part of the costs associated with the improvements described in section 7(d) of this chapter;

(2) issue bonds, enter into leases, or incur other obligations to pay any costs associated with the improvements described in section 7(d) of this chapter;

(3) reimburse itself or any nonprofit corporation for any money advanced to pay those costs; or

(4) refund bonds issued or other obligations incurred under this chapter.

(b) Bonds or other obligations issued under this section:

(1) are payable from revenues under this chapter, any other revenues available to the city, or any combination of these sources, in accordance with a pledge made under IC 5-1-14-4;

(2) must be issued in the manner prescribed by IC 36-4-6-19 through IC 36-4-6-20;

(3) may, in the discretion of the city, be sold at a negotiated sale at a price to be determined by the city or in accordance with IC 5-1-11 and IC 5-3-1; and

(4) may be issued for a term not to exceed twenty-five (25) years, the term to apply to any refunding bonds issued to refund bonds originally issued under this section.

(c) Leases entered into under this section:

(1) may be for a term not to exceed twenty-five (25) years;

(2) may provide for payments from revenues under this chapter, any other revenues available to the city, or any combination of these sources;

(3) may provide that payments by the city to the lessor are required only to the extent and only for the time that the lessor is able to provide the leased facilities in accordance with the lease;

(4) must be based upon the value of the facilities leased; and

(5) may not create a debt of the city for purposes of the Constitution of the State of Indiana.

(d) A lease may be entered into by the city only after a public hearing with notice given in accordance with IC 5-3-1 at which all interested parties are provided the opportunity to be heard. After the public hearing, the executive may approve the execution of the lease on behalf of the city only if the executive finds that the service to be provided throughout the life of the lease will serve the public purpose of the city and is in the best interests of its residents. A lease approved by the executive must also be approved by an ordinance of the city fiscal body.

(e) Upon execution of a lease under this section, and after approval of the lease by the city fiscal body, the executive shall publish notice of the execution of the lease and the approval of the lease in accordance with IC 5-3-1.

(f) An action to contest the validity of bonds issued or leases entered into under this section must be brought within thirty (30) days after the adoption of a bond ordinance or notice of the execution and approval of the lease, as applicable.

Sec. 9. The accounts, books, and records of the complex are subject to an annual financial and compliance audit by the state board of accounts.

Sec. 10. With respect to:

(1) bonds, leases, or other obligations to which the city has pledged revenues under this chapter; and

(2) bonds issued by a lessor that are payable from lease rentals;

the general assembly covenants with the city and the purchasers or owners of the bonds or other obligations described in this section that this chapter will not be repealed or amended in any manner that will adversely affect the collection of the tax imposed under this chapter or the money deposited in the city admissions tax fund, as long as the principal of or interest on any bonds, or the lease rentals due under any lease, are unpaid.

SECTION 263. IC 8-5-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The district shall be supervised and managed by a board of trustees, which consists of the following:

(1) Four (4) members, one (1) from each county that is a member of the district, appointed by that county's board of county commissioners. **In the case of a member appointed or reappointed under this subdivision after December 31, 2009, the member must be a member of the board of county commissioners of the county that the member represents.**

(2) Four (4) members, one (1) from each county that is a member of the district, each of whom is the president of that county's county council or another council member designated by the president as a board member.

(3) One (1) member representing the rest of the state, appointed by the governor. **The term of a member appointed or reappointed under this subdivision ends December 31, 2009.**

(4) One (1) passenger member appointed by the governor. The member appointed under this subdivision must be selected from passengers who have submitted a letter of interest to the governor. To be considered for this position, a passenger must submit a letter of interest to the governor during a two (2) week period that begins sixty (60) days before the expiration of the term of the member appointed under this subdivision. A member of the board serving under this subdivision is not required to submit a letter of interest to be eligible for appointment to a successive term. **The**

term of a member appointed or reappointed under this subdivision ends December 31, 2009.

(5) One (1) member who is an employee of the district, appointed by the governor from a list of names submitted by the labor unions representing the employees of the district. Each labor union representing employees of the district may submit one (1) name to be included on the list of names under this subdivision. **The term of a member appointed or reappointed under this subdivision ends December 31, 2009.**

(b) A member shall serve for a term of two (2) years from the beginning of the term for which the member was appointed and until a successor has qualified for the office. Each member shall serve at the pleasure of the appointing authority but is eligible for reappointment for successive terms.

(c) The members of the board shall elect for a one (1) year term:

(1) one (1) member as chairman;

(2) one (1) member to serve as vice chairman;

(3) one (1) member to serve as secretary; and

(4) one (1) member to serve as treasurer.

(d) Ninety (90) days before the expiration of the term of the board member appointed under subsection (a)(4), the district shall post in each commuter station in the district a notice of the opening on the board of trustees. The notice must announce the opening for a passenger member on the board of trustees and provide information on submitting a letter of interest. The notice must state the period in which the passenger must submit a letter of interest. The notice must remain posted until the expiration of the two (2) week period described in subsection (a)(4).

(e) A member appointed under subsection (a)(4) or (a)(5) may not:

(1) vote on issues involving perceived or actual financial conflicts of interest, including personnel issues, collective bargaining, and assessment or levy of taxes; or

(2) participate in an executive session of the board under IC 5-14-1.5-6.1, on issues regarding:

(A) the discussion of strategy for:

(i) collective bargaining; or

(ii) the initiation of litigation or litigation that is either pending or has been threatened specifically in writing;

as described in IC 5-14-1.5-6.1(b)(2); or

(B) the discussion of job performance evaluation of individual

employees, except for a discussion of the salary, compensation, or benefits of employees during a budget process, as described in IC 5-14-1.5-6.1(b)(9).

(f) The members appointed under subsection (a)(4) and (a)(5) must reside in different counties.

SECTION 264. IC 8-16-3.1-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. The definitions set forth in IC 8-16-3-1.5 apply throughout this chapter.**

SECTION 265. IC 8-16-3.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The executive of any eligible county may provide a major bridge fund in compliance with IC 6-1.1-41 to make available funding for **the following purposes:**

(1) The construction of major bridges.

(2) In Allen County, the construction, maintenance, and repair of bridges, approaches, and grade separations with respect to structures other than major bridges.

(b) The executive of any eligible county may levy a tax in compliance with IC 6-1.1-41 not to exceed three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) assessed valuation of all taxable personal and real property within the county to provide for the major bridge fund.

(c) The general assembly finds the following:

(1) Allen County eliminated its levy for a cumulative bridge fund to use its levy authority to fund a juvenile center.

(2) Allen County has more bridges than any other county in Indiana, outside of Marion County: Marion County has five hundred twenty-two (522), Allen County has three hundred fifty-one (351), and Hamilton County has two hundred seventy-seven (277).

(3) Allen County has the largest land area of any county in Indiana.

(4) Allen County is the third largest populated county in Indiana.

(5) Allen County has a heavy manufacturing and industrial base, increasing traffic and wear and tear on streets, roads, and bridges.

(6) Allen County has large temperature fluctuations, leading to increased maintenance costs.

(7) Allen County has three (3) major rivers that come together

in the heart of Fort Wayne, which means more bridges are needed in the area due to the infrastructure that accommodates Fort Wayne, the second largest city in Indiana.

(8) Allen County dissolved its cumulative bridge fund in 2002 to provide room in the levy for judicial mandates to build two (2) detention facilities, as the former jail was overcrowded due to the large population.

(9) Allen County has a major bridge fund that is provided to maintain major bridges, but can be used to fund smaller bridges and will not harm the ability of Allen County to pay for obligations caused by judicial mandates.

(10) Expansion of the purposes for Allen County's major bridge fund may be used in Allen County to meet the critical needs in Allen County for the maintenance of bridges other than major bridges in the unincorporated areas of the county.

(d) Because of the findings set forth in subsection (c), except as provided in subsection (e), beginning after June 30, 2009, in Allen County the county executive is responsible for providing funds for the following:

(1) All bridges in unincorporated areas of the county.

(2) All bridges in each municipality in the county that has entered into an interlocal agreement under IC 36-1-7 with the county to provide bridge funds.

(e) Subsection (d) does not apply to providing funds for bridges on the state highway system.

SECTION 266. IC 8-16-3.1-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5. An appropriation from the major bridge fund in Allen County may be made without the approval of the department of local government finance if:**

(1) the county executive adopts a resolution finding that the county does not need to continue accumulating money in the fund for the construction of a major bridge;

(2) the county executive requests the appropriation; and

(3) the appropriation is for the purpose of constructing, maintaining, or repairing bridges, approaches, or grade separations with respect to structures other than major bridges.

SECTION 267. IC 8-16-17 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 17. Ohio River Bridges Project Commission

Sec. 1. As used in this chapter, "commission" refers to the Ohio River bridges project commission established by section 3 of this chapter.

Sec. 2. As used in this chapter, "project" refers to an Ohio River bridges project.

Sec. 3. The Ohio River bridges project commission is established.

Sec. 4. (a) The commission shall work with lawfully authorized representatives of the Commonwealth of Kentucky to prepare a proposed agreement between Indiana and Kentucky to govern the financing, construction, and maintenance of Ohio River bridges projects.

(b) The commission shall submit any proposed agreement prepared under this section to the governor for the governor's approval. If a proposed agreement is approved by the governor, the commission shall submit the proposed agreement to the general assembly for introduction in the first session of the general assembly beginning after the date of the governor's approval.

Sec. 5. The commission consists of five (5) voting members appointed as follows:

(1) The chairperson of the house standing committee having primary responsibility for transportation matters, as determined by the speaker of the house, serving ex officio.

(2) The chairperson of the senate standing committee having primary responsibility for transportation matters, as determined by the president pro tempore of the senate, serving ex officio.

(3) The commissioner of the Indiana department of transportation serving ex officio or the commissioner's designee. A designee of the commissioner serves at the pleasure of the commissioner.

(4) The chairman of the Indiana finance authority serving ex officio or the chairperson's designee. A designee of the chairperson serves at the pleasure of the chairperson.

(5) An Indiana resident jointly appointed by the governor, the speaker of the house of representatives, and the president pro tempore of the senate.

Sec. 6. The members of the commission shall elect one (1) member of the commission to be the commission's chairperson and other officers as the members may determine.

Sec. 7. (a) The commission may meet at any time during the calendar year.

(b) The commission shall meet at the call of the chairperson.

Sec. 8. The commission shall file an annual report with the legislative council in an electronic format under IC 5-14-6 by November 1 of each year.

Sec. 9. (a) Three (3) members of the commission constitute a quorum.

(b) The affirmative votes of a majority of the voting members appointed to the commission are required for the commission to take action on any measure, including final reports.

Sec. 10. The department of transportation shall provide staff support for the commission.

Sec. 11. (a) Subject to subsection (b), each member of the commission appointed under this chapter is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on legislative study committees established by the legislative council.

(b) This subsection applies to a member of the commission who is not a member of the general assembly. A member of the commission may not receive a per diem, mileage, or travel allowance under subsection (a) if the member also receives a per diem, mileage, or travel allowance from the authority or governmental entity that employs the member.

Sec. 12. This chapter expires December 31, 2019.

SECTION 268. IC 8-22-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. The board may do all acts necessary or reasonably incident to carrying out the purposes of this chapter, including the following:

(1) As a municipal corporation, to sue and be sued in its own name.

(2) To have all the powers and duties conferred by statute upon boards of aviation commissioners. The board supersedes all boards of aviation commissioners within the district. The board has exclusive jurisdiction within the district.

(3) To protect all property owned or managed by the board.

(4) To adopt an annual budget and levy taxes in accordance with this chapter.

(A) The board may not levy taxes on property in excess of the following rate schedule, except as provided in sections 17 and 25 of this chapter:

Total Assessed Property Valuation	Rate Per $100 Of Assessed Valuation
$300 million or less	$0.10
More than $300 million but not more than $450 million	$0.0833
More than $450 million but not more than $600 million	$0.0667
More than $600 million but not more than $900 million	$0.05
More than $900 million	$0.0333

(B) Clause (A) does not apply to an authority that was established under IC 19-6-2 or IC 19-6-3 (before their repeal on April 1, 1980).

(C) The board of an authority that was established under IC 19-6-3 (before its repeal on April 1, 1980) may levy taxes on property not in excess of six and sixty-seven hundredths cents ($0.0667) on each one hundred dollars ($100) of assessed valuation.

(5) To incur indebtedness in the name of the authority in accordance with this chapter.

(6) To adopt administrative procedures, rules, and regulations.

(7) To acquire property, real, personal, or mixed, by deed, purchase, lease, condemnation, or otherwise and dispose of it for use or in connection with or for administrative purposes of the airport; to receive gifts, donations, bequests, and public trusts and to agree to conditions and terms accompanying them and to bind the authority to carry them out; to receive and administer federal or state aid; and to erect buildings or structures that may be needed to administer and carry out this chapter.

(8) To determine matters of policy regarding internal organization and operating procedures not specifically provided for otherwise.

(9) To adopt a schedule of reasonable charges and to collect them from all users of facilities and services within the district.

(10) To purchase supplies, materials, and equipment to carry out the duties and functions of the board in accordance with procedures adopted by the board.

(11) To employ personnel that are necessary to carry out the duties, functions, and powers of the board.

(12) To establish an employee pension plan. The board may, upon due investigation, authorize and begin a fair and reasonable

pension or retirement plan and program for personnel, the cost to be borne by either the authority or by the employee or by both, as the board determines. If the authority was established under IC 19-6-2 (before its repeal on April 1, 1980), the entire cost must be borne by the authority, and ordinances creating the plan or making changes in it must be approved by the mayor of the city. The plan may be administered and funded by a trust fund or by insurance purchased from an insurance company licensed to do business in Indiana or by a combination of them. The board may also include in the plan provisions for life insurance, disability insurance, or both.

(13) To sell surplus real or personal property in accordance with law. If the board negotiates an agreement to sell trees situated in woods or forest areas owned by the board, the trees are considered to be personal property of the board for severance or sale.

(14) To adopt and use a seal.

(15) To acquire, establish, construct, improve, equip, maintain, control, lease, and regulate municipal airports, landing fields, and other air navigation facilities, either inside or outside the district; to acquire by lease (with or without the option to purchase) airports, landing fields, or navigation facilities, and any structures, equipment, or related improvements; and to erect, install, construct, and maintain at the airport or airports facilities for the servicing of aircraft and for the comfort and accommodation of air travelers and the public. The Indiana department of transportation must grant its approval before land may be purchased for the establishment of an airport or landing field and before an airport or landing field may be established.

(16) To fix and determine exclusively the uses to which the airport lands may be put. All uses must be necessary or desirable to the airport or the aviation industry and must be compatible with the uses of the surrounding lands as far as practicable.

(17) To elect a secretary from its membership, or to employ a secretary, an airport director, superintendents, managers, a treasurer, engineers, surveyors, attorneys, clerks, guards, mechanics, laborers, and all employees the board considers expedient, and to prescribe and assign their respective duties and authorities and to fix and regulate the compensation to be paid to the persons employed by it in accordance with the authority's appropriations. All employees shall be selected irrespective of

their political affiliations.

(18) To make all rules and regulations, consistent with laws regarding air commerce, for the management and control of its airports, landing fields, air navigation facilities, and other property under its control.

(19) To acquire by lease the use of an airport or landing field for aircraft pending the acquisition and improvement of an airport or landing field.

(20) To manage and operate airports, landing fields, and other air navigation facilities acquired or maintained by an authority; to lease all or part of an airport, landing field, or any buildings or other structures, and to fix, charge, and collect rentals, tolls, fees, and charges to be paid for the use of the whole or a part of the airports, landing fields, or other air navigation facilities by aircraft landing there and for the servicing of the aircraft; to construct public recreational facilities that will not interfere with air operational facilities; to fix, charge, and collect fees for public admissions and privileges; and to make contracts for the operation and management of the airports, landing fields, and other air navigation facilities; and to provide for the use, management, and operation of the air navigation facilities through lessees, its own employees, or otherwise. Contracts or leases for the maintenance, operation, or use of the airport or any part of it may be made for a term not exceeding fifteen (15) years and may be extended for similar terms of years, except that any parcels of the land of the airport may be leased for any use connected with the operation and convenience of the airport for an initial term not exceeding forty (40) years and may be extended for a period not to exceed ten (10) years. If a person whose character, experience, and financial responsibility ~~has~~ **have** been determined satisfactory by the board; offers to erect a permanent structure that facilitates and is consistent with the operation, use, and purpose of the airport on land belonging to the airport, a lease may be entered into for a period not to exceed ninety-nine (99) years. However, the board must pass an ordinance to enter into such a lease, The board may not grant an exclusive right for the use of a landing area under its jurisdiction. However, this does not prevent the making of leases in accordance with other provisions of this chapter. All contracts, and leases, are subject to restrictions and conditions that the board prescribes. The authority may lease its property and facilities for

any commercial or industrial use it considers necessary and proper, including the use of providing airport motel facilities. **For the airport authority established by the city of Gary, the board may approve a lease, management agreement, or other contract:**

(A) with a person:

(i) who is selected by the board using the procedures under IC 36-1-9.5; and

(ii) whose character, experience, and financial responsibility have been determined satisfactory by the board; and

(B) to use, plan, design, acquire, construct, reconstruct, improve, extend, expand, lease, operate, repair, manage, maintain, or finance all or any part of the airport and its landing fields, air navigation facilities, and other buildings and structures for a period not to exceed ninety-nine (99) years. However, the board must pass an ordinance to enter into such a lease, management agreement, or other contract. All contracts, leases, and management agreements are subject to restrictions and conditions that the board prescribes. The authority may lease its property and facilities for any commercial or industrial use it considers necessary and proper, including the use of providing airport motel facilities. A lease, management agreement, or other contract entered into under this section or any other provision of this chapter may be entered into without complying with IC 5-23.

(21) To sell machinery, equipment, or material that is not required for aviation purposes. The proceeds shall be deposited with the treasurer of the authority.

(22) To negotiate and execute contracts for sale or purchase, lease, personal services, materials, supplies, equipment, or any other transaction or business relative to an airport under the board's control and operation. However, whenever the board determines to sell part or all of aviation lands, buildings, or improvements owned by the authority, the sale must be in accordance with law.

(23) To vacate all or parts of roads, highways, streets, or alleys, whether inside or outside the district, in the manner provided by statute.

(24) To annex lands to itself if the lands are owned by the

authority or are streets, roads, or other public ways.

(25) To approve any state, county, city, or other highway, road, street or other public way, railroad, power line, or other right-of-way to be laid out or opened across an airport or in such proximity as to affect the safe operation of the airport.

(26) To construct drainage and sanitary sewers with connections and outlets as are necessary for the proper drainage and maintenance of an airport or landing field acquired or maintained under this chapter, including the necessary buildings and improvements and for the public use of them in the same manner that the authority may construct sewers and drains. However, with respect to the construction of drains and sanitary sewers beyond the boundaries of the airport or landing field, the board shall proceed in the same manner as private owners of property and may institute proceedings and negotiate with the departments, bodies, and officers of an eligible entity to secure the proper orders and approvals; and to order a public utility or public service corporation or other person to remove or to install in underground conduits wires, cables, and power lines passing through or over the airport or landing field or along the borders or within a reasonable distance that may be determined to be necessary for the safety of operations, upon payment to the utility or other person of due compensation for the expense of the removal or reinstallation. The board must consent before any franchise may be granted by state or local authorities for the construction of or maintenance of railway, telephone, telegraph, electric power, pipe, or conduit line upon, over, or through land under the control of the board or within a reasonable distance of land that is necessary for the safety of operation. The board must also consent before overhead electric power lines carrying a voltage of more than four thousand four hundred (4,400) volts and having poles, standards, or supports over thirty (30) feet in height within one-half (1/2) mile of a landing area acquired or maintained under this chapter may be installed.

(27) To contract with any other state agency or instrumentality or any political subdivision for the rendition of services, the rental or use of equipment or facilities, or the joint purchase and use of equipment or facilities that are necessary for the operation, maintenance, or construction of an airport operated under this chapter.

(28) To provide air transportation in furtherance of the duties and responsibilities of the board.

(29) To promote or encourage aviation-related trade or commerce at the airports that it operates.

SECTION 269. IC 8-22-3-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 23. (a) The board shall annually prepare a budget for the purpose of operating and maintenance expenditures of the authority and shall calculate the tax levy necessary to provide funds for the operating expenditures necessary to carry out the powers, duties, and functions of the authority. The budget must be prepared and submitted:

(1) before or at the same time;

(2) in the same manner; and

(3) with notice;

as provided by the statutes relating to the preparation of budgets by eligible entities. The budget is subject to the same review by the county tax adjustment board and the department of local government finance as exists under the general statutes relating to budgets of eligible entities.

(b) If the eligible entity that established the authority is a county, city, or town, the fiscal body of that entity may review and modify the authority's operating and maintenance budget and the tax levy to meet it, in the same manner as the budgets and tax levies of executive departments of that entity are reviewed and modified. This power includes the power to reduce any item of salary.

(c) Whenever a tax levy is required to finance the budget of an authority that was established by a city or town, the fiscal body of the county also may review the budget and tax levy of the authority, unless the district:

(1) lies wholly within, or coincides with, the boundaries of a city or town;

(2) is not the recipient of funds from a county-wide tax levy made specifically for the operating and maintenance budget for that authority; and

(3) was established by the fiscal body of the city or town, acting independently.

However, the budget and tax levy of the authority are subject to review or modification by the fiscal body of the city or town with which it shares territory, in the same manner as the budgets and tax levies of the executive departments of that city or town are reviewed or modified.

(d) If an authority was established by another eligible entity or by two (2) or more eligible entities acting jointly, its operating and maintenance budget and the tax levy to meet it is subject to review and modification by the same body that reviews and modifies the budget of each of those entities in the same manner as the budgets and tax levies of those entities, including reduction of any item of salary.

(e) This subsection applies only to the airport authority established by the city of Gary. The following provisions apply if the board enters into a lease, management agreement, or other contract under an application approved by the Federal Aviation Administration under which the lessee or other operator agrees to lease, manage, or operate all or substantially all of the airport and its landing fields, air navigation facilities, and other buildings and structures owned by the authority:

(1) The board shall, to the extent permitted by federal law or any grant agreement, make distributions to the city of Gary from the payments received under the lease, management agreement, or other contract.

(2) The distributions to the city of Gary shall be made in installments and on the dates determined by the fiscal body of the city, and shall be paid to the fiscal officer of the city for deposit in the city's general fund.

(3) Money distributed to the city of Gary under this subsection may be used for any legal or corporate purpose of the city and may not be used to reduce the city's maximum levy under IC 6-1.1-18.5, but may be used at the discretion of the city fiscal body to reduce the property tax levy of the city for a particular year.

(f) The general assembly finds the following:

(1) The city of Gary faces:

(A) unique and distinct challenges due to high levels of unemployment, the character and occupancy of real estate, and the general economic conditions of the community; and

(B) unique and distinct opportunities related to transportation and economic development;

that are different in scope and type than those faced by other units of local government in Indiana.

(2) A unique approach is required to fully take advantage of the economic development potential of the city of Gary, the Gary/Chicago International Airport, and the Lake Michigan

shoreline.

(3) The powers and responsibilities provided to the airport authority established by the city of Gary by subsection (e) and the other provisions of this chapter are appropriate and necessary to carry out the public purposes of encouraging economic development and further facilitating the provision of air transportation services and economic development projects in the city of Gary.

(4) The exercise of the powers and responsibilities granted to the airport authority established by the city of Gary by subsection (e) and the other provisions of this chapter is critical to economic development not only in the city of Gary, but throughout northwest Indiana, and is a public purpose.

(5) Economic development benefits the health and welfare of the people of Indiana, is a public use and purpose for which public money may be spent, and is of public utility and benefit.

SECTION 270. IC 8-22-3-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 31. (a) The authority, acting by and through its board under IC 8-21-8, may accept, receive, and receipt for federal, other public, or private monies for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports, other air navigation facilities, and sites for them, and comply with federal laws made for the expenditure of federal monies upon airports and other air navigation facilities.

(b) Subject to IC 8-21-8, the board has exclusive power to submit to the proper state and federal agencies applications for grants of funds for airport development and to make or execute representations, assurances and contracts, to enter into covenants and agreements with state or federal agency or agencies relative to the development of an airport, and to comply with all federal and state laws pertaining to the acquisition, development, operation, and administration of airports and properties by the authority.

(c) This subsection applies only to the airport authority established by the city of Gary. The authority may assign the powers described in this section to a lessee or other operator with whom it enters into a lease, management agreement, or other contract under section 11(20) of this chapter if the board has determined that the lessee or other operator has the expertise and experience to operate the facilities of the authority in accordance with prudent airport operating standards.

SECTION 271. IC 8-22-3.5-1, AS AMENDED BY P.L.124-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter applies to the following:

(1) Each county having a consolidated city.

(2) Each city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

(3) Each county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000).

(4) Each county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(5) Each county having a population of more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000).

(6) Each county having a population of more than one hundred eighteen thousand (118,000) but less than one hundred twenty thousand (120,000).

(7) Each city having a population of more than fifty-nine thousand seven hundred (59,700) but less than sixty-five thousand (65,000).

SECTION 272. IC 8-22-3.5-2, AS AMENDED BY P.L.124-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. As used in this chapter, "commission" refers to the following:

(1) With respect to a county having a consolidated city, the metropolitan development commission acting as the redevelopment commission of the consolidated city, subject to IC 36-3-4-23.

(2) With respect to a city described in section 1(2) of this chapter, the board of the airport authority for the city.

(3) With respect to a county described in section 1(3) of this chapter, the board of an airport authority that is jointly established by the county and a municipality under IC 8-22-3.

(4) With respect to a county described in section 1(4) or 1(5) of this chapter, the board of an airport authority that is jointly established by the county and a municipality under IC 8-22-3.

(5) With respect to a county described in section 1(6) of this chapter, the board of an airport authority that is established by the county.

(6) With respect to a city described in section 1(7) of this chapter, the board of aviation commissioners for the city.

SECTION 273. IC 8-22-3.5-2.5, AS AMENDED BY P.L.124-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.5. Notwithstanding IC 8-22-1-6, as used in this chapter, "eligible entity" refers to any of the following:

(1) A consolidated city.

(2) A city described in section 1(2) of this chapter.

(3) A city in a county described in section 1(3) of this chapter.

(4) A county described in section 1(4) of this chapter.

(5) A city located in a county described in section 1(4) of this chapter.

(6) A county described in section 1(5) of this chapter.

(7) A city located in a county described in section 1(5) of this chapter.

(8) A county described in section 1(6) of this chapter.

(9) A city described in section 1(7) of this chapter.

SECTION 274. IC 8-22-3.5-3, AS AMENDED BY P.L.124-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) As used in this chapter, "qualified airport development project" means an airport development project that has a cost of the project (as defined in IC 4-4-10.9-5) greater than:

(1) five hundred million dollars ($500,000,000), if the project is to be located in a county having a consolidated city; or

(2) two hundred fifty thousand dollars ($250,000), if the project is to be located in:

(A) a city described in section 1(2) **or 1(7)** of this chapter; or

(B) in a county described in section 1(3), 1(4), 1(5), or 1(6) of this chapter.

Except as provided by subsection (b), the term includes any portion or expansion of the original qualified airport development project used by one (1) or more successor tenants.

(b) For purposes of section 9 of this chapter, the definition of "qualified airport development project" does not include any portion of, or expansion of, the original qualified airport development project used by a successor tenant unless the commission adopts a resolution to amend the definition to include that portion or expansion.

SECTION 275. IC 8-22-3.5-5, AS AMENDED BY P.L.124-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) The commission may designate an area

within the jurisdiction of **a board of aviation commissioners under IC 8-22-2 or** an airport authority under IC 8-22-3 as an airport development zone if the commission finds by resolution the following:

(1) In order to promote opportunities for the gainful employment of the citizens of the eligible entity and the attraction of a qualified airport development project to the eligible entity, an area under the jurisdiction of the **board of aviation commissioners or** airport authority should be declared an airport development zone.

(2) The public health and welfare of the eligible entity will be benefited by designating the area as an airport development zone.

(b) If the airport development zone will be located in a consolidated city or in a county described in section 1(3), 1(4), 1(5), or 1(6) of this chapter, the resolution adopted under subsection (a) must also include a finding that there has been proposed a qualified airport development project to be located in the airport development zone, with the proposal supported by:

(1) financial and economic data; and

(2) preliminary commitments by business enterprises that evidence a reasonable likelihood that the proposed qualified airport development project will be initiated and accomplished.

(c) If the airport development zone will be located in a city described in:

(1) section 1(2) of this chapter, the resolution adopted under subsection (a) must also include findings stating that the most recent federal decennial census for the city indicates ~~that:~~ **the following:**

~~(1)~~ **(A)** The unemployment rate for the city is at least thirteen percent (13%).

~~(2)~~ **(B)** The population of the city has decreased by at least ten percent (10%) as compared to the population reported in the preceding federal decennial census for the city.

~~(3)~~ **(C)** The median per capita income for city residents does not exceed eighty percent (80%) of the median per capita income for all residents of the United States. ~~and~~

~~(4)~~ **(D)** At least twenty-five percent (25%) of the population of the city is below the federal income poverty level (as defined in IC 12-15-2-1); **or**

(2) section 1(7) of this chapter, the resolution adopted under subsection (a) must also include findings stating the following:

(A) There has been proposed a qualified airport

development project to be located in the airport development zone, with the proposal supported by:

(i) financial and economic data; and

(ii) preliminary commitments by business enterprises that evidence a reasonable likelihood that the proposed qualified airport development project will be initiated and accomplished.

(B) The city has Interstate Highway 69 serving the airport and the city's residents and facilitating commerce and free travel within and through the midwestern United States.

(d) The resolution adopted under subsection (a) must describe the boundaries of the area. The description may be by reference to the area's location in relation to public ways or streams, or otherwise, as determined by the commission.

(e) If the airport development zone will be located in a county described in section 1(4), 1(5), or 1(6) of this chapter, the resolution adopted under subsection (a) and any qualified airport development project to be located in the airport development zone, must be approved by the executive of:

(1) the county, if the entire airport development zone or qualified airport development project will be located outside the boundaries of any municipality located in the county;

(2) a municipality located in the county, if the entire airport development zone or qualified airport development project will be located within the boundary of the municipality; or

(3) the county and a municipality located in the county, if the airport development zone or qualified airport development project will be located within the boundary of the county and in part within the boundary of the municipality.

SECTION 276. IC 8-22-3.5-9, AS AMENDED BY P.L.146-2008, SECTION 365, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) As used in this section, "base assessed value" means:

(1) the net assessed value of all the tangible property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the commission's resolution adopted under section 5 or 9.5 of this chapter, notwithstanding the date of the final action taken under section 6 of this chapter; plus

(2) to the extent it is not included in subdivision (1), the net assessed value of property that is assessed as residential property

under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

However, subdivision (2) applies only to an airport development zone established after June 30, 1997, and the portion of an airport development zone established before June 30, 1997, that is added to an existing airport development zone.

(b) A resolution adopted under section 5 of this chapter and confirmed under section 6 of this chapter must include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section.

(c) The allocation provision must:

(1) apply to the entire airport development zone; and

(2) require that any property tax on taxable tangible property subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes in the airport development zone be allocated and distributed as provided in subsections (d) and (e).

(d) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(1) the assessed value of the tangible property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value;

shall be allocated and, when collected, paid into the funds of the respective taxing units.

(e) All of the property tax proceeds in excess of those described in subsection (d) shall be allocated to the eligible entity for the airport development zone and, when collected, paid into special funds as follows:

(1) The commission may determine that a portion of tax proceeds shall be allocated to a training grant fund to be expended by the commission without appropriation solely for the purpose of reimbursing training expenses incurred by public or private entities in the training of employees for the qualified airport development project.

(2) The commission may determine that a portion of tax proceeds shall be allocated to a debt service fund and dedicated to the payment of principal and interest on revenue bonds or a loan contract of the **board of aviation commissioners or** airport

authority for a qualified airport development project, to the payment of leases for a qualified airport development project, or to the payment of principal and interest on bonds issued by an eligible entity to pay for qualified airport development projects in the airport development zone or serving the airport development zone.

(3) The commission may determine that a part of the tax proceeds shall be allocated to a project fund and used to pay expenses incurred by the commission for a qualified airport development project that is in the airport development zone or is serving the airport development zone.

(4) Except as provided in subsection (f), all remaining tax proceeds after allocations are made under subdivisions (1), (2), and (3) shall be allocated to a project fund and dedicated to the reimbursement of expenditures made by the commission for a qualified airport development project that is in the airport development zone or is serving the airport development zone.

(f) Before July 15 of each year, the commission shall do the following:

(1) Determine the amount, if any, by which tax proceeds allocated to the project fund in subsection (e)(3) in the following year will exceed the amount necessary to satisfy amounts required under subsection (e).

(2) Provide a written notice to the county auditor and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(A) state the amount, if any, of excess tax proceeds that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subsection (d); or

(B) state that the commission has determined that there are no excess tax proceeds that may be allocated to the respective taxing units in the manner prescribed in subsection (d).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess tax proceeds determined by the commission.

(g) When money in the debt service fund and in the project fund is sufficient to pay all outstanding principal and interest (to the earliest date on which the obligations can be redeemed) on revenue bonds issued by the **board of aviation commissioners or** airport authority for

the financing of qualified airport development projects, all lease rentals payable on leases of qualified airport development projects, and all costs and expenditures associated with all qualified airport development projects, money in the debt service fund and in the project fund in excess of those amounts shall be paid to the respective taxing units in the manner prescribed by subsection (d).

(h) Property tax proceeds allocable to the debt service fund under subsection (e)(2) must, subject to subsection (g), be irrevocably pledged by the eligible entity for the purpose set forth in subsection (e)(2).

(i) Notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable tangible property situated upon or in, or added to, the airport development zone effective on the next assessment date after the petition.

(j) Notwithstanding any other law, the assessed value of all taxable tangible property in the airport development zone, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the tangible property as valued without regard to this section; or

(2) the base assessed value.

SECTION 277. IC 8-22-3.5-14, AS AMENDED BY P.L.146-2008, SECTION 366, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) This section applies only to an airport development zone that is in a:

(1) city described in section 1(2) **or 1(7)** of this chapter; or

(2) county described in section 1(3), 1(4), or 1(6) of this chapter.

(b) Notwithstanding any other law, a business or an employee of a business that is located in an airport development zone is entitled to the benefits provided by the following statutes, as if the business were located in an enterprise zone:

(1) IC 6-3-2-8.

(2) IC 6-3-3-10.

(3) IC 6-3.1-7.

(4) IC 6-3.1-9.

(5) IC 6-3.1-10-6.

(c) Before June 1 of each year, a business described in subsection (b) must pay a fee equal to the amount of the fee that is required for enterprise zone businesses under IC 5-28-15-5(a)(4)(A). However,

notwithstanding IC 5-28-15-5(a)(4)(A), the fee shall be paid into the debt service fund established under section 9(e)(2) of this chapter. If the commission determines that a business has failed to pay the fee required by this subsection, the business is not eligible for any of the benefits described in subsection (b).

(d) A business that receives any of the benefits described in subsection (b) must use all of those benefits, except for the amount of the fee required by subsection (c), for its property or employees in the airport development zone and to assist the commission. If the commission determines that a business has failed to use its benefits in the manner required by this subsection, the business is not eligible for any of the benefits described in subsection (b).

(e) If the commission determines that a business has failed to pay the fee required by subsection (c) or has failed to use benefits in the manner required by subsection (d), the commission shall provide written notice of the determination to the department of state revenue, the department of local government finance, and the county auditor.

SECTION 278. IC 8-23-9-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.5. (a) As used in this section, "qualified work release program" refers to:

(1) a work release program that is established by the department of correction under IC 11-10-8 or IC 11-10-10; or

(2) a county work release program under IC 11-12-5.

(b) Notwithstanding IC 8-23-10, **but subject to IC 8-23-24.5,** the commissioner may contract with a qualified work release program for the maintenance of a highway right-of-way without taking competitive bids. As used in this subsection, "highway right-of-way" includes only the grass plats.

SECTION 279. IC 8-23-8-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **Sec. 10. (a) As used in this section, "designated highway" refers to the highway designated as a limited access facility under subsection (b).**

(b) The department shall designate and do all acts necessary to establish the part of State Road 331 in St. Joseph County from the U.S. Highway 20 bypass to State Road 23 as a limited access facility. The designated highway shall be in operation as a limited access facility beginning not later than January 1, 2009.

(c) Neither the department nor any political subdivision may authorize any additional curb cuts or intersections after January

1, 2009, on the designated highway. The department shall limit intersections on the designated highway to the following locations:

(1) U.S. Highway 20 bypass.

(2) Dragoon Trail.

(3) Twelfth Street (also known as Harrison Road).

(4) Indiana 933 (also known as Lincoln Way).

(5) Jefferson Boulevard.

(6) McKinley Highway.

(7) Day Road.

(8) Cleveland Road.

(9) State Road 23.

SECTION 280. IC 8-23-24-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. When consistent with public safety **and subject to IC 8-23-24.5,** the department shall plant trees along the rights-of-way of highways, streets, and roads for which responsibility is assigned to the department.

SECTION 281. IC 8-23-24.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 24.5. Planting Grasses and Other Plants for Energy Production

Sec. 1. The intent of this chapter is to encourage the use of highway rights-of-way owned by the state to promote the growth and harvesting of vegetation to be used as fuels and other energy products.

Sec. 2. As used in this chapter, "highway rights-of-way" refer to highway rights-of-way for which responsibility is assigned to the department.

Sec. 3. As used in this chapter, "vegetation" refers to grasses or other plants that are suitable for processing into fuels or other energy products. The term does not include grasses or other plants that may be used to feed livestock.

Sec. 4. To the extent permitted by federal law and when consistent with public safety, the department may enter into leases with appropriate persons for the persons to plant, maintain, and harvest vegetation on the highway rights-of-way for use in production of energy.

Sec. 5. A lease under this chapter must provide for the following:

(1) The lessee is responsible for planting, maintaining, and harvesting the vegetation at the lessee's cost.

(2) The lessee becomes the owner of the vegetation when harvested.

(3) The harvested vegetation must be used for the production of fuels or other energy products.

(4) The lease must include limitations on the height of any vegetation that is grown.

Sec. 6. A lease under this chapter may provide for the following:

(1) Any term of the lease that the department considers best to implement the intent of this chapter, but not for more than four (4) years.

(2) For the lease of parcels of sizes that the department considers the best to implement the intent of this chapter.

(3) Any other provisions that the department considers useful to implement the intent of this chapter.

Sec. 7. The department shall award a lease under this chapter to the responsive and responsible bidder who submits the highest bid for the particular lease.

Sec. 8. To the extent permitted by federal law, the department shall make the use of highway rights-of-way as provided in this chapter a priority over all other uses.

SECTION 282. IC 8-24 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

ARTICLE 24. NORTHERN INDIANA REGIONAL TRANSPORTATION DISTRICT

Chapter 1. Purpose; Definitions

Sec. 1. The purpose of this article is to provide a flexible means of planning, designing, acquiring, constructing, enlarging, improving, renovating, maintaining, equipping, financing, operating, and supporting public transportation systems that can be adapted to the unique circumstances existing in northern Indiana.

Sec. 2. The definitions in this chapter apply throughout this article.

Sec. 3. "Adjusted gross income" has the meaning set forth in IC 6-3-1-3.5(a).

Sec. 4. "Board" refers to the regional funding, service area, and coordination board established under IC 8-24-4 for the district.

Sec. 5. "Bonds" means, except as otherwise provided, bonds, notes, or other evidences of indebtedness issued by either the commuter rail service board established under IC 8-24-5 or the bus

service board established under IC 8-24-6.

Sec. 5.5. "Bus service advisory board" refers to the bus service advisory board established by IC 8-24-6-15.

Sec. 6. "Bus service board" refers to the regional demand and scheduled bus service board established under IC 8-24-6.

Sec. 7. "Bus service division" refers to the bus service division established under IC 8-24-2.

Sec. 7.5. "Commuter rail service advisory board" refers to the commuter rail service advisory board established by IC 8-24-5-5.

Sec. 8. "Commuter rail service board" refers to the board of trustees of the northern Indiana commuter transportation district.

Sec. 9. "Commuter rail service division" refers to the northern Indiana commuter transportation district.

Sec. 10. "County taxpayer", as it relates to a county for a year under IC 8-24-17, means any individual who resides in a member county on the date specified in IC 8-24-17-11.

Sec. 11. "District" refers to the northern Indiana regional transportation district established under IC 8-24-2.

Sec. 11.5. "District advisory board" refers to the regional transportation district advisory board established by IC 8-24-4-9.

Sec. 12. "District territory" refers to the area in all member counties.

Sec. 13. "Executive director" refers to the executive director of the district.

Sec. 14. "Improvement tax" refers to the tax that may be imposed under IC 8-24-17.

Sec. 15. "Member county" means a county where a majority of those voting on the public question under IC 8-24-2-1 vote in favor of the creation of the district.

Sec. 16. "Project" refers to an action taken to:

(1) plan;
(2) design;
(3) acquire;
(4) construct;
(5) enlarge;
(6) improve;
(7) renovate;
(8) maintain;
(9) equip; or
(10) operate;

a public transportation system.

Sec. 17. "Public transportation agency" has the meaning set forth in IC 36-9-1-5.5.

Sec. 18. "Public transportation system" means any common carrier of passengers for hire.

Sec. 19. "Service division" refers to the commuter rail service division or the bus service division.

Sec. 20. "Service board" refers to the governing body of the commuter rail service division or the bus service division.

Chapter 2. Establishment

Sec. 1. (a) A public question on the creation of the northern Indiana regional transportation district and whether a county should be included as a member shall be submitted to the registered voters of each of the following counties at a special election held on November 3, 2009, in the form prescribed by IC 3-10-9-4:

(1) Lake County.

(2) LaPorte County.

(3) Porter County.

(4) St. Joseph County.

(b) The public question on the creation of the district must state the following:

> **"Shall there be created the northern Indiana regional transportation district under IC 8-24 to provide a regional rail system serving Lake, Porter, LaPorte, and St. Joseph counties and regional bus public transportation system serving Lake and Porter counties with (insert name of county) County becoming a member of the district?".**

(c) If a majority of those voting on the public question in at least two (2) counties vote in favor of the creation of the district, the northern Indiana regional transportation district with a rail service division and a bus service division is established.

(d) The district consists of all the incorporated and unincorporated territory in those counties where the majority of those voting on the public question vote in favor of the creation of the district. Each of these counties is a member of the district. A county remains a member of the district so long as the district exists.

(e) If a majority of those voting on the public question in a county do not approve the creation of the district, the incorporated and unincorporated territory in the county is not part of the district and the county is not a member of the district.

(f) If a majority of those voting on the public question in fewer than two (2) counties approve the creation of the district, the district is not created and this article has no effect.".

Sec. 2. Subject to approval by the voters in a referendum under section 1 of this chapter, the northern Indiana regional transportation district is established to do the following:

(1) Review the strategic plans of each service division and require modifications to the plans to the extent that the board determines necessary to eliminate duplication of services and to enhance the integration of public transportation throughout the district territory.

(2) Allocate revenues collected under IC 8-24-17 between the service divisions.

(3) Receive the reports from the service divisions determined by the board.

(4) Assist in the resolution of disputes between the service divisions brought to the board by either service division.

(5) Develop performance measures to evaluate and inform the public about the extent to which the provision of public transportation in the district territory meets the goals, objectives, and standards established by each service division.

Sec. 3. (a) Each service division of the district shall do the following with respect to public transportation the service division provides:

(1) Set goals, objectives, and standards for the division, as modified by the board for the district under section 2(1) of this chapter.

(2) Adopt strategic plans for the division that provide adequate, efficient, and coordinated public transportation in the district, as modified under section 2(1) of this chapter.

(3) Coordinate with the other service division the provision of public transportation and the investment in public transportation facilities to enhance the integration of public transportation throughout the district territory.

(4) Apply for and receive federal, state, county, and municipal funds, or private contributions and disburse them for the purposes of the service division.

(5) Use money received by the division to fund public transportation systems provided by the service division.

(6) Enter into financing arrangements to establish, improve, and maintain public transportation facilities operated by the

service division.

(7) Employ and enter into employment agreements with the personnel that the service division determines necessary to carry out the responsibilities of the service division.

(8) On a continuing basis determine the level, nature, and kind of public transportation that should be provided within the district territory to meet the plans, goals, objectives, and standards adopted by the service division.

(9) Provide and operate public transportation systems within the scope of the responsibilities of the service division.

(b) The bus service board shall negotiate labor contracts with labor unions representing employees of the bus service division.

(c) The commuter rail service board shall negotiate labor contracts with labor unions representing employees of the commuter rail service division.

Sec. 4. The northern Indiana commuter transportation district established under IC 8-5-15 is the commuter rail service division of the district to carry out the purposes of the northern Indiana commuter transportation district.

Sec. 5. A bus service division of the district is established to provide a public transportation system in Lake and Porter counties (if the county is a member county) with the primary objective of transporting passengers over public highways, streets, and roads. Except to the extent they are inconsistent with this article, IC 36-9-3 (including IC 36-9-3-22, IC 36-9-3-23, IC 36-9-3-24, IC 36-9-3-25, IC 36-9-3-26, and IC 36-9-3-27) applies to the bus service board, the bus service division, and employees of the bus service division.

Sec. 6. On January 1, 2010, subject to this article, the rights, powers, duties, personnel, liabilities, and obligations of the following entities operating in the incorporated or unincorporated areas of Lake County or Porter County (if the county is a member county) are transferred to the bus service division:

(1) An automated transit district established under IC 8-9.5-7.

(2) A regional transportation authority established under IC 36-9-3-2.

(3) A regional bus authority under IC 36-9-3-2(c).

(4) A public transportation corporation established under IC 36-9-4.

Sec. 7. On January 1, 2010, subject to this article, the rights, powers, duties, personnel, liabilities, and obligations of a

municipality in Lake County or Porter County (if the county is a member county) to:

(1) provide a public transportation system in or outside the municipality to transport passengers or property over a public highway, street, or road; and

(2) establish and fund a public transportation agency (as defined in IC 36-9-1-5.5);

are transferred to the bus service division.

Sec. 8. A transfer of powers under section 6 or 7 of this chapter to the bus service division authorizes the bus service division to impose a property tax, including a property tax pledged before January 1, 2010, to pay for bonds, loans, other obligations, or lease rentals related to a public transportation system in Lake County or Porter County (if the county is a member county). The property tax may be imposed only in the area in which the property tax could have been imposed for property taxes first due and payable in 2010.

Sec. 9. Any delinquent property taxes imposed by the entity before January 1, 2010, and collected after December 31, 2009, from levies attributable to an appropriation for a public transportation system transferred to the bus service division or for a public transportation agency (as defined in IC 36-9-1-5.5) shall be distributed to the bus service division.

Chapter 3. Status

Sec. 1. The district is a body corporate and politic. The district is separate from the state and any other political subdivision, but the exercise by the district of its powers is an essential governmental function.

Sec. 2. A service division is a body corporate and politic. A service division is separate from the state and any other political subdivision, but the exercise by the service division of its powers is an essential governmental function.

Sec. 3. A pledge or mortgage of a service division does not create an obligation of the state or a political subdivision within the meaning of the Constitution of the State of Indiana or any statute.

Sec. 4. All:

(1) property owned by the district or a service division;

(2) revenue of the district or service division; and

(3) bonds issued by the commuter rail division service board established under IC 8-24-5 or the bus service board established under IC 8-24-6, the interest on the bonds, the

proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

Sec. 5. All securities issued under this article are exempt from the registration requirements of IC 23-19 and other securities registration statutes.

Sec. 6. (a) This section does not apply to commuter rail or interstate public transportation service.

(b) Service provided by the district or a service division within the territory of the district is exempt from regulation by the department of state revenue under IC 8-2.1. This exemption applies to transportation services provided by the district or a service division directly or by grants or purchase of service agreements.

(c) Service provided by the district or a service division by contract or service agreements outside the territory of the district is subject to regulation by the department of state revenue under IC 8-2.1.

(d) Judicial review of a decision by the district may be obtained in the manner prescribed by IC 4-21.5-5.

Chapter 4. District Board and Advisory Board

Sec. 1. The power to govern the district is vested in a regional funding, service area, and coordination board.

Sec. 2. The board has the following members:

(1) Four (4) members selected by majority vote of the rail service board from the members of the rail service board. Each of these members must be from a different county.

(2) Three (3) members selected by majority vote of the bus service board from the members of the bus service board. Two (2) of these members must be mayors, and one (1) of these members must be a member of a county fiscal body.

(3) Three (3) nonvoting members as follows:

(A) The president of the Gary airport authority board.

(B) The president of the South Bend airport authority board.

(C) A member appointed by the governor.

Sec. 3. (a) The board member appointed by the governor shall

serve:

(1) at the pleasure of the governor; and

(2) for a term of two (2) years from the beginning of the term for which the member was appointed and until a successor has qualified for the office.

(b) The board member appointed by the governor is eligible for reappointment for successive terms.

Sec. 4. (a) A majority of the board members constitutes a quorum for a meeting.

(b) The board member appointed by the governor shall serve as board chairperson. The members of the board shall elect from its members the following officers for a one (1) year term:

(1) A vice chairperson.

(2) A secretary.

(3) A treasurer.

(c) The affirmative votes of at least a majority of the board members are necessary to authorize any action of the district.

Sec. 5. The board shall meet at least quarterly.

Sec. 6. The board chairperson or any two (2) members may call a meeting of the board. The chairperson shall call the initial meeting of the board for a date that is not more than thirty (30) days after the board is initially established.

Sec. 7. The board may adopt the bylaws and rules that the board considers necessary for the proper conduct of the board's duties and the safeguarding of the district's funds and property.

Sec. 8. A board member is not entitled to receive compensation for performance of the member's duties. A board member is not entitled to a per diem from the district for the member's participation in board meetings.

Sec. 9. (a) The regional transportation district advisory board is established. The district advisory board has the following members:

(1) One (1) member of the commuter rail service advisory board who is a commuter rail passenger appointed by the commuter rail service advisory board.

(2) One (1) member of the bus service advisory board who is a bus passenger appointed by the bus service advisory board.

(3) One (1) member of the commuter rail service advisory board who is a commuter rail division employee appointed by the commuter rail service advisory board.

(4) One (1) member of the bus service advisory board who is

a bus division employee appointed by the bus service advisory board.

(b) A member of the district advisory board shall serve for a term of two (2) years from the beginning of the term for which the member was appointed and until a successor has qualified for the office. Each member shall serve at the pleasure of the appointing authority but is eligible for reappointment for successive terms.

(c) The members of the district advisory board shall elect for a one (1) year term:

(1) one (1) member as chairperson;

(2) one (1) member to serve as vice chairperson; and

(3) one (1) member to serve as secretary.

(d) The district advisory board shall meet:

(1) at least quarterly at the call of the chairperson of the district advisory board; or

(2) as requested by the board of the district.

(e) The district advisory board shall, as considered necessary by the district advisory board or as requested by the board of the district, study issues and make recommendations concerning matters affecting the district.

Chapter 5. Commuter Rail Service Board; Commuter Rail Service Advisory Board; Commuter Rail Service Division

Sec. 1. The board of trustees of the northern Indiana commuter transportation district is the service board for the commuter rail division.

Sec. 2. IC 8-5-15 applies to the membership, powers, and operation of the commuter rail service board.

Sec. 3. Subject to this article, the board of trustees of the northern Indiana commuter transportation district has the following powers:

(1) The powers granted by IC 8-5-15 or any other law to the board of trustees of a commuter transportation district established under IC 8-5-15.

(2) The powers granted to a commuter rail service board under this article.

Sec. 4. The commuter rail division shall operate under the name northern Indiana commuter rail district and has the following powers:

(1) The powers granted by IC 8-5-15 or any other law to a commuter transportation district established under IC 8-5-15.

(2) The powers granted to a commuter rail service division

under this article.

Sec. 5. (a) The commuter rail service advisory board is established. The commuter rail service advisory board has the following members:

(1) Two (2) members, each of whom must be a commuter rail passenger appointed by the commuter rail service board.

(2) Two (2) members, each of whom must be a commuter rail division employee appointed by the commuter rail service board.

(b) The members appointed under subsection (a)(1) must be selected from passengers who have submitted a letter of interest to the commuter rail service board. To be considered for this position, a passenger must submit a letter of interest to the commuter rail service board during a two (2) week period that begins sixty (60) days before the expiration of the term of the member to be appointed. A passenger member of the board is not required to submit a letter of interest to be eligible for appointment to a successive term.

(c) The members appointed under subsection (a)(2) must be selected from a list of names submitted by the labor union representing the employees of the commuter rail service division.

(d) A member of the commuter rail service advisory board shall serve for a term of two (2) years from the beginning of the term for which the member was appointed and until a successor has qualified for the office. Each member shall serve at the pleasure of the appointing authority but is eligible for reappointment for successive terms.

(e) The members of the commuter rail service advisory board shall elect for a one (1) year term:

(1) one (1) member as chairperson;

(2) one (1) member to serve as vice chairperson; and

(3) one (1) member to serve as secretary.

(f) Ninety (90) days before the expiration of the term of the commuter rail service advisory board member appointed under subsection (a)(1), the rail service division shall post in each commuter station in the district a notice of the opening on the commuter rail service advisory board. The notice must announce the opening for two (2) passenger members on the commuter rail service advisory board and provide information on submitting a letter of interest. The notice must state the period in which the passenger must submit a letter of interest. The notice must remain

posted until the expiration of the two (2) week period described in subsection (b).

(g) The commuter rail service advisory board shall meet:

(1) at least quarterly at the call of the chairperson of the commuter rail service advisory board; or

(2) as requested by the commuter rail service board.

(h) The commuter rail service advisory board shall, as considered necessary by the commuter rail service advisory board or as requested by the commuter rail service board, study issues and make recommendations concerning matters affecting the rail service division.

Chapter 6. Bus Division Service Board; Bus Service Advisory Board; Bus Service Division

Sec. 1. A regional demand and scheduled bus service board is established for the district. The bus service board is the governing body of the bus service division.

Sec. 2. (a) The bus service board is composed of the following members:

(1) One (1) member of the Lake County fiscal body, appointed by the Lake County fiscal body (if the county is a member county).

(2) One (1) member of the Porter County fiscal body, appointed by the Porter County fiscal body (if the county is a member county)

(3) The mayor of each city that meets both of the following conditions:

(A) The city has a population of at least twenty-five thousand (25,000).

(B) The city is located in Lake County or Porter County and that county is a member county.

(b) A member described in subsection (a)(1) or (a)(2) serves at the pleasure of the appointing authority.

(c) If an appointing authority fails to make the required appointment to the board within sixty (60) days after a vacancy exists on the board, the appointment shall be made by the governor from the individuals eligible to fill the position.

Sec. 3. A member of a bus service board is not entitled to receive compensation for performance of the member's duties. However, a member of the bus service board who is not an elected official is entitled to a per diem from the district for the member's participation in bus service board meetings. The amount of the per

diem is equal to the amount of the per diem provided under IC 4-10-11-2.1(b).

Sec. 4. A majority of the members appointed to the bus service board constitutes a quorum for a meeting.

Sec. 5. The affirmative votes of at least a majority of the appointed members of the bus service board are necessary to authorize any action of the district.

Sec. 6. The bus service board shall elect a chairperson of the bus service board and any other officers that the bus service board determines appropriate.

Sec. 7. A bus service board shall meet at least quarterly.

Sec. 8. The chairperson of a bus service board or any two (2) members of the bus service board may call a meeting of the bus service board. The chairperson of the bus service board shall call the initial meeting of the bus service board for a date that is not more than thirty (30) days after the bus service board is initially established.

Sec. 9. The bus service board may adopt those bylaws and rules that the bus service board considers necessary for the proper conduct of the bus service board's duties and the safeguarding of the district's funds and property.

Sec. 10. Subject to this article, the bus service board has the following powers in Lake County and Porter County (if the county is a member county):

(1) The powers granted by IC 36-9-3 or any other law to the board of a regional transportation authority.

(2) The powers granted to the bus service board under this article.

Sec. 11. The bus service division has the following powers in Lake County and Porter County (if the county is a member county):

(1) The powers granted by IC 36-9-3 or any other law to a regional transportation authority to operate a bus public transportation system.

(2) The powers granted to the bus service division under this article.

Sec. 12. The powers of the bus service board and division may be exercised only in Lake County and Porter County (if the county is a member county).

Sec. 13. The bus service division shall operate in the manner provided for a regional transportation authority under IC 36-9-3,

except that:

(1) this article applies if there is a conflict between this article and IC 36-9-3; and

(2) an action authorized or permitted under IC 36-9-3 (other than the appointment or removal of members of the bus service board) by the executive, fiscal body, or legislative body of a municipality or county shall be taken by the board.

Sec. 14. The bus service board shall appoint an executive director of the bus service division to manage the division. To be employed as executive director, the individual must have at least five (5) years experience in public transportation at a senior executive level.

Sec. 15. (a) The bus service advisory board is established. The bus service advisory board has the following members:

(1) Two (2) members, each of whom must be a bus passenger appointed by the bus service board.

(2) Two (2) members, each of whom must be a bus division employee appointed by the bus service board.

(b) The members appointed under subsection (a)(1) must be selected from passengers who have submitted a letter of interest to the bus service board. To be considered for this position, a passenger must submit a letter of interest to the bus service board during a two (2) week period that begins sixty (60) days before the expiration of the term of the member to be appointed. A passenger member of the bus service board is not required to submit a letter of interest to be eligible for appointment to a successive term.

(c) The members appointed under subsection (a)(2) must be selected from a list of names submitted by the labor union representing the employees of the bus service division.

(d) A member of the bus service advisory board shall serve for a term of two (2) years from the beginning of the term for which the member was appointed and until a successor has qualified for the office. Each member shall serve at the pleasure of the appointing authority but is eligible for reappointment for successive terms.

(e) The members of the bus service advisory board shall elect for a one (1) year term:

(1) one (1) member as chairperson;

(2) one (1) member to serve as vice chairperson; and

(3) one (1) member to serve as secretary.

(f) Ninety (90) days before the expiration of the term of the bus

service advisory board member appointed under subsection (a)(1), the bus service division shall post in each bus a notice of the opening on the bus service advisory board. The notice must announce the opening for two (2) passenger members on the bus service advisory board and provide information on submitting a letter of interest. The notice must state the period in which the passenger must submit a letter of interest. The notice must remain posted until the expiration of the two (2) week period described in subsection (b).

(g) The bus service advisory board shall meet:

(1) at least quarterly at the call of the chairperson of the bus service advisory board; or

(2) as requested by the bus service board.

(h) The bus service advisory board shall, as considered necessary by the bus service advisory board or as requested by the bus service board, study issues and make recommendations concerning matters affecting the bus service division.

Chapter 7. General Powers of the District

Sec. 1. The district shall exercise the powers granted to the district by this article to carry out the purposes of the district.

Sec. 2. The district may sue and be sued in the name of the district.

Sec. 3. The district may determine matters of policy regarding internal organization and operating procedures not specifically provided for by law.

Sec. 4. The district may employ the personnel necessary to carry out the duties, functions, and powers of the district.

Sec. 5. The district may fix the compensation of the various officers and employees of the district, within the limitations of the total personal services budget.

Sec. 6. The district may adopt rules governing the duties of its officers, employees, and personnel, and the internal management of the affairs of the district.

Sec. 7. The district may protect all property owned or managed by the district and procure insurance against any losses in connection with its property, operations, or assets in amounts and from insurers as it considers desirable.

Sec. 8. The district may receive gifts, donations, bequests, and public trusts, agree to conditions and terms accompanying them, and bind the district to carry them out.

Sec. 9. (a) The district may receive federal or state aid and

administer that aid.

(b) The district may comply with federal statutes and rules concerning the expenditure of federal money for public transportation systems. The board may apply to state and federal agencies for grants for public transportation development, make or execute representations, assurances, and contracts, enter into covenants and agreements with any state or federal agency relative to public transportation systems, and comply with federal and state statutes and rules concerning the acquisition, development, operation, and administration of public transportation systems.

(c) The district may use money received by the district that is not pledged or restricted for another purpose to provide a local match required for the receipt of any federal funds.

Sec. 10. At the request of a service board, the district may sell, lease, or otherwise contract for advertising in or on the facilities of the district.

Sec. 11. The district may determine the level and kind of public transportation services to be provided by the district.

Sec. 12. The district may do all other acts necessary or reasonably incident to carrying out the purposes of this article.

Chapter 8. Administration

Sec. 1. The district board shall adopt an annual budget for the district.

Sec. 2. The district may establish the funds and accounts that the district determines necessary. The district shall account for revenues as required to comply with the requirements specified in any agreement.

Sec. 3. The district is subject to audit under IC 5-11-1.

Sec. 4. A district shall, before April 1 of each year, issue a report to the legislative council, the budget committee, and the governor concerning the operations and activities of the district during the preceding calendar year. The report to the legislative council must be in an electronic format under IC 5-14-6.

Sec. 5. The board shall appoint an executive director to manage the district. To be employed as executive director, the individual must have at least five (5) years experience in public transportation at a senior executive level.

Sec. 6. The board may establish the advisory committees that the board determines to be advisable.

Sec. 7. All employees of the district:

(1) shall be employed solely on the basis of ability, taking into

account their qualifications to perform the duties of their positions;

(2) shall be employed regardless of political affiliation;

(3) may not be appointed, promoted, reduced, removed, or in any way favored or discriminated against because of their political affiliation, race, religion, color, sex, national origin, or ancestry;

(4) are ineligible to hold, or be a candidate for, elected office (as defined in IC 3-5-2-17) while employed by the district;

(5) may not solicit or receive political contributions;

(6) may not be required to make contributions for or participate in political activities;

(7) shall be employed on a six (6) month probationary period, with a written evaluation prepared after five (5) months of service by their immediate supervisor for the executive director to determine if employment should continue beyond the probationary period; and

(8) shall be evaluated annually in writing by their immediate supervisor to advise the executive director as to whether the employees should remain in their positions.

Chapter 9. Procurement

Sec. 1. The district shall comply with IC 5-16-7 (common construction wage), IC 5-22 (public purchasing), IC 36-1-12 (public work projects), and any applicable federal bidding statutes and regulations.

Sec. 2. An entity that receives a loan, a grant, or other financial assistance from a district or enters into a lease with a district must comply with applicable federal, state, and local public purchasing and bidding laws and regulations. However, a purchasing agency (as defined in IC 5-22-2-25) of a political subdivision may:

(1) assign or sell a lease for property to a district; or

(2) enter into a lease for property with a district;

at any price and under any other terms and conditions as may be determined by the entity and the district. However, before making an assignment or a sale of a lease or entering into a lease under this section that would otherwise be subject to IC 5-22, the political subdivision or its purchasing agent must obtain or cause to be obtained a purchase price for the property to be subject to the lease from the lowest responsible and responsive bidder in accordance with the requirements for the purchase of supplies under IC 5-22.

Sec. 3. Except where 49 CFR Part 26 applies, the district shall set a goal for participation by minority business enterprises and women's business enterprises. The goals must be consistent with:

(1) the participation goals established by the counties and municipalities that are members of the district; and

(2) the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services.

Sec. 4. If the district is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this article, the district may proceed under IC 32-24-1 to procure the condemnation of the property. The district may not institute a proceeding until it has adopted a resolution that:

(1) describes the real property sought to be acquired and the public purposes for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the district of the property involved; and

(3) sets out any other facts that the district considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition

Chapter 10. Planning

Sec. 1. After reviewing the transportation plans of the Indiana department of transportation, regional and other planning agencies, and of each division, the district shall develop, continuously update, and implement long range comprehensive transportation plans to ensure the orderly development and maintenance of an efficient system of public transportation in the district. The plan must be approved by the board. The district shall periodically amend and update the plan as appropriate or as requested by a division.

Sec. 2. The plan must identify goals and objectives with respect to the following:

(1) Increasing ridership and passenger miles on public transportation funded by the district.

(2) Coordination of public transportation services and the investment in public transportation facilities to enhance the integration of public transportation throughout the district territory.

(3) Coordination of fare and transfer policies to promote transfers by riders among service boards, public

transportation agencies, and public transportation modes, which may include goals and objectives for development of a universal fare instrument that riders may use interchangeably on all public transportation funded by the district, and methods to be used to allocate revenues from transfers.

(4) Improvements in public transportation facilities to bring those facilities into a state of good repair, enhancements that attract ridership and improve customer service, and expansions needed to serve areas with sufficient demand for public transportation.

(5) Access for transit dependent populations, including access by low income communities to places of employment, using analyses provided by the department of workforce development and other planning agencies regarding employment and transportation availability, and giving consideration to the location of employment centers in each county and the availability of public transportation at off peak hours and on weekends.

(6) The financial viability of the public transportation system, including both operating and capital programs.

(7) Limiting road congestion within the district territory and enhancing transit options to improve mobility.

(8) Other goals and objectives that advance adequate, efficient, and coordinated public transportation in the district territory.

Sec. 3. The plan must establish the process and criteria by which proposals for capital improvements by a service board will be evaluated by the district for inclusion in the five (5) year capital program. The plan may include criteria for the following:

(1) Allocating funds among maintenance, enhancement, and expansion improvements.

(2) Projects to be funded.

(3) Projects intended to improve or enhance ridership or customer service.

(4) Design and location of station or transit improvements intended to promote transfers, increase ridership, and support transit oriented land development.

(5) Assessing the impact of projects on the ability to operate and maintain the existing transit system.

(6) Other criteria that advance the goals and objectives of the plan.

Sec. 4. The plan must establish performance standards and measurements regarding the adequacy, efficiency, and coordination of public transportation services in the region and the implementation of the goals and objectives in the plan. At a minimum, the standards and measures must include customer related performance data measured by line, route, or subregion, as determined by the district, on the following:

(1) Travel times and on time performance.

(2) Ridership data.

(3) Equipment failure rates.

(4) Employee and customer safety.

(5) Customer satisfaction.

Sec. 5. The plan must describe the expected financial condition of public transportation in the district territory prospectively over a ten (10) year period, which may include information about the cash position and all known obligations of the district and the service boards, including operating expenditures, debt service, contributions for payment of pension and other post-employment benefits, the expected revenues from fares, tax receipts, grants from the federal, state, and local governments for operating and capital purposes and issuance of debt, the availability of working capital, and the resources needed to achieve the goals and objectives described in the plan.

Sec. 6. The district may adopt subregional or corridor plans for specific geographic areas of the district territory to improve the adequacy, efficiency, and coordination of existing, or the delivery of new, public transportation. The plans may also address areas outside the district territory that may affect public transportation use in the district territory. In preparing a subregional or corridor plan, the district may identify changes in operating practices or capital investment in the subregion or corridor that could increase ridership, reduce costs, improve coordination, or enhance transit oriented development. The district shall consult with any affected service boards in the preparation of any subregional or corridor plans.

Sec. 7. The district shall annually establish a capital improvement plan to govern the distribution of grants to each service division. The capital improvement plan shall cover at least a five (5) year period and incorporate information concerning the capital improvement plans of the service divisions.

Sec. 8. Each service division shall provide the district with the

information that the district determines necessary to prepare the plans required by this chapter.

Sec. 9. The district and the service boards shall cooperate with the various public agencies charged with responsibility for long range or comprehensive planning for the district territory. The district shall, before the adoption of any plan under this chapter, submit its proposals to these agencies for review and comment. The district and the service boards may make use of existing studies, surveys, plans, data, and other materials in the possession of any state agency or department, any planning agency, or any unit of local government.

Sec. 10. The district shall, not later than January 1 of the second year following the year in which the district is established, submit the plans for review by the budget committee.

Chapter 11. Acquisition and Construction of Public Transportation Facilities

Sec. 1. The powers granted under this chapter supplement any other powers granted by another law.

Sec. 2. A service division may:

(1) construct or acquire any public transportation facility for use by the district or a service division; and

(2) acquire funds and interests in and materials for transportation facilities from any transportation agency, including:

(A) reserve funds;

(B) employees' pension or retirement funds;

(C) special funds;

(D) franchises;

(E) licenses;

(F) patents;

(G) permits; and

(H) papers and records of the agency.

In making acquisitions from a transportation agency, the district may assume the obligations of the agency regarding its property or public transportation operations.

Sec. 3. A service division may acquire, improve, maintain, lease, and rent facilities, including air rights, that are within one hundred (100) yards of a terminal, station, or other facility of the district. If these facilities generate revenues that exceed their cost to the district, the division must use the excess revenues to improve transportation services or reduce fares for the public.

Sec. 4. A service may lease to others for development or operation all or any part of the property of the district on the terms and conditions as the service board considers advisable.

Sec. 5. A service division may enter into an agreement with any other entity to:

(1) jointly equip, own, lease, and finance projects and facilities; or

(2) otherwise carry out the purposes of the service division;

in any location.

Chapter 12. Operation of Public Transportation Facilities

Sec. 1. The powers granted under this chapter supplement any other powers granted by another law.

Sec. 2. A service division may provide public transportation service by operating public transportation facilities.

Sec. 3. A service division may enter into operating agreements with any private or public person to operate transportation facilities on behalf of a service division.

Sec. 4. Whenever a service division provides any public transportation service by operating public transportation facilities, the service division shall establish the level and nature of fares or charges to be made for public transportation services, and the nature and standards of public transportation service to be provided within the jurisdiction of the service division.

Sec. 5. A service board shall, to the extent it considers feasible, adopt uniform standards for the making of grants and purchase of service agreements. These grant contracts or purchase of service agreements may be for the number of years or duration agreed to by the service division and the transportation agency.

Sec. 6. If the district provides grants for operating expenses or participates in any purchase of service agreement, the purchase of service agreement or grant contract must state the level and nature of fares or charges to be made for public transportation services, and the nature and standards of public transportation to be so provided. In addition, any purchase of service agreements or grant contracts must provide, among other matters, for:

(1) the terms or cost of transfers or interconnections between different public transportation agencies;

(2) schedules or routes of transportation service;

(3) changes that may be made in transportation service;

(4) the nature and condition of the facilities used in providing service;

(5) the manner of collection and disposition of fares or charges;

(6) the records and reports to be kept and made concerning transportation service; and

(7) interchangeable tickets or other coordinated or uniform methods of collection of charges.

Chapter 13. Centralized Services and Coordination of Programs

Sec. 1. The district may perform centralized services such as ridership information and transfers between services under the jurisdiction of a service board if the centralized services financially benefit the district as a whole.

Sec. 2. A service division may construct or acquire any public transportation facility for use by the service division or for use by any transportation agency and may acquire any facilities from any transportation agency, including also without limitation any reserve funds, employees' pension or retirement funds, special funds, franchises, licenses, patents, permits, papers, documents, and records of the agency. In connection with any acquisition from a transportation agency, the service division may assume obligations of the transportation agency with regard to the facilities or property or public transportation operations of the agency.

Sec. 3. In connection with any construction or acquisition, a service division shall make relocation payments as may be required by federal law or by the requirements of any federal agency authorized to administer any federal program of aid.

Sec. 4. The district shall, after consulting with the service boards, develop regionally coordinated and consolidated sales, marketing, advertising, and public information programs that promote the use and coordination of, and transfers among, public transportation services in the district territory. The district shall develop and adopt rules and guidelines for the district and the service boards regarding the programs to ensure that each service board's independent programs conform with the district's regional programs.

Sec. 5. To provide or assist any transportation of members of the general public between points in the district territory and points outside the district territory, whether in Indiana, Michigan, or Illinois, a service division, by resolution, may enter into agreements with any unit of local government, individual, corporation, or other person or public agency in or of any state or

with any private entity for service. The agreements may provide for participation by the service board in providing the service and for grants by the service board in connection with the service, and may, subject to federal and state law, set forth any terms relating to the service, including coordinating the service with public transportation in the district territory. The agreement may be for the number of years or duration as the parties may agree. In regard to the agreements or grants, a service board shall consider the benefit to the district territory and the financial contribution with regard to the service made or to be made from public funds in the areas served outside the district territory.

Sec. 6. Upon the request of a service board, the district may intervene in any matter involving:

(1) a dispute between the two (2) service boards or a service board and any transportation agency providing service on behalf of a service board with respect to the terms of transfer between, and the allocation of revenues from fares and charges for, or transportation services provided by the parties; or

(2) a dispute between the two (2) service boards with respect to coordination of service, route duplication, or a change in service.

Any service board or transportation agency involved in the dispute shall meet with the executive director, cooperate in good faith to attempt to resolve the dispute, and provide any books, records, and other information requested by the executive director. If the executive director is unable to mediate a resolution of any dispute, the executive director may provide a written determination recommending a change in the fares or charges or the allocation of revenues for the service or directing a change in the nature or provider of service that is the subject of the dispute. The executive director shall base the determination upon the goals and objectives of the district's plan. The determination shall be presented to the district board for a final determination. The final determination shall be implemented by any affected service board within the time frame required by the determination.

Chapter 14. Bonds

Sec. 1. (a) A service board may contract with the Indiana finance authority (IC 4-4-11) to borrow money, make guaranties, issue bonds, and otherwise incur indebtedness for any of the service division's purposes, and issue debentures, notes, or other

evidences of indebtedness, whether secured or unsecured, to any person.

(b) The indebtedness is payable solely from:

(1) the lease rentals from the lease of the projects for which the bonds were issued, insurance proceeds, and any other funds pledged or available; and

(2) to the extent designated in the agreements for the bonds, revenue received by the service board and amounts deposited in a service division's fund.

(c) The indebtedness must be authorized by a resolution of the service board.

(d) The terms and form of the indebtedness must either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The indebtedness must be paid within twenty-five (25) years.

(f) All money received from any indebtedness under this article shall be applied solely to the payment of the cost of acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects, or the cost of refunding or refinancing outstanding bonds, for which the indebtedness was incurred. The cost may include:

(1) planning and development of equipment or a facility and all buildings, facilities, structures, equipment, and improvements related to the facility;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the project suitable for use and operations;

(4) architectural, engineering, consultant, and attorney's fees;

(5) incidental expenses in connection with the issuance and sale of bonds;

(6) reserves for principal and interest;

(7) interest during construction;

(8) financial advisory fees;

(9) insurance during construction;

(10) bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and

(11) funding or refunding bonds or other evidences of indebtedness issued under this article, IC 8-5-15, IC 8-9.5-7, IC 8-22-3, IC 36-7.5, IC 36-7.6, IC 36-9-3, IC 36-9-4, or prior

law to finance a public transportation system, including payment of the principal of, redemption premiums (if any) for, and interest on the bonds being refunded or refinanced.

Sec. 2. This article contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by a service division board or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed in this article.

Sec. 3. (a) The Indiana finance authority may secure bonds issued under this article by a trust indenture between the service division and a corporate trustee, which may be any trust company or national or state bank in Indiana that has trust powers.

(b) The trust indenture may:

(1) pledge or assign revenue received by the service division, amounts deposited in a service division fund, and lease rentals, receipts, and income from leased projects, but may not mortgage land or projects;

(2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the service division and the service board;

(3) set forth the rights and remedies of bondholders and trustees; and

(4) restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the service division under this section is valid and binding in accordance with IC 5-1-14-4 from the time that the pledge or assignment is made, against all persons whether they have notice of the lien. Any trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties in accordance with IC 5-1-14-4.

Sec. 4. Bonds issued under this article are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, savings banks, private banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

Sec. 5. An action to contest the validity of bonds to be issued

under this article may not be brought after the time limitations set forth in IC 5-1-14-13.

Sec. 6. The general assembly covenants that it will not:

(1) repeal or amend this article in a manner that would adversely affect owners of outstanding bonds, or the payment of lease rentals, secured by the amounts pledged under this article; or

(2) in any way impair the rights of owners of bonds of a district, or the owners of bonds secured by lease rentals or by a pledge of revenues under this article.

Chapter 15. Leases and Agreements With Public Transportation Agencies

Sec. 1. (a) Before a lease may be entered into by a service division, the service board for the service division must find that the lease rental provided for is fair and reasonable.

(b) A lease of land or a project by a service division:

(1) may not have a term exceeding twenty-five (25) years;

(2) may not require payment of lease rentals for a newly constructed project or for improvements to an existing project until the project or improvements to the project have been completed and are ready for occupancy or use;

(3) may contain provisions:

(A) allowing the service division to continue to operate an existing project until completion of the acquisition, improvements, reconstruction, or renovation of that project or any other project; and

(B) requiring payment of lease rentals for land, for an existing project being used, reconstructed, or renovated, or for any other existing project;

(4) may contain an option to renew the lease for the same or a shorter term on the conditions provided in the lease;

(5) must contain an option for the service division to purchase the project upon the terms stated in the lease during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the project, including indebtedness incurred for the refunding of that indebtedness;

(6) may be entered into before acquisition or construction of a project;

(7) may provide that the service division shall agree to:

(A) pay any taxes and assessments on the project;

(B) maintain insurance on the project for the benefit of the

district;

(C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and

(D) pay a deposit or series of deposits to the lessor from any funds available to the service division before the commencement of the lease to secure the performance of the service division's obligations under the lease; and

(8) must provide that the lease rental payments by the service division shall be made from:

(A) net revenues of the project;

(B) any other funds available to the service division; or

(C) both sources described in clauses (A) and (B).

Sec. 2. This article contains full and complete authority for leases by a service division. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the service division or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any lease, except as prescribed in this article.

Sec. 3. If a lease provides for a project or improvements to a project to be constructed by a service division, the plans and specifications shall be submitted to and approved by all state agencies designated by law to pass on plans and specifications for public buildings.

Sec. 4. The service divisions may enter into common wall (party wall) agreements or other agreements concerning easements or licenses. These agreements shall be recorded with the recorder of the county in which the project is located.

Sec. 5. A service division may lease for a nominal lease rental, or sell to the other service division, one (1) or more projects or parts of a project or land on which a project is located or is to be constructed.

Chapter 16. Distributions; Grants

Sec. 1. The district shall use the money received by the district for the capital and operating expenses of the district and the district's service divisions.

Sec. 2. Excluding any amount restricted to a particular use by law or the grantor, the district shall allocate the amounts received by the district between:

(1) the capital expenses and operation cost of the district's commuter service division; and

(2) the capital expenses and operation cost of the district's bus

service division.

Sec. 3. A distribution received by a service division from the district must be used in accordance with the district's transportation plan.

Chapter 17. Regional Transportation Improvement Income Tax

Sec. 1. (a) An improvement tax may be imposed on the adjusted gross income of county taxpayers by the board. To impose the improvement tax, the board must first request a determination of the improvement tax rate that may be imposed in each county under section 2 of this chapter.

(b) The bus service board and the commuter rail service board shall make recommendations to the board regarding the part of the improvement income tax rate in each county that shall be dedicated to the bus service division and to the commuter rail service division.

Sec. 2. A county's improvement tax rate in a member county may not exceed the lesser of twenty-five hundredths percent (0.25%) or the rate for that member county as determined under section 3 of this chapter.

Sec. 3. (a) If the board desires to impose the improvement tax, the board must first make written findings concerning the following:

(1) The value of the public transportation facilities of the district and the service divisions that the board proposes to put in service after December 31, 2009, and to be allocated to each member county.

(2) The total amount of the capital needs of the district and the service divisions for the five (5) year period beginning in the year of the request, reduced by the amount of capital costs that will be paid from sources other than the improvement tax.

(3) The annual amount of capital costs that the board proposes to be allocated to each member county for the five (5) year period beginning in the year of the request, reduced by the amount of capital costs that will be paid from sources other than the improvement tax. In determining the amount to propose for capital costs to be allocated to each member county, the board shall allocate the capital costs according to a formula established by the board that reflects the benefit received by the county from the capital costs in facilitating public transportation in the county and to and from the

county.

(4) The total amount of the operating needs of the district and service districts for the five (5) year period beginning in the year of the request, reduced by the amount of operating expenses that will be paid from sources other than the improvement tax.

(5) The annual amount of operating expenses that the board proposes to be allocated to each member county for the five (5) year period beginning in the year of the request, using the total number of passengers and total miles traveled by individuals using public transportation within each member county that is provided by the district, reduced by the amount of operating expenses that will be paid from sources other than the improvement tax.

(b) In determining capital and operating costs under subsection (a), the costs shall be allocated, as determined by the board, to the capital expenses and operation costs of the district's commuter rail service division and the district's bus service division.

(c) Based on the findings under subsection (a) and the required allocation under subsection (b), the board shall make a determination and certify to the department the improvement tax rate that will be necessary for each year of the five (5) year period in each member county to pay for both the annual capital costs and annual operating expenses that are allocated to that member county. The rate imposed in a member county must be sufficient to raise the annual capital costs and annual operating expenses allocated to the county.

(d) A determination under this section shall be made using the best information available. The budget agency shall assist the board in computing the appropriate tax rates for each member county.

(e) The board may adopt a resolution adjusting the tax rate in a member county if the rates are too low to pay for both the annual capital costs and annual operating expenses that are allocated to each member county.

(f) The budget agency may cause a new determination to be made if:

(1) the budget director finds that the actual annual capital costs and annual operating expenses are less than the improvement tax revenue for two (2) consecutive years such that the improvement tax rate could be reduced by at least

five-hundredths percent (0.05%) for a member county; or

(2) it has been more than three (3) years since the previous determination was made.

If a new determination under this subsection results in the improvement tax rate for each member county being at least five-hundredths percent (0.05%) less than the rate in effect in the year the new determination is made, the rate for each member county is reduced to the new rate without any action by the board. The new rate takes effect October 1 of the year of the new determination. The budget agency shall certify the new improvement tax rate to the board and the department.

Sec. 4. (a) To impose the improvement tax, the board must first publish a notice in each member county in accordance with IC 5-3-1. In addition to the requirements of IC 5-3-1, the notice must include:

(1) a clear and concise statement that the board will be considering the imposition of the regional transportation improvement tax at the meeting; and

(2) the content of the proposed resolution to impose the improvement tax.

(b) To impose the improvement tax, the board must, after March 31 but before August 1 of a year, adopt a resolution. The resolution to impose the tax must include the rate for each member county and substantially state the following for each member county:

"The Northern Indiana Regional Transportation District imposes the regional transportation improvement tax on the county taxpayers of _____ County. The improvement tax is imposed at a rate of _____ percent (____%) of taxable income. This tax takes effect October 1 of this year.".

Sec. 5. (a) The board may increase or decrease the improvement tax rate imposed upon the county taxpayers in each member county as long as the resulting rate does not exceed the rate certified under section 3 of this chapter.

(b) To increase the improvement tax rate, the board must first publish a notice in each member county in accordance with IC 5-3-1. In addition to the requirements of IC 5-3-1, the notice must include the content of the proposed resolution to increase the improvement tax rate.

(c) To decrease or increase the rate, the board must, after March 31 but before August 1 of a year, adopt a resolution. The

resolution to increase or decrease the tax must include the rate for each member county and substantially state the following for each member county:

"The Northern Indiana Regional Transportation District increases (decreases) the regional transportation improvement tax rate imposed upon the county taxpayers of _____ County from _____ percent (___%) to _____ percent (___%) of taxable income. This tax rate increase (decrease) takes effect October 1 of this year.".

Sec. 6. (a) The improvement tax imposed under this chapter remains in effect until rescinded.

(b) The board may rescind the tax by adopting a resolution to rescind the tax after March 31 but before August 1 of a year.

Sec. 7. (a) Any resolution adopted under this chapter takes effect October 1 of the year the resolution is adopted.

(b) The secretary of the board shall record all votes taken on resolutions presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the department and the budget director by certified mail.

Sec. 8. (a) A special account within the state general fund shall be established for the district. Any revenue derived from the imposition of the improvement tax shall be credited to the district's account in the state general fund.

(b) Any income earned on money credited to an account under subsection (a) becomes a part of that account.

(c) Any revenue credited to an account established under subsection (a) at the end of a fiscal year may not be credited to any other account in the state general fund. Money in the district's account is appropriated to make distributions required by this chapter.

Sec. 9. (a) Revenue derived from the imposition of the improvement tax shall be distributed to the treasurer of the board.

(b) Before August 2 of each calendar year, the budget agency shall certify to the treasurer of the board the amount of improvement tax revenue that the department determines has been:

(1) received for the district for the taxable year ending before the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending

before July 1 of the calendar year in which the determination is made.

The amount shall be adjusted as provided in this section. The amount certified is the district's certified distribution for the following calendar year.

(c) The budget agency shall adjust the amount determined under subsection (b) for:

(1) refunds of improvement tax made in the state fiscal year; and

(2) the amount of interest in the district's special account that has been accrued but has not been included in a certification made in a preceding year.

(d) The budget agency shall certify an amount that is less than the amount determined under subsection (c) if the budget agency determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The budget agency may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(e) The budget agency shall certify an amount that is more than the amount determined under subsection (c) if the budget agency determines that the increased distribution is necessary to offset underpayments made in a calendar year before the calendar year of the distribution.

(f) The budget agency shall adjust the certified distribution of the district to correct for any clerical or mathematical errors made in any previous certification under this section. The budget agency may reduce the amount of the certified distribution over several calendar years so that any reduction under this subsection is offset over several years rather than in one (1) lump sum.

(g) This subsection applies if the district:

(1) initially imposed the improvement tax; or

(2) increases the improvement tax rate;

under this chapter and the tax or increased rate takes effect in the same calendar year in which the budget agency makes a certification under this section. The budget agency shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year.

(h) The budget agency shall provide to the treasurer of the board an informative summary of the calculations used to

determine the certified distribution. The summary of calculations must include the following:

(1) The amount reported on individual income tax returns processed by the department during the previous state fiscal year.

(2) Adjustments for:

(A) refunds;

(B) special account interest;

(C) over or under distributions in prior years;

(D) clerical or mathematical errors in prior years; and

(E) tax rate changes.

(3) The balance in the district's special account as of the cutoff date set by the budget agency.

(i) One-twelfth (1/12) of a district's certified distribution for a calendar year shall be distributed from the district's account to the treasurer of the board each month.

Sec. 10. The district shall deposit the amount received under this chapter as follows:

(1) An amount equal to the budgeted annual capital costs as certified by the budget agency in a separate capital account.

(2) An amount equal to the budgeted operating expenses as certified by the budget agency in a separate operating account.

(3) Any part of a distribution remaining after making the deposits required under subdivisions (1) and (2) shall be deposited in a separate reserve account.

Sec. 11. (a) For purposes of this chapter, an individual shall be treated as a resident of the county in which the individual:

(1) maintains a home if the individual maintains only one (1) home in Indiana;

(2) if subdivision (1) does not apply, is registered to vote;

(3) if subdivisions (1) and (2) do not apply, registers the individual's personal automobile; or

(4) if subdivisions (1), (2), and (3) do not apply, spends the majority of the individual's time in Indiana during the taxable year in question.

(b) The residence or principal place of business or employment of an individual is to be determined on January 1 of the calendar year in which the individual's taxable year commences. If an individual changes the location of the individual's residence or principal place of employment or business to another county in

Indiana during a calendar year, the individual's liability for improvement tax is not affected.

Sec. 12. If the improvement tax is not in effect during a county taxpayer's entire taxable year, the amount of improvement tax that the county taxpayer owes for that taxable year equals the product of:

(1) the amount of improvement tax the county taxpayer would owe if the tax had been imposed during the county taxpayer's entire taxable year; multiplied by

(2) a fraction, the:

(A) numerator of which equals the number of days during the county taxpayer's taxable year during which the improvement tax was in effect; and

(B) denominator of which equals three hundred sixty-five (365).

Sec. 13. (a) If for the taxable year a county taxpayer is (or a county taxpayer and the county taxpayer's spouse who file a joint return are) allowed a credit for the elderly or individuals with a total disability under Section 22 of the Internal Revenue Code, the county taxpayer is (or the county taxpayer and the county taxpayer's spouse are) entitled to a credit against the county taxpayer's (or the county taxpayer's and the county taxpayer's spouse's) improvement tax liability for that same taxable year. The amount of the credit equals the lesser of:

(1) the product of:

(A) the county taxpayer's (or the county taxpayer's and the county taxpayer's spouse's) credit for the elderly or individuals with a total disability for that same taxable year; multiplied by

(B) a fraction, the:

(i) numerator of which is the improvement tax rate imposed against the county taxpayer (or against the county taxpayer and the county taxpayer's spouse); and

(ii) denominator of which is fifteen-hundredths (0.15); or

(2) the amount of improvement tax imposed on the county taxpayer (or the county taxpayer and the county taxpayer's spouse).

(b) If a county taxpayer and the county taxpayer's spouse file a joint return and are subject to different improvement tax rates for the same taxable year, they shall compute the credit under this section by using the formula provided by subsection (a), except that

they shall use the average of the two (2) improvement tax rates imposed against them as the numerator referred to in subsection (a)(1)(B)(i).

Sec. 14. (a) Except as otherwise provided in this chapter, all provisions of the adjusted gross income tax law (IC 6-3) concerning:

(1) definitions;

(2) declarations of estimated tax;

(3) filing of returns;

(4) remittances;

(5) incorporation of the provisions of the Internal Revenue Code;

(6) penalties and interest;

(7) exclusion of military pay credits for withholding; and

(8) exemptions and deductions;

apply to the imposition, collection, and administration of the improvement tax.

(b) IC 6-3-1-3.5(a)(6), IC 6-3-3-3, IC 6-3-3-5, and IC 6-3-5-1 do not apply to the improvement tax.

(c) Notwithstanding subsections (a) and (b), each employer shall report to the department the amount of withholdings of the improvement tax attributable to each county. This report shall be submitted to the department:

(1) each time the employer remits to the department the tax that is withheld; and

(2) annually along with the employer's annual withholding report.

Sec. 15. The improvement tax is a listed tax and an income tax for the purposes of IC 6-8.1.

SECTION 283. IC 9-13-2-201 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 201. "Yard tractor" refers to a tractor that is used to move semitrailers around a terminal or a loading or spotting facility. The term also refers to a tractor that is operated on a highway with a permit issued under ~~IC 6-6-4.1-13(c)~~ **IC 6-6-4.1-13(f)** if the tractor is ordinarily used to move semitrailers around a terminal or spotting facility.

SECTION 284. IC 9-17-1-1, AS AMENDED BY P.L.150-2009, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This article does not apply to farm wagons, a golf cart **when operated in accordance with an ordinance adopted under IC 9-21-1-3(a)(14) or IC 9-21-1-3.3(a),** or a motor vehicle that

was designed to have a maximum design speed of not more than twenty-five (25) miles per hour and that was built, constructed, modified, or assembled by a person other than the manufacturer.

SECTION 285. IC 9-18-1-1, AS AMENDED BY P.L.150-2009, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This article does not apply to the following:

(1) Farm wagons.

(2) Farm tractors.

(3) A new motor vehicle if the new motor vehicle is being operated in Indiana solely to remove it from an accident site to a storage location because:

(A) the new motor vehicle was being transported on a railroad car or semitrailer; and

(B) the railroad car or semitrailer was involved in an accident that required the unloading of the new motor vehicle to preserve or prevent further damage to it.

(4) An implement of agriculture designed to be operated primarily in a farm field or on farm premises.

(5) Off-road vehicles.

(6) Golf carts **when operated in accordance with an ordinance adopted under IC 9-21-1-3(a)(14) or IC 9-21-1-3.3(a).**

SECTION 286. IC 9-18-15-1, AS AMENDED BY P.L.30-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A person who is the registered owner or lessee of a:

(1) passenger motor vehicle;

(2) motorcycle;

(3) recreational vehicle; or

(4) vehicle registered as a truck with a declared gross weight of not more than:

(A) eleven thousand (11,000) pounds;

(B) nine thousand (9,000) pounds; or

(C) seven thousand (7,000) pounds;

registered with the bureau or who makes an application for an original registration or renewal registration of a vehicle may apply to the bureau for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular license plate.

(b) A person who:

(1) is the registered owner or lessee of a vehicle described in subsection (a); and

(2) is eligible to receive a license plate for the vehicle under:
(A) IC 9-18-17 (prisoner of war license plates);
(B) IC 9-18-18 (disabled veteran license plates);
(C) IC 9-18-19 (Purple Heart license plates);
(D) IC 9-18-20 (Indiana National Guard license plates);
(E) IC 9-18-21 (Indiana Guard Reserve license plates);
(F) IC 9-18-22 (license plates for persons with disabilities);
(G) IC 9-18-23 (amateur radio operator license plates);
(H) IC 9-18-24 (civic event license plates);
(I) IC 9-18-24.5 (In God We Trust license plates);
(J) IC 9-18-25 (special group recognition license plates);
(K) IC 9-18-29 (environmental license plates);
(L) IC 9-18-30 (kids first trust license plates);
(M) IC 9-18-31 (education license plates);
(N) IC 9-18-32.2 (drug free Indiana trust license plates);
(O) IC 9-18-33 (Indiana FFA trust license plates);
(P) IC 9-18-34 (Indiana firefighter license plates);
(Q) IC 9-18-35 (Indiana food bank trust license plates);
(R) IC 9-18-36 (Indiana girl scouts trust license plates);
(S) IC 9-18-37 (Indiana boy scouts trust license plates);
(T) IC 9-18-38 (Indiana retired armed forces member license plates);
(U) IC 9-18-39 (Indiana antique car museum trust license plates);
(V) IC 9-18-40 (D.A.R.E. Indiana trust license plates);
(W) IC 9-18-41 (Indiana arts trust license plates);
(X) IC 9-18-42 (Indiana health trust license plates);
(Y) IC 9-18-43 (Indiana mental health trust license plates);
(Z) IC 9-18-44 (Indiana Native American trust license plates);
(AA) IC 9-18-45.8 (Pearl Harbor survivor license plates);
(BB) IC 9-18-46.2 (Indiana state educational institution trust license plates);
(CC) IC 9-18-47 (Lewis and Clark bicentennial license plates);
(DD) IC 9-18-48 (Riley Children's Foundation license plates);
(EE) IC 9-18-49 (National Football League franchised professional football team license plates);
(FF) IC 9-18-50 (Hoosier veteran license plates);
(GG) IC 9-18-51 (support our troops license plates); ~~or~~
(HH) IC 9-18-52 (Abraham Lincoln bicentennial license plates); **or**

(II) IC 9-18-53 Earlham College Trust license plates;
may apply to the bureau for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular special recognition license plate.

SECTION 287. IC 9-18-32-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The bureau shall design and manufacture yard tractor repair, maintenance, and relocation permit license plates as needed to administer this chapter.

(b) The license plate designed and manufactured under this section must:

(1) be designed for display on a yard tractor;

(2) be designed to be transferable between yard tractors operated by the carrier; and

(3) designate the yard tractor as a yard tractor permitted to operate on a public highway under ~~IC 6-6-4.1-13(c).~~ **IC 6-6-4.1-13(f).**

SECTION 288. IC 9-18-53 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TOR READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 53. Earlham College Trust License Plates

Sec. 1. The bureau shall design and issue an Earlham College trust license plate. The Earlham College trust license plate shall be designed and issued as a special group recognition license plate under IC 9-18-25.

Sec. 2. After January 1, 2010, a person who is eligible to register a vehicle under this title is eligible to receive an Earlham College trust license plate under this chapter upon doing the following:

(1) Completing an application for an Earlham College trust license plate.

(2) Paying the fees under section 3 of this chapter.

Sec. 3. (a) The fees for an Earlham College trust license plate are as follows:

(1) The appropriate fee under IC 9-29-5-38(a).

(2) An annual fee of twenty-five dollars ($25).

(b) The bureau shall collect the annual fee described in subsection (a)(2).

(c) The annual fee described in subsection (a)(2) shall be deposited in the Earlham College trust fund established by section 4 of this chapter.

Sec. 4. (a) The Earlham College trust fund is established.

(b) The treasurer of state shall invest the money in the Earlham College trust fund not currently needed to meet the obligations of

the Earlham College trust fund in the same manner as other public trust funds are invested. Interest that accrues from these investments shall be deposited in the Earlham College trust fund. Money in the fund is continuously appropriated for the purposes of this section.

(c) The commissioner shall administer the Earlham College trust fund. Expenses of administering the Earlham College trust fund shall be paid from money in the Earlham College trust fund.

(d) On June 30 of each year, the commissioner shall distribute the money from the Earlham College trust fund to Earlham College.

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

SECTION 289. IC 9-19-1-1, AS AMENDED BY P.L.150-2009, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided in subsection (b) and as otherwise provided in this chapter, this article does not apply to the following with respect to equipment on vehicles:

(1) Implements of agriculture designed to be operated primarily in a farm field or on farm premises.

(2) Road machinery.

(3) Road rollers.

(4) Farm tractors.

(5) Vehicle chassis that:

(A) are a part of a vehicle manufacturer's work in process; and

(B) are driven under this subdivision only for a distance of less than one (1) mile.

(6) Golf carts **when operated in accordance with an ordinance adopted under IC 9-21-1-3(a)(14) or IC 9-21-1-3.3(a).**

(b) A farm type dry or liquid fertilizer tank trailer or spreader that is drawn or towed on a highway by a motor vehicle other than a farm tractor at a speed greater than thirty (30) miles per hour is considered a trailer for equipment requirement purposes and all equipment requirements concerning trailers apply.

SECTION 290. IC 9-20-6-2, AS AMENDED BY P.L.3-2008, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The Indiana department of transportation or local authority that:

(1) has jurisdiction over a highway or street; and

(2) is responsible for the repair and maintenance of the highway or street;

may, upon proper application in writing and upon good cause shown, grant a permit for transporting heavy vehicles and loads or other objects not conforming to this article, including a vehicle transporting an ocean going container, if the department or authority finds that other traffic will not be seriously affected and the highway or bridge will not be seriously damaged.

(b) The permit granted under subsection (a) must authorize the operation of a tractor-semitrailer and load that:

(1) exceeds the maximum length limitation under this chapter; and

(2) is subject to regulation under this chapter;

from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset.

(c) A permit may be issued under this section for the following:

(1) A single trip.

(2) A definite time not exceeding thirty (30) days.

(3) A ninety (90) day period.

(4) A one (1) year period.

(d) This subsection applies to the transportation of ocean going containers that:

(1) have been sealed at the place of origin and have not been opened except by an agent of the federal government that may inspect the contents; **and**

~~(2) originated outside the United States; and~~

~~(3)~~ **(2)** are being transported to or from a distribution facility.

The total gross weight, with load of a vehicle or combination of vehicles transporting an ocean going container may not exceed ~~ninety~~ **ninety-five** thousand ~~(90,000)~~ **(95,000)** pounds. A permit issued under this section must be issued on an annual basis. A permit issued under this subsection may not impose a limit on the number of movements generated by the applicant or operator of a vehicle granted a permit under this subsection.

SECTION 291. IC 9-21-1-3, AS AMENDED BY P.L.150-2009, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A local authority, with respect to private roads and highways under the authority's jurisdiction, in accordance with ~~section~~ **sections** 2 **and 3.3(a)** of this chapter, and within the reasonable exercise of the police power, may do the following:

(1) Regulate the standing or parking of vehicles.

(2) Regulate traffic by means of police officers or traffic control

signals.

(3) Regulate or prohibit processions or assemblages on the highways.

(4) Designate a highway as a one-way highway and require that all vehicles operated on the highway be moved in one (1) specific direction.

(5) Regulate the speed of vehicles in public parks.

(6) Designate a highway as a through highway and require that all vehicles stop before entering or crossing the highway.

(7) Designate an intersection as a stop intersection and require all vehicles to stop at one (1) or more entrances to the intersection.

(8) Restrict the use of highways as authorized in IC 9-21-4-7.

(9) Regulate the operation of bicycles and require the registration and licensing of bicycles, including the requirement of a registration fee.

(10) Regulate or prohibit the turning of vehicles at intersections.

(11) Alter the prima facie speed limits authorized under IC 9-21-5.

(12) Adopt other traffic regulations specifically authorized by this article.

(13) Adopt traffic regulations governing traffic control on public school grounds when requested by the governing body of the school corporations.

(14) Regulate or prohibit the operation of low speed vehicles or golf carts on highways **in accordance with section 3.3(a) of this chapter.**

(b) An ordinance or regulation adopted under subsection (a)(4), (a)(5), (a)(6), (a)(7), (a)(8), (a)(10), (a)(11), (a)(12), (a)(13), or (a)(14), is effective when signs giving notice of the local traffic regulations are posted upon or at the entrances to the highway or part of the highway that is affected.

SECTION 292. IC 9-21-1-3.3, AS ADDED BY P.L.150-2009, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3.3. (a) A city or a town may adopt by ordinance ~~additional~~ traffic regulations concerning the use of golf carts on a highway under the jurisdiction of the city or the town. An ordinance adopted under this subsection may not:

(1) conflict with or duplicate **another** state law; **or**

(2) conflict with a driver's licensing requirement of another provision of the Indiana Code.

(b) A fine assessed for a violation of a traffic ordinance adopted by a city or a town under this section shall be deposited into the general fund of the city or town.

(c) A person who violates subsection (a) commits a Class C infraction.

SECTION 293. IC 9-21-8-57 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 57. A golf cart may not be operated on a highway except in accordance with an ordinance adopted under IC 9-21-1-3(a)(14) and IC 9-21-1-3.3(a) authorizing the operation of a golf cart on the highway.**

SECTION 294. IC 12-8-1-10, AS AMENDED BY P.L.113-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. This chapter expires ~~January 1, 2010.~~ **June 30, 2011.**

SECTION 295. IC 12-8-2-12, AS AMENDED BY P.L.113-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. This chapter expires ~~January 1, 2010.~~ **June 30, 2011.**

SECTION 296. IC 12-8-6-10, AS AMENDED BY P.L.113-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. This chapter expires ~~January 1, 2010.~~ **June 30, 2011.**

SECTION 297. IC 12-8-8-8, AS AMENDED BY P.L.113-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. This chapter expires ~~January 1, 2010.~~ **June 30, 2011.**

SECTION 298. IC 12-12-8-6, AS AMENDED BY P.L.141-2006, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) There is established a statewide independent living council. The council is not a part of a state agency.

(b) The council consists of at least twenty (20) members appointed by the governor, including the following:

(1) ~~Each~~ **At least one (1)** director of a center for independent living located in Indiana **chosen by the directors of the centers for independent living located in Indiana.**

(2) Nonvoting members from state agencies that provide services for individuals with disabilities.

(3) Other members, who may include the following:

(A) Representatives of centers for independent living.

(B) Parents and guardians of individuals with disabilities.

(C) Advocates for individuals with disabilities.

(D) Representatives from private business.

(E) Representatives of organizations that provide services for individuals with disabilities.

(F) Other appropriate individuals.

(c) The members appointed under subsection (b) must:

(1) provide statewide representation;

(2) represent a broad range of individuals with disabilities from diverse backgrounds;

(3) be knowledgeable about centers for independent living and independent living services; and

(4) include a majority of members who:

(A) are individuals with disabilities; and

(B) are not employed by a state agency or a center for independent living.

SECTION 299. IC 12-29-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 1. (a) The county executive of a county may authorize the furnishing of financial assistance to a community mental retardation and other developmental disabilities center that is located or will be located in the county.

(b) Assistance authorized under this section shall be used for the following purposes:

(1) Constructing a center.

(2) Operating a center.

(c) Upon request of the county executive, the county fiscal body may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in subsection (b). The appropriation may not exceed the amount that could be collected from an annual tax levy of not more than three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of taxable property within the county.

(d) For purposes of this subsection, "first calendar year" refers to the first calendar year after 2008 in which the county imposes an ad valorem property tax levy for the county general fund to provide financial assistance under this chapter. If a county did not provide financial assistance under this chapter in 2008, the county for a following calendar year:

(1) may propose a financial assistance budget; and

(2) shall refer its proposed financial assistance budget for the first calendar year to the department of local government finance before the tax levy is advertised.

The ad valorem property tax levy to fund the budget for the first calendar year is subject to review and approval under IC 6-1.1-18.5-10.

SECTION 300. IC 12-29-2-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 1.2. (a) The county executive of a county may authorize the furnishing of financial assistance for the purposes described in subsection (b) to a community mental health center that is located or will be located:

(1) in the county;

(2) anywhere in Indiana, if the community mental health center is organized to provide services to at least two (2) counties, including the county executive's county; or

(3) in an adjacent state, if the center is organized to provide services to Indiana residents, including residents in the county executive's county.

If a community mental health center is organized to serve more than one (1) county, upon request of the county executive, each county fiscal body may appropriate money annually from the county's general fund to provide financial assistance for the community mental health center.

(b) Assistance authorized under this section shall be used for the following purposes:

(1) Constructing a community mental health center.

(2) Operating a community mental health center.

(c) The appropriation from a county authorized under subsection (a) may not exceed ~~the following:~~

~~(1) For 2004, the product of the amount determined under section 2(b)(1) of this chapter multiplied by one and five hundred four thousandths (1.504).~~

~~(2) for 2005 and each year thereafter,~~ the product of the amount determined under section 2(b)(2) of this chapter for that year multiplied by one and five hundred four thousandths (1.504).

(d) For purposes of this subsection, "first calendar year" refers to the first calendar year after 2008 in which the county imposes an ad valorem property tax levy for the county general fund to provide financial assistance under this chapter. If a county did not provide financial assistance under this chapter in 2008, the county, for a following calendar year:

(1) may propose a financial assistance budget; and

(2) shall refer its proposed financial assistance budget for the first calendar year to the department of local government finance before the tax levy is advertised.

The ad valorem property tax levy to fund the budget for the first calendar year is subject to review and approval under IC 6-1.1-18.5-10.

SECTION 301. IC 14-33-9-1, AS AMENDED BY P.L.146-2008, SECTION 428, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 1. (a) **Except as provided in IC 6-1.1-17-20,** the budget of a district:

(1) must be prepared and submitted:

(A) at the same time;

(B) in the same manner; and

(C) with notice;

as is required by statute for the preparation of budgets by municipalities; and

(2) is subject to the same review by:

(A) the county board of tax adjustment; and

(B) the department of local government finance;

as is required by statute for the budgets of municipalities.

(b) If a district is established in more than one (1) county:

(1) except as provided in subsection (c), the budget shall be certified to the auditor of the county in which is located the court that had exclusive jurisdiction over the establishment of the district; and

(2) notice must be published in each county having land in the district. Any taxpayer in the district is entitled to be heard before the county board of tax adjustment and, after December 31, 2008, the fiscal body of each county having jurisdiction.

(c) If one (1) of the counties in a district contains either a first or second class city located in whole or in part in the district, the budget:

(1) shall be certified to the auditor of that county; and

(2) is subject to review at the county level only by the county board of tax adjustment and, after December 31, 2008, the fiscal body of that county.

SECTION 302. IC 14-33-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The board shall budget annually the necessary money to meet the probable expenses of operation and maintenance of the district, including the following:

(1) Repairs.
(2) Fees.
(3) Salaries.
(4) Depreciation on all depreciable assets.
(5) Rents.
(6) Supplies.

(b) **Subject to any budget review and approval required under this chapter,** the board ~~shall~~ **may** add **not more than** ten percent (10%) of the total for contingencies.

SECTION 303. IC 20-19-3-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: **Sec. 9. Beginning January 1, 2010, the department may obtain and maintain student test number information in a manner and form that permits any person who is authorized to review the information, to:**

(1) access the information at any time; and

(2) accurately determine:

(A) where each student is enrolled and attending classes; and

(B) the number of students enrolled in a school corporation or charter school and residing in the area served by a school corporation;

as of any date after December 31, 2009, occurring before two

(2) regular instructional days before the date of the inquiry. Each school corporation and charter school shall provide the information to the department in the form and on a schedule that permits the department to comply with this section. The department shall provide technical assistance to school corporations and charter schools to assist school corporations and charter schools in complying with this section.

SECTION 304. IC 20-20-13-3, AS ADDED BY P.L.218-2005, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. As used in sections 13 through 24 of this chapter, "school corporation" includes, except as otherwise provided in this chapter, the Indiana School for the Blind and Visually Impaired established by IC 20-21-2-1, ~~and~~ the Indiana School for the Deaf established by IC 20-22-2-1, **and a charter school established under IC 20-24.**

SECTION 305. IC 20-20-13-6, AS AMENDED BY P.L.31-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The Senator David C. Ford educational

technology fund is established to extend educational technologies to elementary and secondary schools. The fund may be used for:

(1) the 4R's technology grant program to assist school corporations (on behalf of public schools) in purchasing technology equipment:

(A) for kindergarten and grade 1 students, to learn reading, writing, and arithmetic using technology;

(B) for students in all grades, to understand that technology is a tool for learning; and

(C) for students in kindergarten through grade 3 who have been identified as needing remediation, to offer daily remediation opportunities using technology to prevent those students from failing to make appropriate progress at the particular grade level;

(2) a school technology program developed by the department. The program may include grants to school corporations for the purchase of:

(A) equipment, hardware, and software;

(B) learning and teaching systems; and

(C) other materials;

that promote student learning, as determined by the department.

~~(2)~~ **(3)** providing educational technologies, including computers in the homes of students;

~~(3)~~ **(4)** conducting educational technology training for teachers; and

~~(4)~~ **(5)** other innovative educational technology programs.

(b) The department may also use money in the fund under contracts entered into with the office of technology established by IC 4-13.1-2-1 to study the feasibility of establishing an information telecommunications gateway that provides access to information on employment opportunities, career development, and instructional services from data bases operated by the state among the following:

(1) Elementary and secondary schools.

(2) Postsecondary educational institutions.

(3) Career and technical educational centers and institutions that are not postsecondary educational institutions.

(4) Libraries.

(5) Any other agencies offering education and training programs.

(c) The fund consists of:

(1) state appropriations;

(2) private donations to the fund;

(3) money directed to the fund from the corporation for educational technology under IC 20-20-15; or

(4) any combination of the amounts described in subdivisions (1) through (3).

(d) The fund shall be administered by the department.

(e) Unexpended money appropriated to or otherwise available in the fund at the end of a state fiscal year does not revert to the state general fund but remains available to the department for use under this chapter.

(f) Subject to section 7 of this chapter, a school corporation may use money from the school corporation's capital projects fund as permitted under IC 20-40-8 for educational technology equipment.

SECTION 306. IC 20-20-36.2-5, AS ADDED BY P.L.1-2009, SECTION 120, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 5. (a) An eligible school corporation's circuit breaker replacement amount for 2009 is equal to the result determined under STEP FOUR of the following formula:

STEP ONE: Determine the amount of credits granted against the eligible school corporation's combined levy for the eligible school corporation's debt service fund, capital projects fund, transportation fund, school bus replacement fund, and racial balance fund.

STEP TWO: Determine the sum of the STEP ONE amounts for all eligible school corporations in Indiana.

STEP THREE: Divide ~~fifty million dollars ($50,000,000)~~ **the lesser of the STEP TWO amount or forty million dollars ($40,000,000)** by the STEP TWO amount, rounding to the nearest ten thousandth (0.0001).

STEP FOUR: Multiply the STEP THREE result by the STEP ONE amount, rounding to the nearest dollar ($1).

(b) **An eligible school corporation is entitled to a grant under this chapter in a calendar year. The grant is equal to the eligible school corporation's circuit breaker replacement amount, as determined for calendar year 2010.** An eligible school corporation's circuit breaker replacement amount for 2010 is equal to the result determined under STEP ~~FOUR~~ **SIX** of the following formula:

STEP ONE: Determine the amount of credits granted against the eligible school corporation's combined levy for the school

corporation's debt service fund, capital projects fund, transportation fund, school bus replacement fund, and racial balance fund.

STEP TWO: **Determine an amount equal to two percent (2%) of the school corporation's total combined property tax levy for 2010, rounded to the nearest one dollar ($1).**

STEP THREE: Determine the greater of zero (0) or the result of the STEP ONE amount minus the STEP TWO amount.

STEP FOUR: Determine the sum of the STEP ~~ONE~~ **THREE** amounts for all eligible school corporations in Indiana.

STEP ~~THREE: Divide seventy~~ **FIVE: Determine the result of the lesser of:**

(A) one (1); or

(B) the result of sixty million dollars ~~($70,000,000)~~ **($60,000,000) divided** by the STEP ~~TWO~~ **FOUR** amount, rounding to the nearest ten thousandth (0.0001).

STEP ~~FOUR:~~ **SIX:** Multiply the STEP ~~THREE~~ **FIVE** result by the STEP ~~ONE~~ **THREE** amount, rounding to the nearest dollar ($1).

SECTION 307. IC 20-20-36.2-7, AS ADDED BY P.L.1-2009, SECTION 120, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 7. (a) Not later than ~~May 1~~ **July 30** of a calendar year, the budget agency shall certify to the department an initial estimate of the circuit breaker replacement amount attributable to each school corporation for the calendar year.

(b) Not later than November 1 of a calendar year, the budget agency shall certify to the department a final estimate of the circuit breaker replacement amount attributable to each eligible school corporation for the calendar year.

(c) The budget agency shall compute an amount certified under this section using the best information available to the budget agency at the time the certification is made.

SECTION 308. IC 20-20-36.2-8, AS ADDED BY P.L.1-2009, SECTION 120, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 8. Subject to section 9 of this chapter, the department shall distribute a grant to an eligible school corporation equal to fifty percent (50%) of the eligible school corporation's estimated circuit breaker replacement amount for the calendar year in two (2) installments. ~~An installment shall be paid~~

~~not later than:~~

~~(1) June 20; and~~

~~(2) December 20;~~

~~of the calendar year.~~

SECTION 309. IC 20-20-36.2-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 11. This chapter expires January 1, 2011.**

SECTION 310. IC 20-23-6-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 18. (a) Before January 1, 2011, Prairie Township School Corporation shall reorganize by consolidating with an adjacent school corporation under this chapter.**

(c) If the governing body of Prairie Township School Corporation does not comply with this section before January 1, 2011, the state board shall, after December 31, 2010, develop a reorganization plan for the school corporation and require the governing body to implement the plan.

SECTION 311. IC 20-23-9-5, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. If the department of local government finance receives a petition of appeal under section 4 of this chapter, the department of local government finance shall ~~submit the petition to the school property tax control board established by IC 6-1.1-19-4.1 for~~ **hold** a factfinding hearing.

SECTION 312. IC 20-23-9-6, AS ADDED BY P.L.231-2005, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. ~~(a) If the department of local government finance submits a petition to the school property tax control board under section 5 of this chapter, the school property tax control board shall hold a factfinding hearing.~~

~~(b)~~ **(a)** At a **factfinding** hearing ~~described in subsection (a),~~ **under section 5 of this chapter,** the ~~school property tax control board~~ **department of local government finance** shall determine the following:

(1) Whether the township school has made all payments required by any statute, including the following:

(A) P.L.32-1999.

(B) IC 20-23-5-12.

(C) The resolution or plan of annexation of the township school, including:

(i) any amendment to the resolution or plan;

(ii) any supporting or related documents; and

(iii) any agreement between the township school and an annexing corporation relating to the winding up of affairs of the township school.

(2) The amount, if any, by which the township school is in arrears on any payment described in subdivision (1).

(3) Whether the township school has filed with the department of local government finance all reports concerning the affairs of the township school, including all transfer tuition reports required for the two (2) school years immediately preceding the date on which the township school was annexed.

~~(c)~~ **(b)** In determining the amount of arrears under ~~subsection (b)(2),~~ **subsection (a)(2),** the ~~school property tax control board~~ **department of local government finance** shall consider all amounts due to an annexing corporation, including the following:

(1) Any transfer tuition payments due to the annexing corporation.

(2) All levies, excise tax distributions, and state distributions received by the township school and due to the annexing corporation, including levies and distributions received by the township school after the date on which the township school was annexed.

(3) All excessive levies that the township school agreed to impose and pay to an annexing corporation but failed to impose.

~~(d)~~ **(c)** If, in a hearing under this section, ~~a school property tax control board~~ **the department of local government finance** determines that a township school has:

(1) under subsection ~~(b)(1),~~ **(a)(1),** failed to make a required payment; or

(2) under subsection ~~(b)(3),~~ **(a)(3),** failed to file a required report;

the department may act under section 7 of this chapter.

SECTION 313. IC 20-23-9-7, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) If ~~a school property tax control board~~ **the department of local government finance** makes a determination under section ~~6(d)~~ **6(c)** of this chapter, the department:

(1) may prohibit a township from:

(A) acquiring real estate;

(B) making a lease or incurring any other contractual obligation calling for an annual outlay by the township exceeding ten thousand dollars ($10,000);

(C) purchasing personal property for a consideration greater than ten thousand dollars ($10,000); and

(D) adopting or advertising a budget, tax levy, or tax rate for any calendar year;

until the township school has made all required payments under section ~~6(b)(1)~~ **6(a)(1)** of this chapter and filed all required reports under section ~~6(b)(3)~~ **6(a)(3)** of this chapter; and

(2) shall certify to the treasurer of state the amount of arrears determined under section ~~6(b)(2)~~ **6(a)(2)** of this chapter.

(b) Upon being notified of the amount of arrears certified under subsection (a)(2), the treasurer of state shall make payments from the funds of state to the extent, but not in excess, of any amounts appropriated by the general assembly for distribution to the township school, deducting the payments from any amount distributed to the township school.

SECTION 314. IC 20-24-7-11, AS ADDED BY P.L.246-2005, SECTION 129, IS CORRECTED AND IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) If the United States Department of Education approves a new competition for states to receive matching funds for charter school facilities, the department shall pursue this federal funding.

~~*(b) There is appropriated to the department of education ten million dollars ($10,000,000) from the common school fund interest balance in the state general fund to provide state matching funds for the federal funding described in subsection (a) for the benefit of charter schools, beginning July 1, 2005, and ending June 30, 2007.*~~

(b) The department shall use the common school fund interest balance to provide state matching funds for the federal funding described in subsection (a) for the benefit of charter schools.

~~(c) The department shall develop guidelines and the state board shall adopt rules under IC 4-22-2 necessary to implement this section.~~

(c) To increase the state's opportunity to receive matching funds from the United States Department of Education, the department shall develop a facilities incentive grants program before January 1, 2010.

(d) The department shall use the priority criteria set forth in 21 U.S.C. 7221d(b) and 34 CFR 226.12 through 34 CFR 226.14 to

develop the facilities incentive grants program.

SECTION 315. IC 20-24-7-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 13. (a) As used in this SECTION, "virtual charter school" means any charter school, including a conversion charter school, that provides for the delivery of more than fifty percent (50%) of instruction to students through:**

(1) virtual distance learning;

(2) online technologies; or

(3) computer based instruction.

(b) The department shall establish a pilot program to provide funding for a statewide total of up to two hundred (200) students who attend virtual charter schools in the school year ending in 2010 and five hundred (500) students who attend virtual charter schools in the school year ending in 2011. The department shall choose an entity or entities to operate the virtual charter school. The pilot program must focus on children who have medical disabilities or circumstances that prevent them from attending school or for whom a virtual charter school is a better alternative than a traditional school. At least seventy-five percent (75%) of the students enrolled in virtual charter schools under this section must have been included in the ADM count for the previous school year.

(c) A virtual charter school is entitled to receive funding from the state in an amount equal to the product of:

(1) the number of students included in the virtual charter school's ADM who are participating in the pilot program; multiplied by

(2) eighty percent (80%) of the statewide average basic tuition support.

(d) The department shall adopt rules under IC 4-22-2 to govern the operation of virtual charter schools.

(e) Beginning in 2009, the department shall before December 1 of each year submit an annual report to the state budget committee concerning the program under this section.

SECTION 316. IC 20-26-5-4, AS AMENDED BY P.L.168-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. In carrying out the school purposes of a school corporation, the governing body acting on the school corporation's behalf has the following specific powers:

(1) In the name of the school corporation, to sue and be sued and to enter into contracts in matters permitted by applicable law.

(2) To take charge of, manage, and conduct the educational affairs of the school corporation and to establish, locate, and provide the necessary schools, school libraries, other libraries where permitted by law, other buildings, facilities, property, and equipment.

(3) To appropriate from the school corporation's general fund an amount, not to exceed the greater of three thousand dollars ($3,000) per budget year or one dollar ($1) per pupil, not to exceed twelve thousand five hundred dollars ($12,500), based on the school corporation's previous year's ADM, to promote the best interests of the school corporation through:

(A) the purchase of meals, decorations, memorabilia, or awards;

(B) provision for expenses incurred in interviewing job applicants; or

(C) developing relations with other governmental units.

(4) To:

(A) Acquire, construct, erect, maintain, hold, and contract for construction, erection, or maintenance of real estate, real estate improvements, or an interest in real estate or real estate improvements, as the governing body considers necessary for school purposes, including buildings, parts of buildings, additions to buildings, rooms, gymnasiums, auditoriums, playgrounds, playing and athletic fields, facilities for physical training, buildings for administrative, office, warehouse, repair activities, or housing school owned buses, landscaping, walks, drives, parking areas, roadways, easements and facilities for power, sewer, water, roadway, access, storm and surface water, drinking water, gas, electricity, other utilities and similar purposes, by purchase, either outright for cash (or under conditional sales or purchase money contracts providing for a retention of a security interest by the seller until payment is made or by notes where the contract, security retention, or note is permitted by applicable law), by exchange, by gift, by devise, by eminent domain, by lease with or without option to purchase, or by lease under IC 20-47-2, IC 20-47-3, or IC 20-47-5.

(B) Repair, remodel, remove, or demolish, or to contract for the repair, remodeling, removal, or demolition of the real estate, real estate improvements, or interest in the real estate

or real estate improvements, as the governing body considers necessary for school purposes.

(C) Provide for conservation measures through utility efficiency programs or under a guaranteed savings contract as described in IC 36-1-12.5.

(5) To acquire personal property or an interest in personal property as the governing body considers necessary for school purposes, including buses, motor vehicles, equipment, apparatus, appliances, books, furniture, and supplies, either by cash purchase or under conditional sales or purchase money contracts providing for a security interest by the seller until payment is made or by notes where the contract, security, retention, or note is permitted by applicable law, by gift, by devise, by loan, or by lease with or without option to purchase and to repair, remodel, remove, relocate, and demolish the personal property. All purchases and contracts specified under the powers authorized under subdivision (4) and this subdivision are subject solely to applicable law relating to purchases and contracting by municipal corporations in general and to the supervisory control of state agencies as provided in section 6 of this chapter.

(6) To sell or exchange real or personal property or interest in real or personal property that, in the opinion of the governing body, is not necessary for school purposes, in accordance with IC 20-26-7, to demolish or otherwise dispose of the property if, in the opinion of the governing body, the property is not necessary for school purposes and is worthless, and to pay the expenses for the demolition or disposition.

(7) To lease any school property for a rental that the governing body considers reasonable or to permit the free use of school property for:

(A) civic or public purposes; or

(B) the operation of a school age child care program for children who are at least five (5) years of age and less than fifteen (15) years of age that operates before or after the school day, or both, and during periods when school is not in session;

if the property is not needed for school purposes. Under this subdivision, the governing body may enter into a long term lease with a nonprofit corporation, community service organization, or other governmental entity, if the corporation, organization, or other governmental entity will use the property to be leased for

civic or public purposes or for a school age child care program. However, if payment for the property subject to a long term lease is made from money in the school corporation's debt service fund, all proceeds from the long term lease must be deposited in the school corporation's debt service fund so long as payment for the property has not been made. The governing body may, at the governing body's option, use the procedure specified in IC 36-1-11-10 in leasing property under this subdivision.

(8) To:

(A) Employ, contract for, and discharge superintendents, supervisors, principals, teachers, librarians, athletic coaches (whether or not they are otherwise employed by the school corporation and whether or not they are licensed under IC 20-28-5), business managers, superintendents of buildings and grounds, janitors, engineers, architects, physicians, dentists, nurses, accountants, teacher aides performing noninstructional duties, educational and other professional consultants, data processing and computer service for school purposes, including the making of schedules, the keeping and analyzing of grades and other student data, the keeping and preparing of warrants, payroll, and similar data where approved by the state board of accounts as provided below, and other personnel or services as the governing body considers necessary for school purposes.

(B) Fix and pay the salaries and compensation of persons and services described in this subdivision.

(C) Classify persons or services described in this subdivision and to adopt schedules of salaries or compensation.

(D) Determine the number of the persons or the amount of the services employed or contracted for as provided in this subdivision.

(E) Determine the nature and extent of the duties of the persons described in this subdivision.

The compensation, terms of employment, and discharge of teachers are, however, subject to and governed by the laws relating to employment, contracting, compensation, and discharge of teachers. The compensation, terms of employment, and discharge of bus drivers are subject to and governed by laws relating to employment, contracting, compensation, and discharge of bus drivers. The forms and procedures relating to the use of

computer and data processing equipment in handling the financial affairs of the school corporation must be submitted to the state board of accounts for approval so that the services are used by the school corporation when the governing body determines that it is in the best interest of the school corporation while at the same time providing reasonable accountability for the funds expended.

(9) Notwithstanding the appropriation limitation in subdivision (3), when the governing body by resolution considers a trip by an employee of the school corporation or by a member of the governing body to be in the interest of the school corporation, including attending meetings, conferences, or examining equipment, buildings, and installation in other areas, to permit the employee to be absent in connection with the trip without any loss in pay and to reimburse the employee or the member the employee's or member's reasonable lodging and meal expenses and necessary transportation expenses. To pay teaching personnel for time spent in sponsoring and working with school related trips or activities.

(10) To transport children to and from school, when in the opinion of the governing body the transportation is necessary, including considerations for the safety of the children and without regard to the distance the children live from the school. The transportation must be otherwise in accordance with applicable law.

(11) To provide a lunch program for a part or all of the students attending the schools of the school corporation, including the establishment of kitchens, kitchen facilities, kitchen equipment, lunch rooms, the hiring of the necessary personnel to operate the lunch program, and the purchase of material and supplies for the lunch program, charging students for the operational costs of the lunch program, fixing the price per meal or per food item. To operate the lunch program as an extracurricular activity, subject to the supervision of the governing body. To participate in a surplus commodity or lunch aid program.

(12) To purchase textbooks, to furnish textbooks without cost or to rent textbooks to students, to participate in a textbook aid program, all in accordance with applicable law.

(13) To accept students transferred from other school corporations and to transfer students to other school corporations in accordance with applicable law.

(14) To make budgets, to appropriate funds, and to disburse the money of the school corporation in accordance with applicable law. To borrow money against current tax collections and otherwise to borrow money, in accordance with IC 20-48-1.

(15) To purchase insurance or to establish and maintain a program of self-insurance relating to the liability of the school corporation or the school corporation's employees in connection with motor vehicles or property and for additional coverage to the extent permitted and in accordance with IC 34-13-3-20. To purchase additional insurance or to establish and maintain a program of self-insurance protecting the school corporation and members of the governing body, employees, contractors, or agents of the school corporation from liability, risk, accident, or loss related to school property, school contract, school or school related activity, including the purchase of insurance or the establishment and maintenance of a self-insurance program protecting persons described in this subdivision against false imprisonment, false arrest, libel, or slander for acts committed in the course of the persons' employment, protecting the school corporation for fire and extended coverage and other casualty risks to the extent of replacement cost, loss of use, and other insurable risks relating to property owned, leased, or held by the school corporation. To:

(A) participate in a state employee health plan under IC 5-10-8-6.6 **or IC 5-10-8-6.7;**

(B) purchase insurance; or

(C) establish and maintain a program of self-insurance;

to benefit school corporation employees, including accident, sickness, health, or dental coverage, provided that a plan of self-insurance must include an aggregate stop-loss provision.

(16) To make all applications, to enter into all contracts, and to sign all documents necessary for the receipt of aid, money, or property from the state, the federal government, or from any other source.

(17) To defend a member of the governing body or any employee of the school corporation in any suit arising out of the performance of the member's or employee's duties for or employment with, the school corporation, if the governing body by resolution determined that the action was taken in good faith. To save any member or employee harmless from any liability,

cost, or damage in connection with the performance, including the payment of legal fees, except where the liability, cost, or damage is predicated on or arises out of the bad faith of the member or employee, or is a claim or judgment based on the member's or employee's malfeasance in office or employment.

(18) To prepare, make, enforce, amend, or repeal rules, regulations, and procedures:

(A) for the government and management of the schools, property, facilities, and activities of the school corporation, the school corporation's agents, employees, and pupils and for the operation of the governing body; and

(B) that may be designated by an appropriate title such as "policy handbook", "bylaws", or "rules and regulations".

(19) To ratify and approve any action taken by a member of the governing body, an officer of the governing body, or an employee of the school corporation after the action is taken, if the action could have been approved in advance, and in connection with the action to pay the expense or compensation permitted under IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 20-40-12, and IC 20-48-1 or any other law.

(20) To exercise any other power and make any expenditure in carrying out the governing body's general powers and purposes provided in this chapter or in carrying out the powers delineated in this section which is reasonable from a business or educational standpoint in carrying out school purposes of the school corporation, including the acquisition of property or the employment or contracting for services, even though the power or expenditure is not specifically set out in this chapter. The specific powers set out in this section do not limit the general grant of powers provided in this chapter except where a limitation is set out in IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 20-40-12, and IC 20-48-1 by specific language or by reference to other law.

SECTION 317. IC 20-26-11-23, AS AMENDED BY P.L.146-2008, SECTION 473, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 23. (a) If a transfer is ordered to commence in a school year, where the transferor corporation has net additional costs over savings (on account of any transfer ordered) allocable to the calendar year in which the school year begins, and where the transferee corporation does not have budgeted funds for the net additional costs, the net additional costs may be recovered by one

(1) or more of the following methods in addition to any other methods provided by applicable law:

(1) An emergency loan made under IC 20-48-1-7 to be paid, out of the debt service levy and fund, or a loan from any state fund made available for the net additional costs.

(2) An advance in the calendar year of state funds, which would otherwise become payable to the transferee corporation after such calendar year under law.

(3) A grant or grants in the calendar year from any funds of the state made available for the net additional costs.

(b) The net additional costs must be certified by the department of local government finance. ~~and any grant shall be made solely after affirmative recommendation of the school property tax control board.~~ Repayment of any advance or loan from the state shall be made from state tuition support distributions or other money available to the school corporation.

SECTION 318. IC 20-27-9-5, AS AMENDED BY P.L.146-2009, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A special purpose bus may be used:

(1) by a school corporation to provide regular transportation of a student between one (1) school and another school but not between the student's residence and the school;

(2) to transport students and their supervisors, including coaches, managers, and sponsors to athletic or other extracurricular school activities and field trips;

(3) by a school corporation to provide transportation between an individual's residence and the school for an individual enrolled in a special program for the habilitation or rehabilitation of persons with a developmental or physical disability; and

(4) to transport homeless students under IC 20-27-12.

(b) The mileage limitation of section 3 of this chapter does not apply to special purpose buses.

(c) The operator of a special purpose bus must be at least twenty-one (21) years of age, be authorized by the school corporation, and meet the following requirements:

(1) If the special purpose bus has a capacity of less than sixteen (16) passengers, the operator must

~~(A)~~ hold a valid:

~~(i)~~ **(A)** operator's;

~~(ii)~~ **(B)** chauffeur's;

~~(iii)~~ **(C)** public passenger chauffeur's; or

~~(iv)~~ **(D)** commercial driver's;

license. ~~and~~

~~(B) meet the requirements for a school bus driver set forth in IC 20-27-8-4.~~

(2) If the special purpose bus has a capacity of more than fifteen (15) passengers, the operator must meet the requirements for a school bus driver set out in IC 20-27-8.

(d) A special purpose bus is not required to be constructed, equipped, or painted as specified for school buses under this article or by the rules of the committee.

(e) An owner or operator of a special purpose bus, other than a special purpose bus owned or operated by a school corporation or a nonpublic school, is subject to IC 8-2.1.

SECTION 319. IC 20-28-7-9, AS AMENDED BY P.L.38-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) Before a teacher is refused continuation of the contract under section 8 of this chapter, the teacher has the following rights, which shall be strictly construed:

(1) The principal of the school at which the teacher teaches must provide the teacher with an annual written evaluation of the teacher's performance before January 1 of each year. Upon the request of a nonpermanent teacher, delivered in writing to the principal not later than thirty (30) days after the teacher receives the evaluation required by this section, the principal shall provide the teacher with an additional written evaluation.

(2) On or before ~~May~~ **June** 1 **in an even-numbered year and the later of June 15 or the date a budget act is enacted by the general assembly in an odd-numbered year,** the school corporation shall notify the teacher that the governing body will consider nonrenewal of the contract for the next school term. The notification must be:

(A) written; and

(B) delivered in person or mailed by registered or certified mail to the teacher at the teacher's last known address.

(b) The notice in subsection (a)(2) must include a written statement, which:

(1) may be developed in executive session; and

(2) is not a public document;

giving the reasons for the consideration of the nonrenewal of the

teacher's contract.

(c) For reasons other than a reduction in force, the notice in subsection (a)(2) must inform the teacher that, not later than ten (10) days after the teacher's receipt of the notice, the teacher may request a conference under section 10 of this chapter.

(d) If the reason for nonrenewal is reduction in force, the teacher may request a conference as provided in section 10 of this chapter.

SECTION 320. IC 20-28-11-3, AS ADDED BY P.L.1-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. Each plan:

(1) must provide for the improvement of the performance of the individuals evaluated;

(2) must provide for the growth and development of the individuals evaluated;

(3) must require periodic assessment of the effectiveness of the plan;

(4) must provide that nonpermanent and semipermanent teachers receive:

(A) an evaluation on or before December 31 each year; and

(B) if requested by that teacher, an additional evaluation on or before March 1 of the following year; ~~and~~

(5) may provide a basis for making employment decisions; **and**

(6) may provide that collective program results of tests used by the school corporation may be used as a factor, but not the sole factor, to evaluate all educators in order to enable the state to compete for United States Department of Education funding. If collective testing results are used as a factor in evaluations by the school corporation, they must be applied uniformly to all educators.

~~However, the plan may not provide for an evaluation that is based in whole or in part on the ISTEP program test scores of the students in the school corporation.~~

SECTION 321. IC 20-33-8.5-5, AS AMENDED BY P.L.234-2007, SECTION 228, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 5. The agreement must provide how the expenses of supervising a student who has been suspended or expelled are funded. A school corporation may not be required to expend more than the transition to foundation ~~revenue per adjusted ADM~~ **amount** (as ~~defined in IC 20-43-1-29.3)~~ **determined under IC 20-43-5-6)** for each student referred under the agreement.

SECTION 322. IC 20-40-8-19, AS AMENDED BY P.L.146-2008, SECTION 528, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 19. Money in the fund may be used to pay for up to one hundred percent (100%) of the following costs of a school corporation:

(1) Utility services.

(2) Property or casualty insurance.

(3) Both utility services and property or casualty insurance.

A school corporation's expenditures under this section may not exceed in ~~2008~~ **2010** and in ~~2009~~ **2011** three and five-tenths percent (3.5%) of the school corporation's 2005 calendar year distribution.

SECTION 323. IC 20-43-1-1, AS AMENDED BY P.L.234-2007, SECTION 232, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This article expires January 1, ~~2010.~~ **2012.**

SECTION 324. IC 20-43-1-8, AS ADDED BY P.L.2-2006, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 8. "Basic tuition support" means the part of a school corporation's state tuition support for basic programs determined under ~~IC 20-43-6-5.~~ **IC 20-43-6-3.**

SECTION 325. IC 20-43-1-25, AS ADDED BY P.L.2-2006, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 25. "State tuition support" means the amount of state funds to be distributed to:

(1) a school corporation **other than a virtual charter school** in any calendar year under this article for all grants, distributions, and awards described in IC 20-43-2-3; **and**

(2) a virtual charter school in any calendar year under IC 20-24-7-13.

SECTION 326. IC 20-43-1-21.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **Sec. 21.5. "Restoration grant" refers to a grant under IC 20-43-12.**

SECTION 327. IC 20-43-1-31 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 31. "Virtual charter school" has the meaning set forth in IC 20-24-7-13.**

SECTION 328. IC 20-43-1-32 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **Sec. 32. For**

purposes of the calculation of state tuition support under this article and for purposes of restoration grants, a school corporation's fiscal year is the calendar year.

SECTION 329. IC 20-43-2-2, AS AMENDED BY P.L.146-2008, SECTION 482, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 2. The maximum state distribution for a calendar year for all school corporations for the purposes described in section 3 of this chapter is:

~~(1) three billion eight hundred twelve million five hundred thousand dollars ($3,812,500,000) in 2007;~~

~~(2) three billion nine hundred sixty million nine hundred thousand dollars ($3,960,900,000) in 2008; and~~

~~(3)~~ **(1)** ~~six~~ **five** billion ~~five~~ **eight** hundred ~~nine~~ **twenty-nine** million **nine hundred thousand** dollars ~~($6,509,000,000)~~ **($5,829,900,000)** in 2009;

(2) six billion five hundred forty-eight million nine hundred thousand dollars ($6,548,900,000) in 2010; and

(3) six billion five hundred sixty-eight million five hundred thousand dollars ($6,568,500,000) in 2011.

SECTION 330. IC 20-43-2-3, AS AMENDED BY P.L.3-2008, SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 3. If the total amount to be distributed:

(1) as basic tuition support;

(2) for academic honors diploma awards;

(3) for primetime distributions;

(4) for special education grants; ~~and~~

(5) for career and technical education grants;

(6) for restoration grants; and

(7) for small school grants;

for a particular year exceeds the maximum state distribution for a calendar year, the amount to be distributed for state tuition support under this article to each school corporation during each of the last six (6) months of the year shall be proportionately reduced so that the total reductions equal the amount of the excess.

SECTION 331. IC 20-43-3-4, AS AMENDED BY P.L.146-2008, SECTION 485, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 4. (a) **This subsection applies to calendar year 2009.** A school corporation's previous year revenue equals the amount determined under STEP TWO of the following

formula:

STEP ONE: Determine the sum of the following:

(A) The school corporation's basic tuition support for the year that precedes the current year.

(B) The school corporation's maximum permissible tuition support levy for calendar year 2008.

(C) The school corporation's excise tax revenue for calendar year 2007.

STEP TWO: Subtract from the STEP ONE result an amount equal to the reduction in the school corporation's state tuition support under any combination of subsection ~~(b),~~ **(c),** subsection ~~(c),~~ **(d),** IC 20-10.1-2-1 (before its repeal), or IC 20-30-2-4.

(b) This subsection applies to calendar years 2010 and 2011. A school corporation's previous year revenue equals the amount determined under STEP TWO of the following formula:

STEP ONE: Determine the sum of the following:

(A) The school corporation's basic tuition support for the year that precedes the current year.

(B) For calendar year 2010, the amount of education stabilization funds received by the school corporation in calendar year 2009 under Section 14002(a) of the federal American Recovery and Reinvestment Act of 2009 (ARRA).

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

STEP TWO: Subtract from the STEP ONE result an amount equal to the reduction in the school corporation's state tuition support under any combination of subsection (c) or IC 20-30-2-4.

~~(b)~~ **(c)** A school corporation's previous year revenue must be reduced if:

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

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

a given overstatement.

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

~~(c)~~ **(d)** This section applies only to 2009. A school corporation's previous year revenue must be reduced if an existing elementary or secondary school located in the school corporation converts to a charter school under IC 20-24-11. The amount of the reduction equals the product of:

(1) the sum of the amounts distributed to the conversion charter school under IC 20-24-7-3(c) and IC 20-24-7-3(d) (as effective December 31, 2008); multiplied by

(2) two (2).

SECTION 332. IC 20-43-4-7, AS AMENDED BY P.L.234-2007, SECTION 240, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 7. (a) This subsection does not apply to a charter school. When calculating adjusted ADM for ~~2008~~ **2010** distributions, this subsection, as effective after December 31, ~~2007,~~ **2009,** shall be used to calculate the adjusted ADM for the previous year rather than the calculation used to calculate adjusted ADM for ~~2007~~ **2009** distributions. For purposes of this article, a school corporation's "adjusted ADM" for the current year is the result determined under the following formula:

STEP ONE: Determine the sum of the following:

~~(A) The school corporation's ADM for the year preceding the current year by four (4) years multiplied by two-tenths (0.2).~~

~~(B) The school corporation's ADM for the year preceding the current year by three (3) years multiplied by two-tenths (0.2).~~

~~(C)~~ **(A)** The school corporation's ADM for the year preceding the current year by two (2) years ~~multiplied~~ **divided** by ~~two-tenths (0.2).~~ **three (3).**

~~(D)~~ **(B)** The school corporation's ADM for the year preceding the current year by one (1) year ~~multiplied~~ **divided** by ~~two-tenths (0.2).~~ **three (3).**

~~(E)~~ **(C)** The school corporation's ADM for the current year ~~multiplied~~ **divided** by ~~two-tenths (0.2).~~ **three (3).**

STEP TWO: Determine the school corporation's ADM for the current year.

STEP THREE: Determine the greater of the following:

(A) The STEP ONE result.

(B) The STEP TWO result.

(b) A charter school's adjusted ADM for purposes of this article is the charter school's current ADM.

SECTION 333. IC 20-43-5-3, AS AMENDED BY P.L.3-2008, SECTION 125, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 3. A school corporation's complexity index is determined under the following formula:

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

(1) Determine the percentage of the school corporation's students who were eligible for free or reduced price lunches in the school year ending in the later of:

(A) 2007 **for purposes of determining the complexity index in 2009, and 2009 for the purposes of determining the complexity index in 2010 and 2011**; or

(B) the first year of operation of the school corporation.

(2) Determine the quotient of:

~~(A) in 2008:~~

~~(i) two thousand two hundred fifty dollars ($2,250); divided by~~

~~(ii) four thousand seven hundred ninety dollars ($4,790); and~~

~~(B)~~ **(A)** in 2009:

(i) two thousand four hundred dollars ($2,400); divided by

(ii) four thousand eight hundred twenty-five dollars ($4,825);

(B) in 2010:

(i) two thousand two hundred sixty-three dollars ($2,263); divided by

(ii) four thousand five hundred fifty dollars ($4,550); and

(C) in 2011:

(i) two thousand two hundred forty-one dollars ($2,241); divided by

(ii) four thousand five hundred five dollars ($4,505).

(3) Determine the product of:

(A) the subdivision (1) amount; multiplied by

(B) the subdivision (2) amount.

STEP TWO: Determine the result of one (1) plus the STEP ONE result.

STEP THREE: This STEP applies if the STEP TWO result is

equal to or greater than at least one and twenty-five hundredths (1.25). Determine the result of the following:

(1) Subtract one and twenty-five hundredths (1.25) from the STEP TWO result.

(2) Determine the result of:

(A) the STEP TWO result; plus

(B) the subdivision (1) result.

The data to be used in making the calculations under STEP ONE must be the data collected in the annual pupil enrollment count by the department.

SECTION 334. IC 20-43-5-4, AS AMENDED BY P.L.234-2007, SECTION 244, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 4. A school corporation's foundation amount for a calendar year is the result determined under STEP TWO of the following formula:

STEP ONE: ~~Determine~~ **The STEP ONE amount is:**

~~(A) in 2008, four thousand seven hundred ninety dollars ($4,790), or~~

~~(B)~~ **(A)** in 2009, four thousand eight hundred twenty-five dollars ($4,825);

(B) in 2010, four thousand five hundred fifty dollars ($4,550); and

(C) in 2011, four thousand five hundred five dollars ($4,505).

STEP TWO: Multiply the STEP ONE amount by the school corporation's complexity index.

SECTION 335. IC 20-43-5-5, AS ADDED BY P.L.2-2006, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 5. A school corporation's previous year revenue foundation amount for a calendar year is equal to the **result of:**

(1) the school corporation's previous year revenue; divided by

(2) the school corporation's adjusted ADM for the previous year.

SECTION 336. IC 20-43-5-6, AS AMENDED BY P.L.234-2007, SECTION 245, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 6. **(a)** A school corporation's transition to foundation amount for a calendar year is equal to the result determined under STEP THREE of the following formula:

STEP ONE: Determine the difference of:

(A) the school corporation's foundation amount; minus

(B) the school corporation's previous year revenue foundation amount.

STEP TWO: Divide the STEP ONE result by:

~~(A) four (4) in 2008; or~~

~~(B)~~ **(A)** three (3) in 2009;

(B) two (2) in 2010; and

(C) one (1) in 2011.

STEP THREE: A school corporation's STEP THREE amount is the following:

(A) For a charter school located outside Marion County that has previous year revenue that is not greater than zero (0), the charter school's STEP THREE amount is the quotient of:

(i) the school corporation's transition to foundation revenue for the calendar year where the charter school is located; divided by

(ii) the school corporation's current ADM.

(B) For a charter school located in Marion County that has previous year revenue that is not greater than zero (0), the charter school's STEP THREE amount is the weighted average of the transition to foundation revenue for the school corporations where the students counted in the current ADM of the charter school have legal settlement, as determined under item (iv) of the following formula:

(i) Determine the transition to foundation revenue for each school corporation where a student counted in the current ADM of the charter school has legal settlement.

(ii) For each school corporation identified in item (i), divide the item (i) amount by the school corporation's current ADM.

(iii) For each school corporation identified in item (i), multiply the item (ii) amount by the number of students counted in the current ADM of the charter school that have legal settlement in the particular school corporation.

(iv) Determine the sum of the item (iii) amounts for the charter school.

(C) The STEP THREE amount for a school corporation that is not a charter school described in clause (A) or (B) is the following:

(i) The school corporation's foundation amount for the calendar year if the STEP ONE amount is at least negative

one hundred fifty dollars ~~(-$50)~~ **(-$150)** and not more than ~~one hundred~~ **fifty** dollars ~~($100).~~ **($50).**

~~(ii) For 2009, the school corporation's foundation amount for the calendar year, if the foundation amount in 2008 equaled the school corporation's transition to foundation revenue per adjusted ADM in 2008.~~

~~(iii)~~ **(ii)** The sum of the school corporation's previous year revenue foundation amount and the greater of the school corporation's STEP TWO amount or ~~one hundred~~ **fifty** dollars ~~($100),~~ **($50),** if the school corporation's STEP ONE amount is greater than ~~one hundred~~ **fifty** dollars ~~($100).~~ **($50).**

~~(iv)~~ **(iii)** The ~~difference determined by subtracting fifty dollars ($50) from~~ **amount determined under subsection (b), if the school corporation's STEP ONE amount is less than negative one hundred fifty dollars (-$150).**

(b) For the purposes of STEP THREE (C)(iii) in subsection (a), determine the result of:

(1) the school corporation's previous year revenue foundation amount; ~~if the school corporation's STEP ONE amount is less than negative fifty dollars (-$50).~~ **minus**

(2) the greater of:

(A) one hundred fifty dollars ($150); or

(B) the result of:

(i) the absolute value of the STEP ONE amount; divided by

(ii) nine (9) in 2010, and eight (8) in 2011.

SECTION 337. IC 20-43-5-7, AS AMENDED BY P.L.3-2008, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 7. A school corporation's transition to foundation revenue for a calendar year is equal to the ~~sum of the following:~~

~~(1) The~~ product of:

~~(A)~~ **(1)** the school corporation's transition to foundation amount for the calendar year; multiplied by

~~(B)~~ **(2)** the school corporation's:

~~(i)~~ **(A)** current ADM, if the current ADM for the school corporation is less than one hundred (100); and

~~(ii)~~ **(B)** current adjusted ADM, if ~~item (i)~~ **clause (A)** does not apply.

~~(2) Either:~~

~~(A) The result of:~~

~~(i) one hundred dollars ($100) for calendar year 2008 and one hundred fifty dollars ($150) for calendar year 2009; multiplied by~~

~~(ii) the school corporation's adjusted ADM;~~

~~if the school corporation's current ADM is less than three thousand and six hundred (3,600) and the amount determined under subdivision (1) is less than the school corporation's previous year revenue.~~

~~(B) The result of:~~

~~(i) one hundred dollars ($100) for calendar year 2008 and one hundred fifty dollars ($150) for calendar year 2009; multiplied by~~

~~(ii) the school corporation's adjusted ADM;~~

~~if clause (A) does not apply and the result of the amount under subdivision (1) is less than the result of the school corporation's previous year revenue multiplied by nine hundred sixty-five thousandths (0.965).~~

~~(C) The school corporation's current adjusted ADM multiplied by the lesser of:~~

~~(i) one hundred dollars ($100); or~~

~~(ii) the school corporation's STEP TWO amount under section 6 of this chapter;~~

~~if clauses (A) and (B) do not apply, the amount under subdivision (1) is less than the school corporation's previous year revenue, and the school corporation's result under STEP ONE of section 6 of this chapter is greater than zero (0). or~~

~~(D) Zero (0), if clauses (A), (B), and (C) do not apply.~~

~~(3) This subdivision does not apply to a charter school. Either:~~

~~(A) three hundred dollars ($300) multiplied by the school corporation's current ADM, if the school corporation's current ADM is less than one thousand seven hundred (1,700) and the school corporation's complexity index is greater than one and two-tenths (1.2);~~

~~(B) one hundred dollars ($100) multiplied by the school corporation's current ADM, if the school corporation's current ADM is less than one thousand seven hundred (1,700) and the school corporation's complexity index is greater than one and one-tenth (1.1) and not greater than one and two-tenths (1.2);~~

~~or~~

~~(C) zero (0), if clauses (A) and (B) do not apply.~~

SECTION 338. IC 20-43-6-1, AS ADDED BY P.L.2-2006, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 1. Subject to the amount appropriated by the general assembly for state tuition support and IC 20-43-2, the amount that a school corporation is entitled to receive in basic tuition support for a year is the amount determined in section ~~5~~ **3** of this chapter.

SECTION 339. IC 20-43-6-3, AS AMENDED BY P.L.146-2008, SECTION 488, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 3. (a) A school corporation's ~~total regular program~~ **basic** tuition support for a ~~calendar~~ year is the amount determined under the applicable provision of this section.

(b) This subsection applies to a school corporation that has transition to foundation revenue per adjusted ADM for a ~~calendar~~ year that is not equal to the ~~school corporation's~~ foundation amount for the ~~calendar~~ year. The school corporation's ~~total regular program~~ **basic** tuition support for a ~~calendar~~ year is equal to the school corporation's transition to foundation revenue for the ~~calendar~~ year.

(c) This subsection applies to a school corporation that has transition to foundation revenue per adjusted ADM for a ~~calendar~~ year that is equal to the ~~school corporation's~~ foundation amount for the ~~calendar~~ year. The school corporation's ~~total regular program~~ **basic** tuition support for a ~~calendar~~ year is the sum of the following:

(1) The ~~school corporation's~~ foundation amount for the ~~calendar~~ year multiplied by the school corporation's adjusted ADM. ~~for the current year.~~

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

(d) This subsection applies to students of a virtual charter school who are participating in the pilot program under IC 20-24-7-13. A virtual charter school's basic tuition support for a year for those students is the amount determined under IC 20-24-7-13.

SECTION 340. IC 20-43-7-6, AS AMENDED BY P.L.234-2007, SECTION 252, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 6. A school corporation's special education grant for a calendar year is equal to the sum of the

following:

(1) The nonduplicated count of pupils in programs for severe disabilities multiplied by

~~(A) in 2008, eight thousand three hundred dollars ($8,300); and~~

~~(B) in 2009,~~ eight thousand three hundred fifty dollars ($8,350).

(2) The nonduplicated count of pupils in programs of mild and moderate disabilities multiplied by

~~(A) in 2008, two thousand two hundred fifty dollars ($2,250); and~~

~~(B) in 2009,~~ two thousand two hundred sixty-five dollars ($2,265).

(3) The duplicated count of pupils in programs for communication disorders multiplied by

~~(A) in 2008, five hundred thirty-one dollars ($531); and~~

~~(B) in 2009,~~ five hundred thirty-three dollars ($533).

(4) The cumulative count of pupils in homebound programs multiplied by

~~(A) in 2008, five hundred thirty-one dollars ($531); and~~

~~(B) in 2009,~~ five hundred thirty-three dollars ($533).

(5) The nonduplicated count of pupils in special preschool education programs multiplied by two thousand seven hundred fifty dollars ($2,750).

SECTION 341. IC 20-43-9-4, AS AMENDED BY P.L.234-2007, SECTION 253, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 4. For purposes of computation under this chapter, the following shall be used:

(1) The staff cost amount for a school corporation

~~(A) in 2008, is seventy-two thousand dollars ($72,000); and~~

~~(B) in 2009,~~ is seventy-four thousand five hundred dollars ($74,500).

(2) The guaranteed primetime amount for a school corporation is the primetime allocation, before any penalty is assessed under this chapter, that the school corporation would have received under this chapter for the 1999 calendar year or the first year of participation in the program, whichever is later.

(3) The following apply to determine whether amounts received under this chapter have been devoted to reducing class size in kindergarten through grade 3 as required by section 2 of this

chapter:

(A) Except as permitted under section 8 of this chapter, only a licensed teacher who is an actual classroom teacher in a regular instructional program is counted as a teacher.

(B) If a school corporation is granted approval under section 8 of this chapter, the school corporation may include as one-third (1/3) of a teacher each classroom instructional aide who meets qualifications and performs duties prescribed by the state board.

SECTION 342. IC 20-43-9-6, AS AMENDED BY P.L.234-2007, SECTION 254, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 6. A school corporation's primetime distribution for a calendar year under this chapter is the amount determined by the following formula:

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

(A) If the school corporation's complexity index is less than one and one-tenth (1.1), the school corporation's target pupil/teacher ratio is eighteen to one (18:1).

(B) If the school corporation's complexity index is at least one and one-tenth (1.1) but less than one and two-tenths (1.2), the school corporation's target pupil/teacher ratio is fifteen (15) plus the result determined in item (iii) to one (1):

(i) Determine the result of one and two-tenths (1.2) minus the school corporation's complexity index.

(ii) Determine the item (i) result divided by one-tenth (0.1).

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

(C) If the school corporation's complexity index is at least one and two-tenths (1.2), the school corporation's target pupil/teacher ratio is fifteen to one (15:1).

STEP TWO: Determine the result of:

(A) the ADM of the school corporation in kindergarten through grade 3 for the current school year; divided by

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

STEP THREE: Determine the result of:

(A) the ~~total regular program~~ **basic** tuition support for the year multiplied by seventy-five hundredths (0.75); divided by

(B) the school corporation's total ADM.

STEP FOUR: Determine the result of:

(A) the STEP THREE result; multiplied by

(B) the ADM of the school corporation in kindergarten through grade 3 for the current school year.

STEP FIVE: Determine the result of:

(A) the STEP FOUR result; divided by

(B) the staff cost amount.

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

(A) the STEP TWO amount; minus

(B) the STEP FIVE amount.

STEP SEVEN: Determine the result of:

(A) the STEP SIX amount; multiplied by

(B) the staff cost amount.

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

STEP NINE: A school corporation's amount under this STEP is the following:

(A) If the amount the school corporation received under this chapter in the previous calendar year is greater than zero (0), the amount under this STEP is the lesser of:

(i) the STEP EIGHT amount; or

(ii) the amount the school corporation received under this chapter for the previous calendar year multiplied by one hundred seven and one-half percent (107.5%).

(B) If the amount the school corporation received under this chapter in the previous calendar year is not greater than zero (0), the amount under this STEP is the STEP EIGHT amount.

SECTION 343. IC 20-43-12 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]:

Chapter 12. Restoration Grants

Sec. 1. A school corporation is entitled to a restoration grant.

Sec. 2. The amount of the restoration grant to which a school corporation is entitled in a year is equal to the result determined under the following formula:

STEP ONE: Determine the school corporation's basic tuition support for the current year.

STEP TWO: Determine the amount of the basic tuition support to which the school corporation would have been entitled for the 2009 year if the school corporation's basic tuition support had been computed using the formula for computing basic tuition support for 2009 as that formula

existed after the amendments made by P.L.146-2008.

STEP THREE: Determine the sum of:

(A) the STEP TWO amount divided by the school corporation's 2009 ADM; plus

(B) twenty-five dollars ($25) for 2010 and seventy-five dollars ($75) for 2011.

STEP FOUR: Determine the result of:

(A) the school corporation's STEP THREE amount; multiplied by

(B) the school corporation's ADM for the current year.

STEP FIVE: Determine the sum of:

(A) the STEP TWO amount divided by the school corporation's 2009 ADM; minus

(B) twenty-five dollars ($25) for 2010 and seventy-five dollars ($75) for 2011.

STEP SIX: Determine the result of:

(A) the school corporation's STEP FIVE amount; multiplied by

(B) the school corporation's ADM for the current year.

STEP SEVEN: Determine the lesser of:

(A) the STEP FOUR amount; or

(B) the STEP TWO amount.

STEP EIGHT: Determine the greater of:

(A) the STEP SEVEN amount; or

(B) the STEP SIX amount.

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

(A) the STEP EIGHT amount; minus

(B) the STEP ONE amount.

STEP TEN: Determine the sum of the current year basic tuition support plus the STEP NINE amount.

STEP ELEVEN: Determine the result of the following:

(A) For 2010, divide the STEP TEN amount by the STEP TWO amount.

(B) For 2011, divide:

(i) the STEP TEN amount; by

(ii) the sum of the prior year basic tuition support plus the prior year STEP NINE amount.

STEP TWELVE: Determine the greater of:

(A) zero (0); or

(B) the result of:

(i) ninety-seven hundredths (0.97); minus

(ii) the STEP ELEVEN amount.

STEP THIRTEEN: Determine the lesser of:

(A) two hundred twenty dollars ($220) for 2010 and three hundred fifty dollars ($350) for 2011; or

(B) the result of:

(i) the STEP TWELVE amount multiplied by nine thousand five hundred (9,500), in 2010; and

(ii) the STEP TWELVE amount multiplied by twelve thousand (12,000), in 2011.

STEP FOURTEEN: Determine the product of:

(A) the STEP THIRTEEN amount; multiplied by

(B) the school corporation's current ADM.

STEP FIFTEEN: Determine the sum of:

(A) the STEP NINE amount; plus

(B) the STEP FOURTEEN amount.

SECTION 344. IC 20-43-12.2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]:

Chapter 12.2. Small School Grants

Sec. 1. A school corporation is entitled to a small school grant as provided in this chapter. This chapter does not apply to a charter school.

Sec. 2. The amount of the small school grant to which a school corporation is entitled in a year is equal to:

(1) the lesser of:

(A) one hundred ninety-two dollars ($192); or

(B) one dollar ($1) multiplied by the result of:

(i) one thousand seven hundred (1,700); minus

(ii) the school corporation's current ADM; multiplied by the school corporation's current ADM, if the school corporation's current ADM is less than one thousand seven hundred (1,700) and the school corporation's complexity index is greater than one and two-tenths (1.2);

(2) the lesser of:

(A) ninety-one dollars ($91); or

(B) one dollar ($1) multiplied by the result of:

(i) one thousand seven hundred (1,700); minus

(ii) the school corporation's current ADM; multiplied by the school corporation's current ADM, if the school corporation's current ADM is less than one thousand seven

hundred (1,700) and the school corporation's complexity index is greater than one and one-tenth (1.1) and not greater than one and two-tenths (1.2); and

(3) zero (0), if subdivisions (1) and (2) do not apply.

SECTION 345. IC 20-46-1-7, AS AMENDED BY P.L.146-2008, SECTION 494, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) This section applies to a school corporation that added an amount to the school corporation's base tax levy before 2002 as the result of the approval of an excessive tax levy by the majority of individuals voting in a referendum held in the area served by the school corporation under IC 6-1.1-19-4.5 (before its repeal).

(b) A school corporation may adopt a resolution before September 21, 2005, to transfer the power of the school corporation to levy the amount described in subsection (a) from the school corporation's general fund to the school corporation's fund. A school corporation that adopts a resolution under this section shall, as soon as practicable after adopting the resolution, send a certified copy of the resolution to the department of local government finance and the county auditor. A school corporation that adopts a resolution under this section may, for property taxes first due and payable after 2005, levy an additional amount for the fund that does not exceed the amount of the excessive tax levy added to the school corporation's base tax levy before 2002.

(c) The power of the school corporation to impose the levy transferred to the fund under this section expires December 31, 2012, unless:

(1) the school corporation adopts a resolution to reimpose or extend the levy; and

(2) the levy is approved, before January 1, 2013, by a majority of the individuals who vote in a referendum that is conducted in accordance with the requirements in this chapter.

As soon as practicable after adopting the resolution under subdivision (1), the school corporation shall send a certified copy of the resolution to the county auditor. ~~and the department of local government finance. Upon receipt of the certified resolution, the tax control board shall proceed in the same manner as the tax control board would for any other levy being reimposed or extended under this chapter.~~ However, if requested by the school corporation in the resolution adopted under subdivision (1), the question of reimposing or extending a levy transferred to the fund under this section may be combined with a

question presented to the voters to reimpose or extend a levy initially imposed after 2001. A levy reimposed or extended under this subsection shall be treated for all purposes as a levy reimposed or extended under ~~IC 6-1.1-19-4.5(c) (before its repeal) and~~ this chapter. ~~after June 30, 2006.~~

(d) The school corporation's levy under this section may not be considered in the determination of the school corporation's state tuition support distribution under IC 20-43 or the determination of any other property tax levy imposed by the school corporation.

SECTION 346. IC 20-46-3-5, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. A school corporation may petition the ~~tax control board~~ **department of local government finance** to impose a property tax to raise revenue for the purposes of the fund. However, before a school corporation may impose a property tax under this chapter, the school corporation must file a petition with the ~~tax control board~~ **department of local government finance** under IC 6-1.1-19. The petition must be filed before June 1 of the year preceding the first year the school corporation desires to impose the property tax and must include the following:

(1) The name of the school corporation.

(2) A settlement agreement among the parties to a desegregation lawsuit that includes the program that will improve or maintain racial balance in the school corporation.

(3) The proposed levy.

(4) Any other item required by the ~~school property tax control board~~ **department of local government finance.**

SECTION 347. IC 20-46-3-6, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. Subject to IC 6-1.1-18.5-9.9, the ~~tax control board may recommend to the~~ department of local government finance ~~that a~~ **may allow a** school corporation ~~be allowed~~ to establish a levy. The amount of the levy shall be determined each year and the levy may not exceed the lesser of the following:

(1) The revenue derived from a tax rate of eight and thirty-three hundredths cents ($0.0833) for each one hundred dollars ($100) of assessed valuation within the school corporation.

(2) The revenue derived from a tax rate equal to the difference between the maximum rate allowed for the school corporation's capital projects fund under IC 20-46-6 minus the actual capital

projects fund rate that will be in effect for the school corporation for a particular year.

SECTION 348. IC 20-46-3-7, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. The department of local government finance shall review the petition of the school corporation ~~and the recommendation of the tax control board~~ and:

(1) disapprove the petition if the petition does not comply with this section;

(2) approve the petition; or

(3) approve the petition with modifications.

SECTION 349. IC 20-46-5-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.1. (a) This section does not apply to a school corporation located in South Bend, unless a resolution adopted under IC 6-1.1-17-5.6(d) by the governing body of the school corporation is in effect.**

(b) Before a governing body may collect property taxes for the fund in a particular calendar year, the governing body must, after January 1 and not later than September 20 of the immediately preceding year:

(1) conduct a public hearing on; and

(2) pass a resolution to adopt;

a plan.

(c) This section expires January 1, 2011.

SECTION 350. IC 20-46-5-7, AS AMENDED BY P.L.146-2008, SECTION 505, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Except as provided in subsection (b), this section applies only to a school corporation located in South Bend.

(b) After December 31, ~~2009,~~ **2010,** this section applies to all school corporations.

(c) This subsection expires January 1, ~~2010.~~ **2011.** This section does not apply to the school corporation if a resolution adopted under IC 6-1.1-17-5.6(d) by the governing body of the school corporation is in effect.

(d) Before the governing body of the school corporation may collect property taxes for the fund in a particular calendar year, the governing body must, after January 1 and on or before February 1 of the immediately preceding year:

(1) conduct a public hearing on; and

(2) pass a resolution to adopt;

a plan.

SECTION 351. IC 20-46-5-9, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. After reviewing the plan, the department of local government finance shall certify its approval, disapproval, or modification of the plan to the governing body and the county auditor of the county. ~~The department of local government finance may seek the recommendation of the tax control board with respect to this determination.~~ The action of the department of local government finance with respect to the plan is final.

SECTION 352. IC 20-46-5-10, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A governing body may amend a plan. When an amendment to a plan is required, the governing body must:

(1) declare the nature of and the need for the amendment; and

(2) show cause as to why the original plan no longer meets the needs of the school corporation.

(b) The governing body must then conduct a public hearing on and pass a resolution to adopt the amendment to the plan.

(c) The plan, as proposed to be amended, must comply with the requirements for a plan under section 8 of this chapter.

(d) An amendment to the plan is not subject to the deadlines for adoption described in section ~~6~~ **6.1** or 7 of this chapter. However, the amendment to the plan must be submitted to the department of local government finance for its consideration and is subject to approval, disapproval, or modification in accordance with the procedures for adopting a plan set forth in this chapter.

SECTION 353. IC 20-46-6-8.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.1. (a) This section does not apply to a school corporation that is located in South Bend, unless a resolution adopted under IC 6-1.1-17-5.6(d) by the governing body of the school corporation is in effect.**

(b) Before a governing body may collect property taxes for a capital projects fund in a particular year, the governing body must:

(1) after January 1; and

(2) not later than September 20;

of the immediately preceding year, hold a public hearing on a proposed or amended plan and pass a resolution to adopt the proposed or amended plan.

(c) This section expires January 1, 2011.

SECTION 354. IC 20-46-6-9, AS AMENDED BY P.L.146-2008, SECTION 508, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) ~~Except as provided in subsection (b),~~ This section applies only to a school corporation that is located in South Bend.

~~(b) After December 31, 2009, this section applies to all school corporations.~~

~~(c) This subsection expires January 1, 2010.~~ **However,** this section does not apply to the school corporation if a resolution adopted under IC 6-1.1-17-5.6(d) by the governing body of the school corporation is in effect.

~~(d)~~ **(b)** Before the governing body of the school corporation may collect property taxes for a fund in a particular year, the governing body must:

(1) after January 1; and

(2) before February 2;

of the immediately preceding year, hold a public hearing on a proposed or amended plan and pass a resolution to adopt the proposed or amended plan.

SECTION 355. IC 20-46-6-15, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. After a hearing on the petition under section 14 of this chapter, the department of local government finance shall certify its approval, disapproval, or modification of the plan to the governing body and the county auditor of the county. ~~The department of local government finance may seek the recommendation of the tax control board with respect to the department of local government finance's determination.~~

SECTION 356. IC 20-46-6-18, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) This section applies to an amendment to a plan that is required by a reason other than an emergency.

(b) The governing body must hold a public hearing on the proposed amendment. At the hearing, the governing body must declare the nature

of and the need for the amendment and pass a resolution to adopt the amendment to the plan.

(c) The plan, as proposed to be amended, must comply with the requirements for a plan under section 10 of this chapter. The governing body must publish the proposed amendment to the plan and notice of the hearing in accordance with IC 5-3-1-2(b).

(d) An amendment to the plan:

(1) is not subject to the deadline for adoption described in section ~~8~~ **8.1** or 9 of this chapter;

(2) must be submitted to the department of local government finance for its consideration; and

(3) is subject to approval, disapproval, or modification in accordance with the procedures for adopting a plan.

SECTION 357. IC 20-46-6-19, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) This section applies to an amendment to a plan that is required by reason of an emergency that results in costs that exceed the amount accumulated in the fund for repair, replacement, or site acquisition that is necessitated by an emergency.

(b) The governing body is not required to comply with section 18 of this chapter.

(c) The governing body must immediately apply to the department of local government finance for a determination that an emergency exists. If the department of local government finance determines that an emergency exists, the governing body may adopt a resolution to amend the plan.

(d) An amendment to the plan is not subject to the deadline and the procedures for adoption described in section ~~8~~ **8.1** or 9 of this chapter. However, the amendment is subject to modification by the department of local government finance.

SECTION 358. IC 20-46-7-11, AS AMENDED BY P.L.146-2008, SECTION 513, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) The department of local government finance in determining whether to approve or disapprove a school building construction project ~~and the tax control board in determining whether to recommend approval or disapproval of a school building construction project~~ shall consider the following factors:

(1) The current and proposed square footage of school building space per student.

(2) Enrollment patterns within the school corporation.

(3) The age and condition of the current school facilities.

(4) The cost per square foot of the school building construction project.

(5) The effect that completion of the school building construction project would have on the school corporation's tax rate.

(6) Any other pertinent matter.

(b) The authority of the department of local government finance to determine whether to approve or disapprove a school building construction project does not after June 30, 2008, include the authority to review or approve the financing of the school building construction project.

SECTION 359. IC 20-49-1-3, AS AMENDED BY P.L.234-2007, SECTION 265, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 3. "Transition to foundation ~~revenue per adjusted ADM" has the meaning set forth in IC 20-43-1-29.3.~~ **amount" refers to the amount determined under IC 20-43-5-6.**

SECTION 360. IC 20-49-2-9, AS ADDED BY P.L.2-2006, SECTION 172, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. A nondisaster advancement to any school corporation under section 10 of this chapter may not exceed two hundred fifty thousand dollars ($250,000). However, this dollar limitation is waived if:

(1) the school corporation has an ~~adjusted~~ assessed valuation per ADA of less than eight thousand four hundred dollars ($8,400); **and**

(2) the school corporation's debt service fund tax rate would exceed one dollar ($1) for each one hundred dollars ($100) of assessed valuation without a waiver of the dollar limitation. ~~and (3) the school property tax control board recommends a waiver of the limitation.~~

SECTION 361. IC 20-49-7-10, AS AMENDED BY P.L.234-2007, SECTION 266, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 10. The amount of an advance for operational costs may not exceed the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the product of:

(A) the charter school's enrollment reported under IC 20-24-7-2(a); multiplied by

(B) the charter school's transition to foundation ~~revenue per adjusted ADM.~~ **amount.**

STEP TWO: Determine the quotient of:

(A) the STEP ONE amount; divided by

(B) two (2).

STEP THREE: Determine the product of:

(A) the STEP TWO amount; multiplied by

(B) one and fifteen-hundredths (1.15).

SECTION 362. IC 20-49-7-11, AS AMENDED BY P.L.234-2007, SECTION 267, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 11. The amount of an advance for operational costs may not exceed the amount determined under STEP FOUR of the following formula:

STEP ONE: Determine the quotient of:

(A) the charter school's transition to foundation ~~revenue per adjusted ADM,~~ **amount;** divided by

(B) two (2).

STEP TWO: Determine the difference between:

(A) the charter school's current ADM; minus

(B) the charter school's ADM of the previous year.

STEP THREE: Determine the product of:

(A) the STEP ONE amount; multiplied by

(B) the STEP TWO amount.

STEP FOUR: Determine the product of:

(A) the STEP THREE amount; multiplied by

(B) one and fifteen-hundredths (1.15).

SECTION 363. IC 20-49-7-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 21. (a) A charter school, including a conversion charter school, that has received an advance for operational costs from the common school fund under this chapter does not have to make principal or interest payments during the state fiscal years beginning:**

(1) July 1, 2009; and

(2) July 1, 2010;

notwithstanding contrary terms in the charter school and state board advance agreement.

(b) The repayment term of the advance shall be extended by two (2) years to provide for the waiver described in subsection (a) even though it may make the repayment term for the advance longer

than twenty (20) years.

SECTION 364. IC 20-51 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

ARTICLE 51. SCHOOL SCHOLARSHIPS

Chapter 1. Definitions

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

Sec. 2. "Agreement" refers to an agreement between the department and an applicant that applies for certification of a school scholarship program.

Sec. 3. "Contribution" refers to a contribution to a scholarship granting organization for use in a school scholarship program.

Sec. 4. (a) "Cost of education" means the tuition and fees that would otherwise be charged by a participating school to:

(1) an eligible student; or

(2) a parent of an eligible student.

(b) In the case of an eligible pupil who attends a public school, the term includes any transfer tuition charged to the eligible student or a parent of the eligible student.

Sec. 5. "Eligible student" refers to an individual who:

(1) has legal settlement in Indiana;

(2) is at least five (5) years of age and less than twenty-two (22) years of age on the date in the school year specified in IC 20-33-2-7;

(3) either has been or is currently enrolled in a participating school;

(4) either:

(A) is a member of a household with an annual income of not more than two hundred percent (200%) of the amount required for the individual to qualify for the federal free or reduced price lunch program; or

(B) received a scholarship under this article in the immediately preceding school year or the immediately preceding term of the current school year and qualified under clause (A) in the first year that the individual received a scholarship under this article; and

(5) meets at least one (1) of the following conditions:

(A) The individual is enrolling in kindergarten.

(B) The individual was enrolled in a public school during the school year preceding the first school year for which a

scholarship granting organization provides a scholarship to the individual.

(C) The individual received a scholarship in the previous year from a nonprofit scholarship granting organization that qualifies for certification as a school scholarship program.

(D) The individual received a school scholarship for the previous school year.

Sec. 6. (a) "Participating school" refers to a public or nonpublic school that:

(1) an eligible student is required to pay tuition or transfer tuition to attend;

(2) voluntarily agrees to enroll an eligible student;

(3) is accredited by either the state board or a national or regional accreditation agency that is recognized by the state board; and

(4) administers the tests under the Indiana statewide testing for educational progress (ISTEP) program or administers another nationally recognized and norm-referenced assessment of the school's students.

(b) The term does not include a public school in a school corporation where the eligible student has legal settlement under IC 20-26-11.

Sec. 7. "Scholarship granting organization" refers to an organization that:

(1) is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(2) is organized at least in part to grant school scholarships.

Sec. 8. "School scholarship" refers to a grant to pay only the cost of education for an eligible student as determined for the school year (as defined in IC 20-18-2-17) for which the scholarship will be granted.

Chapter 2. Exchange of Information; Rules

Sec. 1. The department shall maintain a publicly available list of the school scholarship programs certified by the department. The list must contain names, addresses, and any other information that the department determines is necessary for the public to determine which scholarship granting organizations conduct school scholarship programs. A current list must be posted on an Internet web site used by the department to provide information to the public.

Chapter 3. Scholarship Granting Organizations; Certification; Administration of Contributions

Sec. 1. (a) A program qualifies for certification as a school scholarship program if:

(1) the program:

(A) is administered by a scholarship granting organization; and

(B) has the primary purpose of providing school scholarships to eligible students; and

(2) the scholarship granting organization administering the program:

(A) applies to the department on the form and in the manner prescribed by the department; and

(B) enters into an agreement with the department to comply with this article.

(b) A program may not be certified as a school scholarship program if the program:

(1) limits a recipient of a school scholarship to attending specific participating schools; or

(2) limits the ability of a recipient of a school scholarship to change attendance from one (1) participating school to another participating school.

Sec. 2. The department shall certify all programs that meet the qualifications under section 1 of this chapter as school scholarship programs.

Sec. 3. An agreement entered into under section 1 of this chapter between the department and a scholarship granting organization must require the scholarship granting organization to do the following:

(1) Provide a receipt to taxpayers for contributions made to the scholarship granting organization that will be used in a school scholarship program. The department of state revenue shall prescribe a standardized form for the receipt issued under this subdivision. The receipt must indicate the value of the contribution and part of the contribution being designated for use in a school scholarship program.

(2) Distribute at least ninety percent (90%) of the total amount of contributions as school scholarships to eligible students.

(3) Distribute one hundred percent (100%) of any income earned on contributions as school scholarships to eligible

students.

(4) Conduct criminal background checks on all the scholarship granting organization's employees and board members and exclude from employment or governance any individual who might reasonably pose a risk to the appropriate use of contributed funds.

(5) Make the reports required by this chapter.

Sec. 4. An agreement entered into under section 1 of this chapter may not prohibit a scholarship granting organization from receiving contributions other than contributions described in section 3(1) of this chapter.

Sec. 5. An agreement entered into under section 1 of this chapter must prohibit a scholarship granting organization from distributing school scholarships for use by an eligible student to:

(1) enroll in a school that has:

(A) paid staff or board members; or

(B) relatives of paid staff or board members;

in common with the scholarship granting support organization;

(2) enroll in a school that the scholarship granting organization knows does not qualify as a participating school; or

(3) pay for the cost of education for a public school where the eligible student is entitled to enroll without the payment of tuition.

Sec. 6. (a) A scholarship granting organization certified under this chapter must publicly report to the department by August 1 of each year the following information regarding the organization's scholarships awarded in the previous school year:

(1) The name and address of the scholarship granting organization.

(2) The total number and total dollar amount of contributions received during the previous school year.

(3) The:

(A) total number and total dollar amount of scholarships awarded during the previous school year; and

(B) total number and total dollar amount of school scholarships awarded during the previous school year.

The report must be certified under penalties of perjury by the chief executive officer of the scholarship granting organization.

(b) A scholarship granting organization certified under this

chapter shall contract with an independent certified public accountant for an annual financial audit of the scholarship granting organization. The scholarship granting organization must provide a copy of the annual financial audit to the department and must make the annual financial audit available to a member of the public upon request.

Sec. 7. The department shall prescribe a standardized form for scholarship granting organizations to report information required under this chapter.

Sec. 8. The department may, in a proceeding under IC 4-21.5, suspend or terminate the certification of an organization as a scholarship granting organization if the department establishes that the scholarship granting organization has intentionally and substantially failed to comply with the requirements of this article or an agreement entered into under this article.

Sec. 9. If the department suspends or terminates the certification of an organization as a scholarship granting organization, the department shall notify affected eligible students and their parents of the decision as quickly as possible. An eligible student affected by a suspension or termination of a scholarship granting organization's certification remains an eligible student under this article until the end of the school year after the school year in which the scholarship granting organization's certification is suspended or terminated, regardless of whether the scholarship student currently meets the definition of an eligible student.

Sec. 10. The department may conduct either a financial review or an audit of a scholarship granting organization certified under this chapter if the department of state revenue has evidence of fraud.

Sec. 11. The department shall adopt rules under IC 4-22-2 to implement this article.

SECTION 365. IC 21-29-3-3, AS ADDED BY P.L.2-2007, SECTION 270, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) Subject to subsections (b) through (d), any state educational institution may enter into and modify, amend, or terminate one (1) or more swap agreements that the state educational institution determines to be necessary or desirable in connection with or incidental to the issuance, carrying, or securing of obligations. Swap agreements entered into by a state educational institution must:

(1) contain the provisions (including payment, term, security,

default, and remedy provisions); and

(2) be with the parties;

that the state educational institution determines are necessary or desirable after due consideration is given to the creditworthiness of the parties.

(b) A state educational institution may not:

(1) enter into, modify, amend, or terminate any swap agreement without the specific approval of the public finance director appointed under IC 4-4-11-9;

~~(1)~~ **(2)** enter into any swap agreement under this section other than for the purpose of managing an interest rate or similar risk that arises in connection with or incidental to the issuance, carrying, or securing of obligations by the state educational institution; or

~~(2)~~ **(3)** carry on a business of acting as a dealer in swap agreements.

(c) A swap agreement is considered as being entered into in connection with or incidental to the issuance, carrying, or securing of obligations if:

(1) the swap agreement is entered into not more than one hundred eighty (180) days after the issuance of the obligations and specifically indicates the agreement's relationship to the obligations;

(2) the board of trustees of the state educational institution specifically designates the swap agreement as having a relationship to the particular obligations;

(3) the swap agreement amends, modifies, or reverses a swap agreement described in subdivision (1) or (2); or

(4) the terms of the swap agreement bear a reasonable relationship to the terms of the obligations.

(d) Payments to be made by a state educational institution to any other party under a swap agreement are payable only from the same source or sources of funds from which the related obligations are payable.

SECTION 366. IC 21-34-10-7, AS ADDED BY P.L.2-2007, SECTION 275, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. Bonds may be issued by the board of trustees of a state educational institution without the approval of the general assembly to finance a qualified energy savings project if annual operating savings to the state educational institution arising

from the implementation of a qualified energy savings project are reasonably expected to be at least equal to annual debt service requirements on bonds issued for this purpose in each fiscal year. However, the amount of bonds outstanding for the state educational institution **other than Ivy Tech Community College** at any time for qualified energy savings projects, other than refunding bonds and exclusive of costs described in sections 3 and 4 of this chapter, may not exceed ~~ten~~ **fifteen** million dollars ~~($10,000,000)~~ **($15,000,000) for each campus of the state educational institution. Any annual operating savings realized by Purdue University and Indiana University in excess of the annual debt service requirements on bonds issued shall be used to fund basic research for the Indiana Innovation Alliance. The amount of bonds outstanding for Ivy Tech Community College at any time for qualified energy savings projects, other than refunding bonds and exclusive of costs described in sections 3 and 4 of this chapter, may not exceed forty-five million dollars ($45,000,000). Bonds issued under this section are not eligible for fee replacement.**

SECTION 367. IC 22-4-19-6, AS AMENDED BY P.L.175-2009, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Each employing unit shall keep true and accurate records containing information the department considers necessary. These records are:

(1) open to inspection; and

(2) subject to being copied;

by an authorized representative of the department at any reasonable time and as often as may be necessary. The department, the review board, or an administrative law judge may require from any employing unit any verified or unverified report, with respect to persons employed by it, which is considered necessary for the effective administration of this article.

(b) Except as provided in subsections (d) and (f), information obtained or obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits is confidential and may not be published or be open to public inspection in any manner revealing the individual's or the employing unit's identity, except in obedience to an order of a court or as provided in this section.

(c) A claimant or an employer at a hearing before an administrative law judge or the review board shall be supplied with information from

the records referred to in this section to the extent necessary for the proper presentation of the subject matter of the appearance. The department may make the information necessary for a proper presentation of a subject matter before an administrative law judge or the review board available to an agency of the United States or an Indiana state agency.

(d) The department may release the following information:

(1) Summary statistical data may be released to the public.

(2) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the Indiana economic development corporation only for the following purposes:

(A) The purpose of conducting a survey.

(B) The purpose of aiding the officers or employees of the Indiana economic development corporation in providing economic development assistance through program development, research, or other methods.

(C) Other purposes consistent with the goals of the Indiana economic development corporation and not inconsistent with those of the department.

(3) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the budget agency **and the legislative services agency** only for aiding the employees of the budget agency **or the legislative services agency** in forecasting tax revenues.

(4) Information obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits for use by the following governmental entities:

(A) department of state revenue; or

(B) state or local law enforcement agencies;

only if there is an agreement that the information will be kept confidential and used for legitimate governmental purposes.

(e) The department may make information available under subsection (d)(1), (d)(2), or (d)(3) only:

(1) if:

(A) data provided in summary form cannot be used to identify information relating to a specific employer or specific

employee; or

(B) there is an agreement that the employer specific information released to the Indiana economic development corporation, ~~or~~ the budget agency, **or the legislative services agency** will be treated as confidential and will be released only in summary form that cannot be used to identify information relating to a specific employer or a specific employee; and

(2) after the cost of making the information available to the person requesting the information is paid under IC 5-14-3.

(f) In addition to the confidentiality provisions of subsection (b), the fact that a claim has been made under IC 22-4-15-1(c)(8) and any information furnished by the claimant or an agent to the department to verify a claim of domestic or family violence are confidential. Information concerning the claimant's current address or physical location shall not be disclosed to the employer or any other person. Disclosure is subject to the following additional restrictions:

(1) The claimant must be notified before any release of information.

(2) Any disclosure is subject to redaction of unnecessary identifying information, including the claimant's address.

(g) An employee:

(1) of the department who recklessly violates subsection (a), (c), (d), (e), or (f); or

(2) of any governmental entity listed in subsection (d)(4) who recklessly violates subsection (d)(4);

commits a Class B misdemeanor.

(h) An employee of the Indiana economic development corporation, ~~or~~ the budget agency, **or the legislative services agency** who violates subsection (d) or (e) commits a Class B misdemeanor.

(i) An employer or agent of an employer that becomes aware that a claim has been made under IC 22-4-15-1(c)(8) shall maintain that information as confidential.

(j) The department may charge a reasonable processing fee not to exceed two dollars ($2) for each record that provides information about an individual's last known employer released in compliance with a court order under subsection (b).

SECTION 368. IC 22-4-25-1, AS AMENDED BY P.L.175-2009, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) There is created in the state treasury a

special fund to be known as the special employment and training services fund. All interest on delinquent contributions and penalties collected under this article, together with any voluntary contributions tendered as a contribution to this fund, shall be paid into this fund. The money shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said money be available to finance expenditures for the administration of this article, but nothing in this section shall prevent said money from being used as a revolving fund to cover expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The money in this fund shall be used by the board for the payment of refunds of interest on delinquent contributions and penalties so collected, for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds received for or in the employment and training services administration fund, on and after July 1, 1945. Such money shall be available either to satisfy the obligations incurred by the board directly, or by transfer by the board of the required amount from the special employment and training services fund to the employment and training services administration fund. The board shall order the transfer of such funds or the payment of any such obligation or expenditure and such funds shall be paid by the treasurer of state on requisition drawn by the board directing the auditor of state to issue the auditor's warrant therefor. Any such warrant shall be drawn by the state auditor based upon vouchers certified by the board or the commissioner. The money in this fund is hereby specifically made available to replace within a reasonable time any money received by this state pursuant to 42 U.S.C. 502, as amended, which, because of any action or contingency, has been lost or has been expended for purposes other than or in amounts in excess of those approved by the bureau of employment security. The money in this fund shall be continuously available to the board for expenditures in accordance with the provisions of this section and shall not lapse at any time or be transferred to any other fund, except as provided in this article. Nothing in this section shall be construed to limit, alter, or amend the liability of the state assumed and created by IC 22-4-28, or to change the procedure prescribed in IC 22-4-28 for the satisfaction of such liability, except to the extent that such liability may be satisfied by and out of the

funds of such special employment and training services fund created by this section.

(b) Whenever the balance in the special employment and training services fund exceeds eight million five hundred thousand dollars ($8,500,000), the board shall order payment of the amount that exceeds eight million five hundred thousand dollars ($8,500,000) into the unemployment insurance benefit fund.

(c) Subject to the approval of the board and the availability of funds, on July 1, 2008, and each subsequent July 1, the commissioner shall release:

(1) one million dollars ($1,000,000) to the state educational institution established under IC 21-25-2-1 for training provided to participants in apprenticeship programs approved by the United States Department of Labor, Bureau of Apprenticeship and Training;

(2) four million dollars ($4,000,000) to the state educational institution instituted and incorporated under IC 21-22-2-1 for training provided to participants in joint labor and management apprenticeship programs approved by the United States Department of Labor, Bureau of Apprenticeship and Training; ~~and~~

(3) two hundred fifty thousand dollars ($250,000) for journeyman upgrade training to each of the state educational institutions described in subdivisions (1) and (2);

(4) four hundred thousand dollars ($400,000) annually for training and counseling assistance:

(A) provided by Hometown Plans under 41 CFR 60-4.5; and

(B) approved by the United States Department of Labor, Bureau of Apprenticeship and Training;

to individuals who have been unemployed for at least four (4) weeks or whose annual income is less than twenty thousand dollars ($20,000); and

(5) three hundred thousand dollars ($300,000) annually for training and counseling assistance provided by the state institution established under IC 21-25-2-1 to individuals who have been unemployed for at least four (4) weeks or whose annual income is less than twenty thousand dollars ($20,000) for the purpose of enabling those individuals to apply for admission to apprenticeship programs offered by providers approved by the United States Department of Labor, Bureau

of Apprenticeship and Training.

(d) The funds released under subsection (c)(4) through (c)(5):

(1) shall be considered part of the amount allocated under section 2.5 of this chapter; and

(2) do not limit the amount that an entity may receive under section 2.5 of this chapter.

(e) Each state educational institution described in ~~this~~ subsection **(c)** is entitled to keep ten percent (10%) of the funds released under ~~this~~ subsection **(c)** for the payment of costs of administering the funds. On each June 30 following the release of the funds, any funds released under ~~this~~ subsection **(c)** not used by the state educational institutions under ~~this~~ subsection **(c)** shall be returned to the special employment and training services fund.

SECTION 369. IC 24-4.4-1-101, AS ADDED BY P.L.145-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 101. **(a)** This article shall be known and may be cited as the First Lien Mortgage Lending Act.

(b) Notwithstanding any other provision of this article or IC 24-4.5, the department may adopt emergency rules under IC 4-22-2-37.1, to remain effective until codified in the Indiana Code, in order to provide for a system of licensing creditors and mortgage loan originators that meets the requirements of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (H.R. 3221 Title V) and the interpretations of that Act issued by the Secretary of Housing and Urban Development.

SECTION 370. IC 24-4.5-1-102, AS AMENDED BY P.L.90-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 102. Purposes; Rules of Construction—(1) This article shall be liberally construed and applied to promote its underlying purposes and policies.

(2) The underlying purposes and policies of this article are:

(a) to simplify, clarify, and modernize the law governing retail installment sales, consumer credit, small loans, and usury;

(b) to provide rate ceilings to assure an adequate supply of credit to consumers;

(c) to further consumer understanding of the terms of credit transactions and to foster competition among suppliers of consumer credit so that consumers may obtain credit at reasonable cost;

(d) to protect consumer buyers, lessees, and borrowers against

unfair practices by some suppliers of consumer credit, having due regard for the interests of legitimate and scrupulous creditors;

(e) to permit and encourage the development of fair and economically sound consumer credit practices;

(f) to conform the regulation of consumer credit transactions to the policies of the Federal Consumer Credit Protection Act; and

(g) to make uniform the law including administrative rules among the various jurisdictions.

(3) A reference to a requirement imposed by this article includes reference to a related rule of the department adopted pursuant to this article.

(4) A reference to a federal law in IC 24-4.5 is a reference to the law in effect December 31, ~~2007.~~ **2008.**

(5) This article applies to a transaction if the director determines that the transaction:

(a) is in substance a disguised consumer credit transaction; or

(b) involves the application of subterfuge for the purpose of avoiding this article.

A determination by the director under this paragraph must be in writing and shall be delivered to all parties to the transaction. IC 4-21.5-3 applies to a determination made under this paragraph.

SECTION 371. IC 25-26-13-4, AS AMENDED BY P.L.204-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The board may:

(1) promulgate rules and regulations under IC 4-22-2 for implementing and enforcing this chapter;

(2) establish requirements and tests to determine the moral, physical, intellectual, educational, scientific, technical, and professional qualifications for applicants for pharmacists' licenses;

(3) refuse to issue, deny, suspend, or revoke a license or permit or place on probation or fine any licensee or permittee under this chapter;

(4) regulate the sale of drugs and devices in the state of Indiana;

(5) impound, embargo, confiscate, or otherwise prevent from disposition any drugs, medicines, chemicals, poisons, or devices which by inspection are deemed unfit for use or would be dangerous to the health and welfare of the citizens of the state of Indiana; the board shall follow those embargo procedures found in IC 16-42-1-18 through IC 16-42-1-31, and persons may not

refuse to permit or otherwise prevent members of the board or their representatives from entering such places and making such inspections;

(6) prescribe minimum standards with respect to physical characteristics of pharmacies, as may be necessary to the maintenance of professional surroundings and to the protection of the safety and welfare of the public;

(7) subject to IC 25-1-7, investigate complaints, subpoena witnesses, schedule and conduct hearings on behalf of the public interest on any matter under the jurisdiction of the board;

(8) prescribe the time, place, method, manner, scope, and subjects of licensing examinations which shall be given at least twice annually; and

(9) perform such other duties and functions and exercise such other powers as may be necessary to implement and enforce this chapter.

(b) The board shall adopt rules under IC 4-22-2 for the following:

(1) Establishing standards for the competent practice of pharmacy.

(2) Establishing the standards for a pharmacist to counsel individuals regarding the proper use of drugs.

(3) Establishing standards and procedures before January 1, 2006, to ensure that a pharmacist:

(A) has entered into a contract that accepts the return of expired drugs with; or

(B) is subject to a policy that accepts the return of expired drugs of;

a wholesaler, manufacturer, or agent of a wholesaler or manufacturer concerning the return by the pharmacist to the wholesaler, the manufacturer, or the agent of expired legend drugs or controlled drugs. In determining the standards and procedures, the board may not interfere with negotiated terms related to cost, expenses, or reimbursement charges contained in contracts between parties, but may consider what is a reasonable quantity of a drug to be purchased by a pharmacy. The standards and procedures do not apply to vaccines that prevent influenza, medicine used for the treatment of malignant hyperthermia, and other drugs determined by the board to not be subject to a return policy. An agent of a wholesaler or manufacturer must be appointed in writing and have policies, personnel, and facilities

to handle properly returns of expired legend drugs and controlled substances.

(c) The board may grant or deny a temporary variance to a rule it has adopted if:

(1) the board has adopted rules which set forth the procedures and standards governing the grant or denial of a temporary variance; and

(2) the board sets forth in writing the reasons for a grant or denial of a temporary variance.

(d) The board shall adopt rules and procedures, in consultation with the medical licensing board, concerning the electronic transmission of prescriptions. The rules adopted under this subsection must address the following:

(1) Privacy protection for the practitioner and the practitioner's patient.

(2) Security of the electronic transmission.

(3) A process for approving electronic data intermediaries for the electronic transmission of prescriptions.

(4) Use of a practitioner's United States Drug Enforcement Agency registration number.

(5) Protection of the practitioner from identity theft or fraudulent use of the practitioner's prescribing authority.

(e) The governor may direct the board to develop:

(1) a prescription drug program that includes the establishment of criteria to eliminate or significantly reduce prescription fraud; and

(2) a standard format for an official tamper resistant prescription drug form for prescriptions (as defined in IC 16-42-19-7(1)).

The board may adopt rules under IC 4-22-2 necessary to implement this subsection.

(f) The standard format for a prescription drug form described in subsection (e)(2) must include the following:

(1) A counterfeit protection bar code with human readable representation of the data in the bar code.

(2) A thermochromic mark on the front and the back of the prescription that:

(A) is at least one-fourth (1/4) of one (1) inch in height and width; and

(B) changes from blue to clear when exposed to heat.

(g) The board may contract with a supplier to implement and

manage the prescription drug program described in subsection (e). The supplier must:

(1) have been audited by a third party auditor using the SAS 70 audit or an equivalent audit for at least the three (3) previous years; and

(2) be audited by a third party auditor using the SAS 70 audit or an equivalent audit throughout the duration of the contract;

in order to be considered to implement and manage the program.

SECTION 372. IC 28-10-1-1, AS AMENDED BY P.L.90-2008, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. A reference to a federal law or federal regulation in IC 28 is a reference to the law or regulation in effect December 31, ~~2007.~~ **2008.**

SECTION 373. IC 31-25-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 5. Cooperation With Department of Child Services Ombudsman

Sec. 1. As used in this chapter, "ombudsman" refers to the office of the department of child services ombudsman established within the Indiana department of administration by IC 4-13-19-3. The term includes an employee of the office of the department of child services ombudsman or an individual approved by the office of the department of child services ombudsman to receive, investigate, and resolve complaints that allege the department, by an action or omission, failed to protect the physical or mental health or safety of any child or failed to follow specific laws, rules, or written policies.

Sec. 2. The department and the juvenile court with jurisdiction over a child shall provide the ombudsman with:

(1) appropriate access to all records of the department concerning the child, excluding adoption records, but including all records of the department related to vendors and contractors; and

(2) immediate access, without prior notice, to any facility in which the child is placed or is receiving services funded by the department.

SECTION 374. IC 31-27-3-18, AS AMENDED BY P.L.138-2007, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. (a) A licensee shall keep records regarding

each child in the control and care of the licensee as the department requires and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the child caring institution.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) An agency having the legal responsibility to care for a child placed at the child caring institution.

(5) The parent, guardian, or custodian of the child at the child caring institution.

(6) A citizen review panel established under IC 31-25-2-20.4.

(7) The department of child services ombudsman established by IC 4-13-19-3.

SECTION 375. IC 31-27-4-21, AS AMENDED BY P.L.138-2007, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the foster family home.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) An agency having the legal responsibility to care for a child placed at the foster family home.

(5) The parent, guardian, or custodian of the child at the foster family home.

(6) A citizen review panel established under IC 31-25-2-20.4.

(7) The department of child services ombudsman established

by IC 4-13-19-3.

SECTION 376. IC 31-27-5-18, AS AMENDED BY P.L.138-2007, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department, upon request, the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the group home.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) An agency having the legal responsibility to care for a child placed at the group home.

(5) The parent, guardian, or custodian of the child at the group home.

(6) A citizen review panel established under IC 31-25-2-20.4.

(7) The department of child services ombudsman established by IC 4-13-19-3.

SECTION 377. IC 31-27-6-15, AS AMENDED BY P.L.138-2007, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the child placing agency.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) A citizen review panel established under IC 31-25-2-20.4.

(5) The department of child services ombudsman established by IC 4-13-19-3.

SECTION 378. IC 31-33-18-1, AS AMENDED BY P.L.145-2006, SECTION 283, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided in section 1.5 of this chapter, the following are confidential:

(1) Reports made under this article (or IC 31-6-11 before its repeal).

(2) Any other information obtained, reports written, or photographs taken concerning the reports in the possession of:

(A) the division of family resources;

(B) the county office; ~~or~~

(C) the department; **or**

(D) the department of child services ombudsman established by IC 4-13-19-3.

(b) Except as provided in section 1.5 of this chapter, all records held by:

(1) the division of family resources;

(2) a county office;

(3) the department;

(4) a local child fatality review team established under IC 31-33-24; ~~or~~

(5) the statewide child fatality review committee established under IC 31-33-25; **or**

(6) the department of child services ombudsman established by IC 4-13-19-3;

regarding the death of a child determined to be a result of abuse, abandonment, or neglect are confidential and may not be disclosed.

SECTION 379. IC 31-33-18-1.5, AS AMENDED BY P.L.131-2009, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) This section applies to records held by:

(1) the division of family resources;

(2) a county office;

(3) the department;

(4) a local child fatality review team established under IC 31-33-24; ~~or~~

(5) the statewide child fatality review committee established under IC 31-33-25; **or**

(6) the department of child services ombudsman established by IC 4-13-19-3;

regarding a child whose death or near fatality may have been the result of abuse, abandonment, or neglect.

(b) For purposes of subsection (a), a child's death or near fatality may have been the result of abuse, abandonment, or neglect if:

(1) an entity described in subsection (a) determines that the child's death or near fatality is the result of abuse, abandonment, or neglect; or

(2) a prosecuting attorney files:

(A) an indictment or information; or

(B) a complaint alleging the commission of a delinquent act;

that, if proven, would cause a reasonable person to believe that the child's death or near fatality may have been the result of abuse, abandonment, or neglect.

Upon the request of any person, or upon its own motion, the court exercising juvenile jurisdiction in the county in which the child's death or near fatality occurred shall determine whether the allegations contained in the indictment, information, or complaint described in subdivision (2), if proven, would cause a reasonable person to believe that the child's death or near fatality may have been the result of abuse, abandonment, or neglect.

(c) As used in this section:

(1) "identifying information" means information that identifies an individual, including an individual's:

(A) name, address, date of birth, occupation, place of employment, and telephone number;

(B) employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental entity;

(C) unique biometric data, including the individual's fingerprint, voice print, or retina or iris image;

(D) unique electronic identification number, address, or routing code;

(E) telecommunication identifying information; or

(F) telecommunication access device, including a card, a plate, a code, an account number, a personal identification number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access; and

(2) "near fatality" has the meaning set forth in 42 U.S.C. 5106a.

(d) Unless information in a record is otherwise confidential under state or federal law, a record described in subsection (a) that has been redacted in accordance with this section is not confidential and may be

disclosed to any person who requests the record. The person requesting the record may be required to pay the reasonable expenses of copying the record.

(e) When a person requests a record described in subsection (a), the entity having control of the record shall immediately transmit a copy of the record to the court exercising juvenile jurisdiction in the county in which the death or near fatality of the child occurred. However, if the court requests that the entity having control of a record transmit the original record, the entity shall transmit the original record.

(f) Upon receipt of the record described in subsection (a), the court shall, within thirty (30) days, redact the record to exclude:

(1) identifying information described in subsection (c)(1)(B) through (c)(1)(F) of a person; and

(2) all identifying information of a child less than eighteen (18) years of age.

(g) The court shall disclose the record redacted in accordance with subsection (f) to any person who requests the record, if the person has paid:

(1) to the entity having control of the record, the reasonable expenses of copying under IC 5-14-3-8; and

(2) to the court, the reasonable expenses of copying the record.

(h) The data and information in a record disclosed under this section must include the following:

(1) A summary of the report of abuse or neglect and a factual description of the contents of the report.

(2) The date of birth and gender of the child.

(3) The cause of the fatality or near fatality, if the cause has been determined.

(4) Whether the department or the office of the secretary of family and social services had any contact with the child or a member of the child's family or household before the fatality or near fatality, and, if the department or the office of the secretary of family and social services had contact, the following:

(A) The frequency of the contact or communication with the child or a member of the child's family or household before the fatality or near fatality and the date on which the last contact or communication occurred before the fatality or near fatality.

(B) A summary of the status of the child's case at the time of the fatality or near fatality, including:

(i) whether the child's case was closed by the department or

the office of the secretary of family and social services before the fatality or near fatality; and

(ii) if the child's case was closed as described under item (i), the reasons that the case was closed.

(i) The court's determination under subsection (f) that certain identifying information or other information is not relevant to establishing the facts and circumstances leading to the death or near fatality of a child is not admissible in a criminal proceeding or civil action.

SECTION 380. IC 31-33-18-2, AS AMENDED BY P.L.138-2007, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. The reports and other material described in section 1(a) of this chapter and the unredacted reports and other material described in section 1(b) of this chapter shall be made available only to the following:

(1) Persons authorized by this article.

(2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.

(3) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is investigating a report of a child who may be a victim of child abuse or neglect.

(4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.

(5) An individual legally authorized to place a child in protective custody if:

(A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and

(B) the individual requires the information in the report or record to determine whether to place the child in protective custody.

(6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.

(7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is

a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.

(8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.

(9) A court, for redaction of the record in accordance with section 1.5 of this chapter, or upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, except for disclosure of a redacted record in accordance with section 1.5 of this chapter, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for child protection services or legislation carrying out the official's official functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(15) An employee of the department, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 31-26-5, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(A) child at imminent risk of placement;
(B) child in need of services; or
(C) delinquent child.

The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).

(16) A local child fatality review team established under IC 31-33-24-6.

(17) The statewide child fatality review committee established by IC 31-33-25-6.

(18) The department.

(19) The division of family resources, if the investigation report:
(A) is classified as substantiated; and
(B) concerns:
(i) an applicant for a license to operate;
(ii) a person licensed to operate;
(iii) an employee of; or
(iv) a volunteer providing services at;

a child care center licensed under IC 12-17.2-4 or a child care home licensed under IC 12-17.2-5.

(20) A citizen review panel established under IC 31-25-2-20.4.

(21) The department of child services ombudsman established by IC 4-13-19-3.

SECTION 381. IC 31-33-25-6, AS ADDED BY P.L.145-2006, SECTION 288, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The statewide child fatality review committee is established to review a child's death that is:
(1) sudden;
(2) unexpected; or
(3) unexplained;

if the county where the child died does not have a local child fatality review team or if the local child fatality review team requests a review of the child's death by the statewide committee.

(b) The statewide child fatality review committee may also review the death of a child upon request by an individual **or the department of child services ombudsman established by IC 4-13-19-3.**

(c) A request submitted under subsection (b) must set forth:
(1) the name of the child;
(2) the age of the child;
(3) the county where the child died;

(4) whether a local child fatality review team reviewed the death; and

(5) the cause of death of the deceased child.

SECTION 382. IC 31-33-25-8, AS AMENDED BY P.L.225-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. The statewide child fatality review committee consists of the following members appointed by the governor:

(1) a coroner or deputy coroner;

(2) a representative from:

(A) the state department of health established by IC 16-19-1-1;

(B) a local health department established under IC 16-20-2; or

(C) a multiple county health department established under IC 16-20-3;

(3) a pediatrician;

(4) a representative of law enforcement;

(5) a representative from an emergency medical services provider;

(6) the director or a representative of the department;

(7) a representative of a prosecuting attorney;

(8) a pathologist who is:

(A) certified by the American Board of Pathology in forensic pathology; and

(B) licensed to practice medicine in Indiana;

(9) a mental health provider;

(10) a representative of a child abuse prevention program; ~~and~~

(11) a representative of the department of education; **and**

(12) at the discretion of the department of child services ombudsman, a representative of the department of child services ombudsman established by IC 4-13-19-3.

SECTION 383. IC 31-33-26-5, AS ADDED BY P.L.138-2007, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Subject to the accessibility to files provided in subsection (b), at least ten (10) levels of security for confidentiality in the index must be maintained.

(b) The index must have a comprehensive system of limited access to information as follows:

(1) The index must be accessed only by the entry of an operator identification number and a password.

(2) A child welfare caseworker must be allowed to access only:

(A) cases that are assigned to the caseworker; and

(B) other cases or investigations that involve:

(i) a family member of a child; or
(ii) a child;
who is the subject of a case described in clause (A).
(3) A child welfare supervisor may access only the following:
(A) Cases assigned to the supervisor.
(B) Cases assigned to a caseworker who reports to the supervisor.
(C) Other cases or investigations that involve:
(i) a family member of a child; or
(ii) a child;
who is the subject of a case described in clause (A) or (B).
(D) Cases that are unassigned.
(4) To preserve confidentiality in the workplace, child welfare managers, as designated by the department, may access any case, except restricted cases involving:
(A) a state employee; or
(B) the immediate family member of a state employee;
who has access to the index. Access to restricted information under this subdivision may be obtained only if an additional level of security is implemented.
(5) Access to records of authorized users, including passwords, is restricted to:
(A) users designated by the department as administrators; and
(B) the administrator's level of access as determined by the department.
(6) Ancillary programs that may be designed for the index may not be executed in a manner that would circumvent the index's log-on security measures.
(7) Certain index functions must be accessible only to index operators with specified levels of authorization as determined by the department.
(8) Files containing passwords must be encrypted.
(9) There must be two (2) additional levels of security for confidentiality as determined by the department.
(10) The department of child services ombudsman established by IC 4-13-19-3 shall have read only access to the index concerning:
(A) children who are the subject of complaints filed with; or
(B) cases being investigated by;

the department of child services ombudsman. The office of the department of child services ombudsman shall not have access to any information related to cases or information that involves the ombudsman or any member of the ombudsman's immediate family.

SECTION 384. IC 31-39-2-6, AS AMENDED BY P.L.145-2006, SECTION 359, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. The records of the juvenile court are available without a court order to:

(1) the attorney for the department of child services; or

(2) any authorized staff member of:

(A) the county office;

(B) the department of child services; ~~or~~

(C) the department of correction; **or**

(D) the department of child services ombudsman established by IC 4-13-19-3.

SECTION 385. IC 31-39-4-7, AS AMENDED BY P.L.145-2006, SECTION 361, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. The records of a law enforcement agency are available, without specific permission from the head of the agency, to: ~~the:~~

(1) the attorney for the department of child services or any authorized staff member; **or**

(2) any authorized staff member of the department of child services ombudsman established by IC 4-13-19-3.

SECTION 386. IC 31-39-9-1, AS ADDED BY P.L.67-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. The following entities and agencies may exchange records of a child who is a child in need of services or has been determined to be a delinquent child under IC 31-37-1-2, if the information or records are not confidential under state or federal law:

(1) A court.

(2) A law enforcement agency.

(3) The department of correction.

(4) The department of child services.

(5) The office of the secretary of family and social services.

(6) A primary or secondary school, including a public or nonpublic school.

(7) The department of child services ombudsman established by IC 4-13-19-3.

SECTION 387. IC 31-40-1-2, AS AMENDED BY P.L.146-2008, SECTION 665, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Except as otherwise provided in this section and subject to:

(1) this chapter; and

(2) any other provisions of IC 31-34, IC 31-37, or other applicable law relating to the particular program, activity, or service for which payment is made by or through the department;

the department shall pay the cost of any child services provided by or through the department for any child or the child's parent, guardian, or custodian.

(b) The department shall pay the cost of returning a child under IC 31-37-23.

(c) Except as provided under section 2.5 of this chapter, the department is not responsible for payment of any costs of secure detention.

(d) The department is not responsible for payment of any costs or expenses for child services for a child if:

(1) the juvenile court has not entered the required findings and conclusions in accordance with IC 31-34-5-3, IC 31-34-20-1, IC 31-37-6-6, IC 31-37-19-1, or IC 31-37-19-6 (whichever is applicable); and

(2) the department has determined that the child otherwise meets the eligibility requirements for assistance under Title IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.).

(e) In all cases under this title, if the juvenile court orders services, programs, or placements that:

(1) are not eligible for federal assistance under either Title IV-B of the federal Social Security Act (42 U.S.C. 620 et seq.) or Title IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.); and

(2) have not been recommended or approved by the department;

the department is not responsible for payment of the costs of those services, programs, or placements.

(f) The department is not responsible for payment of any costs or expenses for housing or services provided to or for the benefit of a child placed by a juvenile court in a home or facility located outside Indiana, if the placement ~~does not comply with the conditions stated in IC 31-34-20-1(b) or IC 31-37-19-3(b).~~ **is not recommended or approved by the director of the department or the director's**

designee.

(g) The department is not responsible for payment of any costs or expenses of child services for a delinquent child under a dispositional decree entered under IC 31-37-19, if the probation officer who prepared the predispositional report did not submit to the department the information relating to determination of eligibility of the child for assistance under Title IV-E of the Social Security Act (42 U.S.C. 670 et seq.), as required by IC 31-37-17-1(a)(3).

(h) If:

(1) the department is not responsible for payment of costs or expenses of services, programs, or placements ordered by a court for a child or the child's parent, guardian, or custodian, as provided in this section; and

(2) another source of payment for those costs or expenses is not specified in this section or other applicable law;

the county in which the child in need of services case or delinquency case was filed is responsible for payment of those costs and expenses.

SECTION 388. IC 31-40-1-3, AS AMENDED BY P.L.146-2008, SECTION 667, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A parent or guardian of the estate of:

(1) a child adjudicated a delinquent child or a child in need of services; or

(2) a participant in a program of informal adjustment approved by a juvenile court under IC 31-34-8 or IC 31-37-9;

is financially responsible as provided in this chapter (or IC 31-6-4-18(e) before its repeal) for any services provided by or through the department.

(b) Each person described in subsection (a) shall, before a hearing under subsection (c) concerning payment or reimbursement of costs, furnish the court and the department with an accurately completed and current child support obligation worksheet on the same form that is prescribed by the Indiana supreme court for child support orders.

(c) At:

(1) a detention hearing;

(2) a hearing that is held after the payment of costs by the department under section 2 of this chapter (or IC 31-6-4-18(b) before its repeal);

(3) the dispositional hearing; or

(4) any other hearing to consider modification of a dispositional

decree;

the juvenile court shall order the child's parents or the guardian of the child's estate to pay for, or reimburse the department for the cost of services provided to the child or the parent or guardian unless the court makes a specific finding that the parent or guardian is unable to pay or that justice would not be served by ordering payment from the parent or guardian.

(d) Any parental reimbursement obligation under this section shall be paid directly to the department and not to the local court clerk so long as the child in need of services case, juvenile delinquency case, or juvenile status offense case is open. The department shall keep track of all payments made by each parent and shall provide a receipt for each payment received. At the end of the child in need of services, juvenile delinquency, or juvenile status action, the department shall provide an accounting of payments received, and the court may consider additional evidence of payment activity and determine the amount of parental reimbursement obligation that remains unpaid. The court shall reduce the unpaid balance to a final judgment that may be enforced in any court having jurisdiction over such matters.

(e) After a judgment for unpaid parental reimbursement obligation is rendered, payments made toward satisfaction of the judgment shall be made to the clerk of the court in the county where the enforcement action is filed and shall be promptly forwarded to the department in the same manner as any other judgment payment.

SECTION 389. IC 31-40-1-6, AS AMENDED BY P.L.146-2008, SECTION 670, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The department may contract with any of the following, on terms and conditions with respect to compensation and payment or reimbursement of expenses as the department may determine, for the enforcement and collection of any parental reimbursement obligation established by order entered by the court under section 3 or 5(g) of this chapter:

(1) The prosecuting attorney of the county in which the juvenile court that ordered or approved the services is located or in which the obligor resides.

(2) An attorney licensed to practice law in Indiana, if the attorney is not an employee of the department.

(3) A private collection agency licensed under IC 25-11.

(b) A contract entered into under this section is subject to approval

under IC 4-13-2-14.1.

(c) Any fee payable to a prosecuting attorney under a contract under subsection (a)(1) shall be deposited in the county general fund and credited to a separate account identified as the prosecuting attorney's child services collections account. The prosecuting attorney may expend funds credited to the prosecuting attorney's child services collections account, without appropriation, only for the purpose of supporting and enhancing the functions of the prosecuting attorney in enforcement and collection of parental obligations to reimburse the department.

(d) Contracts between a prosecuting attorney, a private attorney, or a collection agency licensed under IC 25-11 and the department:

(1) must:

(A) be in writing;

(B) include:

(i) all fees, charges, and costs, including administrative and application fees; and

(ii) the right of the department to cancel the contract at any time;

(C) require the prosecuting attorney, private attorney, or collection agency, upon the request of the department, to provide the:

(i) source of each payment received for a parental reimbursement order;

(ii) form of each payment received for a parental reimbursement order; and

(iii) amount and percentage that is deducted as a fee or a charge from each payment on the parental reimbursement order; and

(D) have a term of not more than four (4) years; and

(2) may be negotiable contingency contracts in which a prosecuting attorney, private attorney, or collection agency may not collect a fee that exceeds fifteen percent (15%) of the parental reimbursement collected per case.

(e) A prosecuting attorney, private attorney, or collection agency that contracts with the department under this section may, in addition to the collection of the parental reimbursement order, assess and collect from an obligor all fees, charges, costs, and other expenses as provided under the terms of the contract described in subsection (d).

SECTION 390. IC 32-30-10-14, AS AMENDED BY P.L.88-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. The proceeds of a sale described in IC 32-29-7 or section 8 or 12(b) of this chapter must be applied in the following order:

(1) Expenses of the offer and sale, including expenses incurred under IC 32-29-7-4 or section 9 of this chapter (or IC 34-1-53-6.5 or IC 32-15-6-6.5 before their repeal).

(2) The amount of any property taxes on the property sold:

(A) that are due and owing; and

(B) for which the due date has passed as of the date of the sheriff's sale.

The sheriff shall transfer the amounts collected under this subdivision to the county treasurer not more than ten (10) days after the date of the sheriff's sale.

(3) Any amount of redemption where a certificate of sale is outstanding.

~~(2)~~ **(4)** The payment of the principal due, interest, and costs not described in subdivision (1).

~~(3)~~ **(5)** The residue secured by the mortgage and not due.

~~(4)~~ **(6)** If the residue referred to in subdivision ~~(3)~~ **(5)** does not bear interest, a deduction must be made by discounting the legal interest.

In all cases in which the proceeds of sale exceed the amounts described in subdivisions (1) through ~~(4),~~ **(6),** the surplus must be paid to the clerk of the court to be transferred, as the court directs, to the mortgage debtor, mortgage debtor's heirs, or other persons assigned by the mortgage debtor.

SECTION 391. IC 33-34-8-3, AS AMENDED BY P.L.122-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) Payment for all costs made as a result of proceedings in a small claims court shall be to the _____ Township of Marion County Small Claims Court (with the name of the township inserted). The court shall issue a receipt for all money received on a form numbered serially in duplicate. All township docket fees and late fees received by the court shall be paid to the township trustee at the close of each month.

(b) The court shall:

(1) semiannually distribute to the auditor of state:

(A) all automated record keeping fees (IC 33-37-5-21)

received by the court for deposit in the **homeowner protection unit account established by IC 4-6-12-9 and the** state user fee fund established under IC 33-37-9;

(B) all public defense administration fees collected by the court under IC 33-37-5-21.2 for deposit in the state general fund;

(C) sixty percent (60%) of all court administration fees collected by the court under IC 33-37-5-27 for deposit in the state general fund;

(D) all judicial insurance adjustment fees collected by the court under IC 33-37-5-25 for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2; and

(E) seventy-five percent (75%) of all judicial salaries fees collected by the court under IC 33-37-5-26 for deposit in the state general fund; and

(2) distribute monthly to the county auditor all document storage fees received by the court.

The remaining twenty-five percent (25%) of the judicial salaries fees described in subdivision (1)(E) shall be deposited monthly in the township general fund of the township in which the court is located. The county auditor shall deposit fees distributed under subdivision (2) into the clerk's record perpetuation fund under IC 33-37-5-2.

(c) The court semiannually shall pay to the township trustee of the township in which the court is located the remaining forty percent (40%) of the court administration fees described under subsection (b)(1)(C) to fund the operations of the small claims court in the trustee's township.

SECTION 392. IC 33-37-4-1, AS AMENDED BY P.L.176-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars ($120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A marijuana eradication program fee (IC 33-37-5-7).

(3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).

(5) A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).

(6) An alcohol and drug countermeasures fee (IC 33-37-5-10).

(7) A child abuse prevention fee (IC 33-37-5-12).

(8) A domestic violence prevention and treatment fee (IC 33-37-5-13).

(9) A highway work zone fee (IC 33-37-5-14).

(10) A deferred prosecution fee (IC 33-37-5-17).

(11) A document storage fee (IC 33-37-5-20).

(12) An automated record keeping fee (IC 33-37-5-21).

(13) A late payment fee (IC 33-37-5-22).

(14) A sexual assault victims assistance fee (IC 33-37-5-23).

(15) A public defense administration fee (IC 33-37-5-21.2).

(16) A judicial insurance adjustment fee (IC 33-37-5-25).

(17) A judicial salaries fee (IC 33-37-5-26).

(18) A court administration fee (IC 33-37-5-27).

(19) A DNA sample processing fee (IC 33-37-5-26.2).

(c) Instead of the criminal costs fee prescribed by this section, **except for the automated record keeping fee (IC 33-37-5-21),** the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-39-1-8 requires payment of those fees by the accused person. The pretrial diversion program fee is:

(1) an initial user's fee of fifty dollars ($50); and

(2) a monthly user's fee of ten dollars ($10) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, not later than thirty (30) days after the fees are collected:

(1) The pretrial diversion fee.

(2) The marijuana eradication program fee.

(3) The alcohol and drug services program user fee.

(4) The law enforcement continuing education program fee.

The auditor or fiscal officer shall deposit fees transferred under this subsection in the appropriate user fee fund established under IC 33-37-8.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

(1) The clerk shall apply the partial payment to general court costs.

(2) If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the remainder of the partial payment for deposit in the appropriate county user fee fund.

(3) If there is money remaining after distribution under subdivision (2), the clerk shall distribute the remainder of the partial payment for deposit in the state user fee fund.

(4) If there is money remaining after distribution under subdivision (3), the clerk shall distribute the remainder of the partial payment to any other applicable user fee fund.

(5) If there is money remaining after distribution under subdivision (4), the clerk shall apply the remainder of the partial payment to any outstanding fines owed by the defendant.

SECTION 393. IC 33-37-4-2, AS AMENDED BY P.L.176-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

(1) for a violation constituting an infraction; or

(2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars ($70).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(3) A law enforcement continuing education program fee (IC 33-37-5-8(c)).

(4) An alcohol and drug countermeasures fee (IC 33-37-5-10).

(5) A highway work zone fee (IC 33-37-5-14).

(6) A deferred prosecution fee (IC 33-37-5-17).

(7) A jury fee (IC 33-37-5-19).

(8) A document storage fee (IC 33-37-5-20).

(9) An automated record keeping fee (IC 33-37-5-21).

(10) A late payment fee (IC 33-37-5-22).

(11) A public defense administration fee (IC 33-37-5-21.2).

(12) A judicial insurance adjustment fee (IC 33-37-5-25).

(13) A judicial salaries fee (IC 33-37-5-26).

(14) A court administration fee (IC 33-37-5-27).

(15) A DNA sample processing fee (IC 33-37-5-26.2).

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, not later than thirty (30) days after the fees are collected:

(1) The alcohol and drug services program user fee (IC 33-37-5-8(b)).

(2) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

(3) The deferral program fee (subsection (e)).

The auditor or fiscal officer shall deposit the fees in the user fee fund established under IC 33-37-8.

(d) The defendant is not liable for any ordinance violation costs fee in an action if all the following apply:

(1) The defendant was charged with an ordinance violation subject to IC 33-36.

(2) The defendant denied the violation under IC 33-36-3.

(3) Proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal).

(4) The defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), **except for the automated record keeping fee (IC 33-37-5-21),** the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

(1) an initial user's fee not to exceed fifty-two dollars ($52); and

(2) a monthly user's fee not to exceed ten dollars ($10) for each month the person remains in the deferral program.

(f) The fees prescribed by this section are costs for purposes of IC 34-28-5-5 and may be collected from a defendant against whom

judgment is entered. Any penalty assessed is in addition to costs.

SECTION 394. IC 33-37-5-21, AS AMENDED BY P.L.234-2007, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) This section applies to all civil, criminal, infraction, and ordinance violation actions.

(b) The clerk shall collect ~~a seven dollar ($7)~~ **an** automated record keeping fee **as follows:**

(1) Seven dollars ($7) after June 30, 2003, and before July 1, 2011.

(2) Four dollars ($4) after June 30, 2011.

SECTION 395. IC 33-37-7-2, AS AMENDED BY P.L.105-2009, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the **homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the** state general fund seventy percent (70%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

(4) IC 33-37-4-4(a) (civil costs fees).

(5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).

(4) One hundred percent (100%) of the domestic violence

prevention and treatment fees collected under IC 33-37-4-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21) **not distributed under subsection (a).**

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance account established by IC 5-2-6-23(h) one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in the county general fund.

(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.

(i) This subsection does not apply to court administration fees collected in small claims actions filed in a court described in IC 33-34. The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The judicial salaries fees collected under IC 33-37-5-26.

(3) The DNA sample processing fees collected under IC 33-37-5-26.2.

(4) The court administration fees collected under IC 33-37-5-27.

(j) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(k) The proceeds of the service fee collected under IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as

follows:

(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(l) The proceeds of the garnishee service fee collected under IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(m) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the home ownership education account established by IC 5-20-1-27 one hundred percent (100%) of the mortgage foreclosure counseling and education fees collected under IC 33-37-5-30 (before its expiration on January 1, 2013).

SECTION 396. IC 33-37-7-8, AS AMENDED BY P.L.224-2007, SECTION 120, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the **homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the** state general fund fifty-five percent (55%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).

(5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the

county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).

(5) IC 33-37-5-17 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).

(5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21) **not distributed under subsection (a).**

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under

IC 5-2-11.

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the following:

(1) The late payment fees collected under IC 33-37-5-22.

(2) The small claims service fee collected under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).

(3) The small claims garnishee service fee collected under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).

The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The DNA sample processing fees collected under IC 33-37-5-26.2.

(3) The court administration fees collected under IC 33-37-5-27.

(h) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(i) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund seventy-five percent (75%) of the judicial salaries fee collected under IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five percent (25%) of the judicial salaries fee collected under IC 33-37-5-26. The funds retained by the city or town shall be prioritized to fund city or town court operations.

SECTION 397. IC 34-30-2-39.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 39.6. IC 4-13-19-6 (Concerning a person who releases information to the department of child services ombudsman).**

SECTION 398. IC 34-30-2-39.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 39.7. IC 4-13-19-9 (Concerning**

the department of child services ombudsman for the good faith performance of official duties).

SECTION 399. IC 35-48-7-8.1, AS ADDED BY P.L.65-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.1. (a) This section applies after June 30, 2007.

(b) The advisory committee shall provide for a controlled substance prescription monitoring program that includes the following components:

(1) Each time a controlled substance designated by the advisory committee under IC 35-48-2-5 through IC 35-48-2-10 is dispensed, the dispenser shall transmit to the INSPECT program the following information:

(A) The controlled substance recipient's name.

(B) The controlled substance recipient's or the recipient representative's identification number or the identification number or phrase designated by the INSPECT program.

(C) The controlled substance recipient's date of birth.

(D) The national drug code number of the controlled substance dispensed.

(E) The date the controlled substance is dispensed.

(F) The quantity of the controlled substance dispensed.

(G) The number of days of supply dispensed.

(H) The dispenser's United States Drug Enforcement Agency registration number.

(I) The prescriber's United States Drug Enforcement Agency registration number.

(J) An indication as to whether the prescription was transmitted to the pharmacist orally or in writing.

(K) Other data required by the advisory committee.

(2) The information required to be transmitted under this section must be transmitted not more than seven (7) days after the date on which a controlled substance is dispensed.

(3) A dispenser shall transmit the information required under this section by:

(A) uploading to the INSPECT web site;

(B) a computer diskette; or

(C) a CD-ROM disk;

that meets specifications prescribed by the advisory committee.

(4) The advisory committee may require that prescriptions for controlled substances be written on a one (1) part form that

cannot be duplicated. However, the advisory committee may not apply such a requirement to prescriptions filled at a pharmacy with a Type II permit (as described in IC 25-26-13-17) and operated by a hospital licensed under IC 16-21, or prescriptions ordered for and dispensed to bona fide enrolled patients in facilities licensed under IC 16-28. The committee may not require multiple copy prescription forms ~~and serially numbered prescription forms~~ for any prescriptions written. The advisory committee may not require different prescription forms for any individual drug or group of drugs. Prescription forms required under this subdivision must be jointly approved by the committee and by the Indiana board of pharmacy established by IC 25-26-13-3.

(5) The costs of the program.

SECTION 400. IC 36-3-1-5.1, AS AMENDED BY P.L.216-2007, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5.1. (a) Except for those duties that are reserved by law to the county sheriff in this section, the city-county legislative body may by majority vote adopt an ordinance, approved by the mayor, to consolidate the police department of the consolidated city and the county sheriff's department.

(b) The city-county legislative body may not adopt an ordinance under this section unless it first:

(1) holds a public hearing on the proposed consolidation; and

(2) determines that:

(A) reasonable and adequate police protection can be provided through the consolidation; and

(B) the consolidation is in the public interest.

(c) If an ordinance is adopted under this section, the consolidation shall take effect on the date specified in the ordinance.

(d) Notwithstanding any other law, an ordinance adopted under this section must provide that the county sheriff's department shall be responsible for all the following for the consolidated city and the county under the direction and control of the sheriff:

(1) County jail operations and facilities.

(2) Emergency communications.

(3) Security for buildings and property owned by:

(A) the consolidated city;

(B) the county; or

(C) both the consolidated city and county.

(4) Service of civil process and collection of taxes under tax warrants.

(5) Sex and violent offender registration.

(e) The following apply if an ordinance is adopted under this section:

(1) The department of local government finance ~~on recommendation from the local government tax control board,~~ shall adjust the maximum permissible ad valorem property tax levy of the consolidated city and the county for property taxes first due and payable in the year a consolidation takes effect under this section. When added together, the adjustments under this subdivision must total zero (0).

(2) The ordinance must specify which law enforcement officers of the police department and which law enforcement officers of the county sheriff's department shall be law enforcement officers of the consolidated law enforcement department.

(3) The ordinance may not prohibit the providing of law enforcement services for an excluded city under an interlocal agreement under IC 36-1-7.

(4) A member of the county police force who:

(A) was an employee beneficiary of the sheriff's pension trust before the consolidation of the law enforcement departments; and

(B) after the consolidation becomes a law enforcement officer of the consolidated law enforcement department;

remains an employee beneficiary of the sheriff's pension trust. The member retains, after the consolidation, credit in the sheriff's pension trust for service earned while a member of the county police force and continues to earn service credit in the sheriff's pension trust as a member of the consolidated law enforcement department for purposes of determining the member's benefits from the sheriff's pension trust.

(5) A member of the police department of the consolidated city who:

(A) was a member of the 1953 fund or the 1977 fund before the consolidation of the law enforcement departments; and

(B) after the consolidation becomes a law enforcement officer of the consolidated law enforcement department;

remains a member of the 1953 fund or the 1977 fund. The member retains, after the consolidation, credit in the 1953 fund or

the 1977 fund for service earned while a member of the police department of the consolidated city and continues to earn service credit in the 1953 fund or the 1977 fund as a member of the consolidated law enforcement department for purposes of determining the member's benefits from the 1953 fund or the 1977 fund.

(6) The ordinance must designate the merit system that shall apply to the law enforcement officers of the consolidated law enforcement department.

(7) The ordinance must designate who shall serve as a coapplicant for a warrant or an extension of a warrant under IC 35-33.5-2.

(8) The consolidated city may levy property taxes within the consolidated city's maximum permissible ad valorem property tax levy limit to provide for the payment of the expenses for the operation of the consolidated law enforcement department. The police special service district established under section 6 of this chapter may levy property taxes to provide for the payment of expenses for the operation of the consolidated law enforcement department within the territory of the police special service district. Property taxes to fund the pension obligation under IC 36-8-7.5 may be levied only by the police special service district within the police special service district. The consolidated city may not levy property taxes to fund the pension obligation under IC 36-8-7.5. Property taxes to fund the pension obligation under IC 36-8-8 for members of the 1977 police officers' and firefighters' pension and disability fund who were members of the police department of the consolidated city on the effective date of the consolidation may be levied only by the police special service district within the police special service district. Property taxes to fund the pension obligation under IC 36-8-10 for members of the sheriff's pension trust and under IC 36-8-8 for members of the 1977 police officers' and firefighters' pension and disability fund who were not members of the police department of the consolidated city on the effective date of the consolidation may be levied by the consolidated city within the consolidated city's maximum permissible ad valorem property tax levy. The assets of the consolidated city's 1953 fund and the assets of the sheriff's pension trust may not be pledged after the effective date of the consolidation as collateral for any loan.

(9) The executive of the consolidated city shall provide for an

independent evaluation and performance audit, due before March 1 of the year following the adoption of the consolidation ordinance and for the following two (2) years, to determine:

(A) the amount of any cost savings, operational efficiencies, or improved service levels; and

(B) any tax shifts among taxpayers;

that result from the consolidation. The independent evaluation and performance audit must be provided to the legislative council in an electronic format under IC 5-14-6 and to the budget committee.

SECTION 401. IC 36-3-6-9, AS AMENDED BY P.L.146-2008, SECTION 705, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) **Except as provided in subsection (d),** the city-county legislative body shall review the proposed operating and maintenance budgets and tax levies and adopt final operating and maintenance budgets and tax levies for each of the following entities in the county:

(1) An airport authority operating under IC 8-22-3.

(2) A public library operating under IC 36-12.

(3) A capital improvement board of managers operating under IC 36-10.

(4) A public transportation corporation operating under IC 36-9-4.

(5) A health and hospital corporation established under IC 16-22-8.

(6) Any other taxing unit (as defined in IC 6-1.1-1-21) that is located in the county and has a governing body that is not comprised of a majority of officials who are elected to serve on the governing body.

Except as provided in subsection (c), the city-county legislative body may reduce or modify but not increase a proposed operating and maintenance budget or tax levy under this section.

(b) The board of each entity listed in subsection (a) shall, after adoption of its proposed budget and tax levies, submit them, along with detailed accounts, to the city clerk before the first day of September of each year.

(c) The city-county legislative body **or, when subsection (d) applies, the fiscal body of an excluded city or town** shall review the issuance of bonds of an entity listed in subsection (a). Approval of the city-county legislative body **or, when subsection (d) applies, the fiscal body of an excluded city or town** is required for the issuance of

bonds. The city-county legislative body **or the fiscal body of an excluded city or town** may not reduce or modify a budget or tax levy of an entity listed in subsection (a) in a manner that would:

(1) limit or restrict the rights vested in the entity to fulfill the terms of any agreement made with the holders of the entity's bonds; or

(2) in any way impair the rights or remedies of the holders of the entity's bonds.

(d) If the assessed valuation of a taxing unit is entirely contained within an excluded city or town (as described in IC 36-3-1-7) that is located in a county having a consolidated city, the governing body of the taxing unit shall submit its proposed operating and maintenance budget and tax levies to the city or town fiscal body for approval **and not the city-county legislative body. Except as provided in subsection (c), the fiscal body of the excluded city or town may reduce or modify but not increase a proposed operating and maintenance budget or tax levy under this section.**

SECTION 402. IC 36-4-3-4, AS AMENDED BY P.L.111-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The legislative body of a municipality may, by ordinance, annex any of the following:

(1) Territory that is contiguous to the municipality.

(2) Territory that is not contiguous to the municipality and is occupied by a municipally owned or operated airport or landing field.

(3) Territory that is not contiguous to the municipality but is found by the legislative body to be occupied by a municipally owned or regulated sanitary landfill, golf course, or hospital. However, if territory annexed under this subsection ceases to be used as a municipally owned or regulated sanitary landfill, golf course, or hospital for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices required to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(b) This subsection applies to municipalities in a county having a population of:

(1) more than seventy-three thousand (73,000) but less than seventy-four thousand (74,000);

(2) more than seventy-one thousand four hundred (71,400) but less than seventy-three thousand (73,000);

(3) more than seventy thousand (70,000) but less than seventy-one thousand (71,000);

(4) more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900);

(5) more than forty thousand nine hundred (40,900) but less than forty-one thousand (41,000);

(6) more than thirty-eight thousand (38,000) but less than thirty-nine thousand (39,000);

(7) more than thirty thousand (30,000) but less than thirty thousand seven hundred (30,700);

(8) more than twenty-three thousand five hundred (23,500) but less than twenty-four thousand (24,000); ~~or~~

(9) more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than three hundred thousand (300,000); **or**

(10) more than thirty-four thousand nine hundred fifty (34,950) but less than thirty-six thousand (36,000).

Except as provided in subsection (c), the legislative body of a municipality to which this subsection applies may, by ordinance, annex territory that is not contiguous to the municipality, has its entire area not more than two (2) miles from the municipality's boundary, is to be used for an industrial park containing one (1) or more businesses, and is either owned by the municipality or by a property owner who consents to the annexation. However, if territory annexed under this subsection is not used as an industrial park within five (5) years after the date of passage of the annexation ordinance, or if the territory ceases to be used as an industrial park for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices entitled to receive notice of a disannexation under section 19 of this chapter when the territory

reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(c) A city in a county with a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000) may not annex territory as prescribed in subsection (b) until the territory is zoned by the county for industrial purposes.

(d) Notwithstanding any other law, territory that is annexed under subsection (b) or (h) is not considered a part of the municipality for the purposes of:

(1) annexing additional territory:

(A) in a county that is not described by clause (B); or

(B) in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), unless the boundaries of the noncontiguous territory become contiguous to the city, as allowed by Indiana law;

(2) expanding the municipality's extraterritorial jurisdictional area; or

(3) changing an assigned service area under IC 8-1-2.3-6(1).

(e) As used in this section, "airport" and "landing field" have the meanings prescribed by IC 8-22-1.

(f) As used in this section, "hospital" has the meaning prescribed by IC 16-18-2-179(b).

(g) An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

(h) This subsection applies to a city having a population of more than thirty-one thousand (31,000) but less than thirty-two thousand (32,000). The legislative body of a city may, by ordinance, annex territory that:

(1) is not contiguous to the city;

(2) has its entire area not more than eight (8) miles from the city's boundary;

(3) does not extend more than:

(A) one and one-half (1 1/2) miles to the west;

(B) three-fourths (3/4) mile to the east;

(C) one-half (1/2) mile to the north; or

(D) one-half (1/2) mile to the south;

of an interchange of an interstate highway (as designated by the federal highway authorities) and a state highway (as designated by the state highway authorities); and

(4) is owned by the city or by a property owner that consents to the annexation.

SECTION 403. IC 36-4-8-15.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15.5. (a) This section applies to:**

(1) a city or county in which a riverboat (as defined in IC 4-33-2-17) is docked or located or gambling games (as defined in IC 4-35-2-5) are located; and

(2) a school corporation that is located in any part in a county described in subdivision (1) or in a county in which a city described in subdivision (1) is located.

(b) A city or county may do any of the following:

(1) Enter into one (1) or more agreements or leases with the school corporation or another public or private entity to provide for the construction or renovation of a school building that will be used by the school corporation. The agreements and leases may provide for the financing of the construction or renovation of the school building.

(2) A school building constructed or renovated as provided in subdivision (1) may be donated, sold, or leased to the school corporation under the conditions determined by the school corporation and the city or county.

(3) The city or county may use any revenues (including any gaming revenues) to pay for the construction or renovation of the school building or to finance the construction or renovation of the school building.

SECTION 404. IC 36-7-14-39, AS AMENDED BY P.L.88-2009, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 39. (a) As used in this section:

"Allocation area" means that part of a redevelopment project area to which an allocation provision of a declaratory resolution adopted under section 15 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means the following:

(1) If an allocation provision is adopted after June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing an economic development area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory

resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(2) If an allocation provision is adopted after June 30, 1997, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(3) If:

(A) an allocation provision adopted before June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area expires after June 30, 1997; and

(B) after June 30, 1997, a new allocation provision is included in an amendment to the declaratory resolution;

the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision adopted after June 30, 1997, as adjusted under subsection (h).

(4) Except as provided in subdivision (5), for all other allocation areas, the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h).

(5) If an allocation area established in an economic development area before July 1, 1995, is expanded after June 30, 1995, the definition in subdivision (1) applies to the expanded part of the area added after June 30, 1995.

(6) If an allocation area established in a redevelopment project area before July 1, 1997, is expanded after June 30, 1997, the

definition in subdivision (2) applies to the expanded part of the area added after June 30, 1997.

Except as provided in section 39.3 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property. However, upon approval by a resolution of the redevelopment commission adopted before June 1, 1987, "property taxes" also includes taxes imposed under IC 6-1.1 on depreciable personal property. If a redevelopment commission adopted before June 1, 1987, a resolution to include within the definition of property taxes taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the commission may by resolution determine the percentage of taxes imposed under IC 6-1.1 on all depreciable personal property that will be included within the definition of property taxes. However, the percentage included must not exceed twenty-five percent (25%) of the taxes imposed under IC 6-1.1 on all depreciable personal property.

(b) A declaratory resolution adopted under section 15 of this chapter on or before the allocation deadline determined under subsection (i) may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution on or before the allocation deadline determined under subsection (i) in accordance with the procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision after June 30, 1995, must specify an expiration date for the allocation provision. For an allocation area established before July 1, 2008, the expiration date may not be more than thirty (30) years after the date on which the allocation provision is established. For an allocation area established after June 30, 2008, the expiration date may not be more than twenty-five (25) years after the date on which the ~~allocation provision is established.~~ **first obligation was incurred to pay principal and interest on bonds or lease rentals on leases payable from tax increment revenues.** However, with respect to bonds or other obligations that were issued before July 1, 2008, if any of the bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the

redevelopment project area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the redevelopment district and, when collected, paid into an allocation fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds which are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 27 of this chapter.

(D) Pay the principal of and interest on bonds issued by the unit to pay for local public improvements that are physically located in or physically connected to that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 25.2 of this chapter.

(G) Reimburse the unit for expenditures made by it for local public improvements (which include buildings, parking facilities, and other items described in section 25.1(a) of this

chapter) that are physically located in or physically connected to that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility that is physically located in or physically connected to that allocation area under any lease entered into under IC 36-1-10.

(I) For property taxes first due and payable before January 1, 2009, pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the redevelopment commission. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(i) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(ii) the STEP ONE sum.

STEP THREE: Multiply:

(i) the STEP TWO quotient; times

(ii) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that have been allocated during that year to an allocation fund under this section.

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under section 39.5 of this chapter (before its repeal) in the same year.

(J) Pay expenses incurred by the redevelopment commission for local public improvements that are in the allocation area or serving the allocation area. Public improvements include buildings, parking facilities, and other items described in section 25.1(a) of this chapter.

(K) Reimburse public and private entities for expenses

incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

(L) Pay the costs of carrying out an eligible efficiency project (as defined in IC 36-9-41-1.5) within the unit that established the redevelopment commission. However, property tax proceeds may be used under this clause to pay the costs of carrying out an eligible efficiency project only if those property tax proceeds exceed the amount necessary to do the following:

(i) Make, when due, any payments required under clauses (A) through (K), including any payments of principal and interest on bonds and other obligations payable under this subdivision, any payments of premiums under this subdivision on the redemption before maturity of bonds, and any payments on leases payable under this subdivision.

(ii) Make any reimbursements required under this subdivision.

(iii) Pay any expenses required under this subdivision.

(iv) Establish, augment, or restore any debt service reserve under this subdivision.

The allocation fund may not be used for operating expenses of the commission.

(3) Except as provided in subsection (g), before July 15 of each year the commission shall do the following:

(A) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to produce the

property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2).

(B) Provide a written notice to the county auditor, the fiscal body of the county or municipality that established the department of redevelopment, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(i) state the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1); or

(ii) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission. The commission may not authorize an allocation of assessed value to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (2) or lessors under section 25.3 of this chapter.

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the redevelopment commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. The amount sufficient for purposes specified in subsection (b)(2) for the year shall be determined based on the pro rata portion of such current property tax proceeds from the part of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or other purposes specified in subsection (b)(2), except that where reference is made in subsection (b)(2) to allocation area it shall refer for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone. Those programs shall reserve at least one-half (1/2) of their enrollment in any session for residents of the enterprise zone.

(h) The state board of accounts and department of local government

finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(2) than would otherwise have been received if the general reassessment or annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

SECTION 405. IC 36-7-14.5-12.5, AS AMENDED BY P.L.146-2008, SECTION 742, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12.5. (a) This section applies only to an authority in a county having a United States government military base that is scheduled for closing or is completely or partially inactive or closed.

(b) In order to accomplish the purposes set forth in section 11 of this

chapter, an authority may create an economic development area:

(1) by following the procedures set forth in IC 36-7-14-41 for the establishment of an economic development area by a redevelopment commission; and

(2) with the same effect as if the economic development area was created by a redevelopment commission.

The area established under this section shall be established only in the area where a United States government military base that is scheduled for closing or is completely or partially inactive or closed is or was located.

(c) In order to accomplish the purposes set forth in section 11 of this chapter, an authority may do the following in a manner that serves an economic development area created under this section:

(1) Acquire by purchase, exchange, gift, grant, condemnation, or lease, or any combination of methods, any personal property or interest in real property needed for the redevelopment of economic development areas located within the corporate boundaries of the unit.

(2) Hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, or otherwise dispose of property acquired for use in the redevelopment of economic development areas on the terms and conditions that the authority considers best for the unit and the unit's inhabitants.

(3) Sell, lease, or grant interests in all or part of the real property acquired for redevelopment purposes to any other department of the unit or to any other governmental agency for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes on any terms that may be agreed on.

(4) Clear real property acquired for redevelopment purposes.

(5) Repair and maintain structures acquired for redevelopment purposes.

(6) Remodel, rebuild, enlarge, or make major structural improvements on structures acquired for redevelopment purposes.

(7) Survey or examine any land to determine whether the land should be included within an economic development area to be acquired for redevelopment purposes and to determine the value of that land.

(8) Appear before any other department or agency of the unit, or before any other governmental agency in respect to any matter affecting:

(A) real property acquired or being acquired for redevelopment purposes; or

(B) any economic development area within the jurisdiction of the authority.

(9) Institute or defend in the name of the unit any civil action, but all actions against the authority must be brought in the circuit or superior court of the county where the authority is located.

(10) Use any legal or equitable remedy that is necessary or considered proper to protect and enforce the rights of and perform the duties of the authority.

(11) Exercise the power of eminent domain in the name of and within the corporate boundaries of the unit subject to the same conditions and procedures that apply to the exercise of the power of eminent domain by a redevelopment commission under IC 36-7-14.

(12) Appoint an executive director, appraisers, real estate experts, engineers, architects, surveyors, and attorneys.

(13) Appoint clerks, guards, laborers, and other employees the authority considers advisable, except that those appointments must be made in accordance with the merit system of the unit if such a system exists.

(14) Prescribe the duties and regulate the compensation of employees of the authority.

(15) Provide a pension and retirement system for employees of the authority by using the public employees' retirement fund or a retirement plan approved by the United States Department of Housing and Urban Development.

(16) Discharge and appoint successors to employees of the authority subject to subdivision (13).

(17) Rent offices for use of the department or authority, or accept the use of offices furnished by the unit.

(18) Equip the offices of the authority with the necessary furniture, furnishings, equipment, records, and supplies.

(19) Design, order, contract for, and construct, reconstruct, improve, or renovate the following:

(A) Any local public improvement or structure that is necessary for redevelopment purposes or economic development within the corporate boundaries of the unit.

(B) Any structure that enhances development or economic development.

(20) Contract for the construction, extension, or improvement of pedestrian skyways (as defined in IC 36-7-14-12.2(c)).

(21) Accept loans, grants, and other forms of financial assistance from, or contract with, the federal government, the state government, a municipal corporation, a special taxing district, a foundation, or any other source.

(22) Make and enter into all contracts and agreements necessary or incidental to the performance of the duties of the authority and the execution of the powers of the authority under this chapter.

(23) Take any action necessary to implement the purpose of the authority.

(24) Provide financial assistance, in the manner that best serves the purposes set forth in section 11 of this chapter, including grants and loans, to enable private enterprise to develop, redevelop, and reuse military base property or otherwise enable private enterprise to provide social and economic benefits to the citizens of the unit.

(d) An authority may designate all or a portion of an economic development area created under this section as an allocation area by following the procedures set forth in IC 36-7-14-39 for the establishment of an allocation area by a redevelopment commission. The allocation provision may modify the definition of "property taxes" under IC 36-7-14-39(a) to include taxes imposed under IC 6-1.1 on the depreciable personal property located and taxable on the site of operations of designated taxpayers in accordance with the procedures applicable to a commission under IC 36-7-14-39.3. IC 36-7-14-39.3 applies to such a modification. An allocation area established by an authority under this section is a special taxing district authorized by the general assembly to enable the unit to provide special benefits to taxpayers in the allocation area by promoting economic development that is of public use and benefit. For allocation areas established for an economic development area created under this section after June 30, 1997, and to the expanded portion of an allocation area for an economic development area that was established before June 30, 1997, and that is expanded under this section after June 30, 1997, the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date, must be allocated. All of the provisions of IC 36-7-14-39 apply to an allocation area created under this section, except that the authority shall be vested with the rights and

duties of a commission as referenced in those sections, and except that, notwithstanding IC 36-7-14-39(b)(2), property tax proceeds paid into the allocation fund may be used by the authority only to do one (1) or more of the following:

(1) Pay the principal of and interest and redemption premium on any obligations incurred by the special taxing district or any other entity for the purpose of financing or refinancing military base reuse activities in or serving or benefiting that allocation area.

(2) Establish, augment, or restore the debt service reserve for obligations payable solely or in part from allocated tax proceeds in that allocation area or from other revenues of the authority (including lease rental revenues).

(3) Make payments on leases payable solely or in part from allocated tax proceeds in that allocation area.

(4) Reimburse any other governmental body for expenditures made by it for local public improvements or structures in or serving or benefiting that allocation area.

(5) For property taxes first due and payable before 2009, pay all or a portion of a property tax replacement credit to taxpayers in an allocation area as determined by the authority. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that have been allocated during that year to an allocation fund under this section.

If not all the taxpayers in an allocation area receive the credit in

full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under IC 36-7-14-39.5 (before its repeal) in the same year.

(6) Pay expenses incurred by the authority for local public improvements or structures that are in the allocation area or serving or benefiting the allocation area.

(7) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(A) in the allocation area; and

(B) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in clause (B). The reimbursements under this subdivision must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made. The allocation fund may not be used for operating expenses of the authority.

(e) In addition to other methods of raising money for property acquisition, redevelopment, or economic development activities in or directly serving or benefitting an economic development area created by an authority under this section, and in anticipation of the taxes allocated under subsection (d), other revenues of the authority, or any combination of these sources, the authority may, by resolution, issue the bonds of the special taxing district in the name of the unit. Bonds issued under this section may be issued in any amount without limitation. The following apply if such a resolution is adopted:

(1) The authority shall certify a copy of the resolution authorizing the bonds to the municipal or county fiscal officer, who shall then prepare the bonds. The seal of the unit must be impressed on the bonds, or a facsimile of the seal must be printed on the bonds.

(2) The bonds must be executed by the appropriate officer of the unit and attested by the unit's fiscal officer.

(3) The bonds are exempt from taxation for all purposes.

(4) Bonds issued under this section may be sold at public sale in accordance with IC 5-1-11 or at a negotiated sale.

(5) The bonds are not a corporate obligation of the unit but are an

indebtedness of the taxing district. The bonds and interest are payable, as set forth in the bond resolution of the authority:

(A) from the tax proceeds allocated under subsection (d);

(B) from other revenues available to the authority; or

(C) from a combination of the methods stated in clauses (A) and (B).

(6) Proceeds from the sale of bonds may be used to pay the cost of interest on the bonds for a period not to exceed five (5) years from the date of issuance.

(7) Laws relating to the filing of petitions requesting the issuance of bonds and the right of taxpayers and voters to remonstrate against the issuance of bonds do not apply to bonds issued under this section.

(8) If a debt service reserve is created from the proceeds of bonds, the debt service reserve may be used to pay principal and interest on the bonds as provided in the bond resolution.

(9) If bonds are issued under this chapter that are payable solely or in part from revenues to the authority from a project or projects, the authority may adopt a resolution or trust indenture or enter into covenants as is customary in the issuance of revenue bonds. The resolution or trust indenture may pledge or assign the revenues from the project or projects. The resolution or trust indenture may also contain any provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority. The authority may establish fees and charges for the use of any project and covenant with the owners of any bonds to set those fees and charges at a rate sufficient to protect the interest of the owners of the bonds. Any revenue bonds issued by the authority that are payable solely from revenues of the authority shall contain a statement to that effect in the form of bond.

(f) Notwithstanding section 8(a) of this chapter, an ordinance adopted under section 11 of this chapter may provide, or be amended to provide, that the board of directors of the authority shall be composed of not fewer than three (3) nor more than eleven (11) members, who must be residents of **or be employed at a place of employment located within** the unit. **The members shall be** appointed by the executive of the unit.

(g) The acquisition of real and personal property by an authority

under this section is not subject to the provisions of IC 5-22, IC 36-1-10.5, IC 36-7-14-19, or any other statutes governing the purchase of property by public bodies or their agencies.

(h) An authority may negotiate for the sale, lease, or other disposition of real and personal property without complying with the provisions of IC 5-22-22, IC 36-1-11, IC 36-7-14-22, or any other statute governing the disposition of public property.

(i) Notwithstanding any other law, utility services provided within an economic development area established under this section are subject to regulation by the appropriate regulatory agencies unless the utility service is provided by a utility that provides utility service solely within the geographic boundaries of an existing or a closed military installation, in which case the utility service is not subject to regulation for purposes of rate making, regulation, service delivery, or issuance of bonds or other forms of indebtedness. However, this exemption from regulation does not apply to utility service if the service is generated, treated, or produced outside the boundaries of the existing or closed military installation.

SECTION 406. IC 36-7-15.1-26, AS AMENDED BY P.L.88-2009, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 26. (a) As used in this section:

"Allocation area" means that part of a redevelopment project area to which an allocation provision of a resolution adopted under section 8 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means the following:

(1) If an allocation provision is adopted after June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing an economic development area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(2) If an allocation provision is adopted after June 30, 1997, in a declaratory resolution or an amendment to a declaratory

resolution establishing a redevelopment project area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(3) If:

(A) an allocation provision adopted before June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area expires after June 30, 1997; and

(B) after June 30, 1997, a new allocation provision is included in an amendment to the declaratory resolution;

the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision adopted after June 30, 1997, as adjusted under subsection (h).

(4) Except as provided in subdivision (5), for all other allocation areas, the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h).

(5) If an allocation area established in an economic development area before July 1, 1995, is expanded after June 30, 1995, the definition in subdivision (1) applies to the expanded part of the area added after June 30, 1995.

(6) If an allocation area established in a redevelopment project area before July 1, 1997, is expanded after June 30, 1997, the definition in subdivision (2) applies to the expanded part of the area added after June 30, 1997.

Except as provided in section 26.2 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property. However, upon approval by a resolution of the redevelopment commission adopted before June 1, 1987, "property taxes" also includes taxes imposed under IC 6-1.1 on depreciable personal property. If a redevelopment commission adopted before June 1, 1987, a resolution to include within

the definition of property taxes taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the commission may by resolution determine the percentage of taxes imposed under IC 6-1.1 on all depreciable personal property that will be included within the definition of property taxes. However, the percentage included must not exceed twenty-five percent (25%) of the taxes imposed under IC 6-1.1 on all depreciable personal property.

(b) A resolution adopted under section 8 of this chapter on or before the allocation deadline determined under subsection (i) may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A resolution previously adopted may include an allocation provision by the amendment of that resolution on or before the allocation deadline determined under subsection (i) in accordance with the procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision after June 30, 1995, must specify an expiration date for the allocation provision. For an allocation area established before July 1, 2008, the expiration date may not be more than thirty (30) years after the date on which the allocation provision is established. For an allocation area established after June 30, 2008, the expiration date may not be more than twenty-five (25) years after the date on which the ~~allocation provision is established.~~ **first obligation was incurred to pay principal and interest on bonds or lease rentals on leases payable from tax increment revenues.** However, with respect to bonds or other obligations that were issued before July 1, 2008, if any of the bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the redevelopment project area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made;

or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the redevelopment district and, when collected, paid into a special fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds that are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 19 of this chapter.

(D) Pay the principal of and interest on bonds issued by the consolidated city to pay for local public improvements that are physically located in or physically connected to that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 17.1 of this chapter.

(G) Reimburse the consolidated city for expenditures for local public improvements (which include buildings, parking facilities, and other items set forth in section 17 of this chapter) that are physically located in or physically connected to that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility that is physically located in or physically connected to that allocation area under any lease entered into under IC 36-1-10.

(I) Reimburse public and private entities for expenses incurred

in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

(J) Pay the costs of carrying out an eligible efficiency project (as defined in IC 36-9-41-1.5) within the unit that established the redevelopment commission. However, property tax proceeds may be used under this clause to pay the costs of carrying out an eligible efficiency project only if those property tax proceeds exceed the amount necessary to do the following:

(i) Make, when due, any payments required under clauses (A) through (I), including any payments of principal and interest on bonds and other obligations payable under this subdivision, any payments of premiums under this subdivision on the redemption before maturity of bonds, and any payments on leases payable under this subdivision.

(ii) Make any reimbursements required under this subdivision.

(iii) Pay any expenses required under this subdivision.

(iv) Establish, augment, or restore any debt service reserve under this subdivision.

The special fund may not be used for operating expenses of the commission.

(3) Before July 15 of each year, the commission shall do the following:

(A) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to provide the property taxes necessary to make, when due, principal and

interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2) and subsection (g).

(B) Provide a written notice to the county auditor, the legislative body of the consolidated city, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(i) state the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1); or

(ii) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission. The commission may not authorize an allocation to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (2).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the

lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund the amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund, based on the recommendations of the urban enterprise association, for one (1) or more of the following purposes:

(1) To pay for programs in job training, job enrichment, and basic skill development designed to benefit residents and employers in the enterprise zone. The programs must reserve at least one-half (1/2) of the enrollment in any session for residents of the enterprise zone.

(2) To make loans and grants for the purpose of stimulating business activity in the enterprise zone or providing employment for enterprise zone residents in the enterprise zone. These loans and grants may be made to the following:

(A) Businesses operating in the enterprise zone.

(B) Businesses that will move their operations to the enterprise zone if such a loan or grant is made.

(3) To provide funds to carry out other purposes specified in subsection (b)(2). However, where reference is made in subsection (b)(2) to the allocation area, the reference refers for purposes of payments from the special zone fund only to that part

of the allocation area that is also located in the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(2) than would otherwise have been received if the general reassessment or annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

SECTION 407. IC 36-7-15.1-53, AS AMENDED BY P.L.146-2008, SECTION 765, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 53. (a) As used in this section:

"Allocation area" means that part of a redevelopment project area to which an allocation provision of a resolution adopted under section

40 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means:

(1) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(2) to the extent that it is not included in subdivision (1), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

Except as provided in section 55 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property.

(b) A resolution adopted under section 40 of this chapter on or before the allocation deadline determined under subsection (i) may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A resolution previously adopted may include an allocation provision by the amendment of that resolution on or before the allocation deadline determined under subsection (i) in accordance with the procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision must be approved by resolution of the legislative body of the excluded city and must specify an expiration date for the allocation provision. For an allocation area established before July 1, 2008, the expiration date may not be more than thirty (30) years after the date on which the allocation provision is established. For an allocation area established after June 30, 2008, the expiration date may not be more than twenty-five (25) years after the date on which the ~~allocation provision is established.~~ **first obligation was incurred to pay principal and interest on bonds or lease rentals on leases payable from tax increment revenues.** However, with respect to bonds or other obligations that were issued before July 1, 2008, if any of the bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the redevelopment project area.

The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the redevelopment district and, when collected, paid into a special fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds that are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 50 of this chapter.

(D) Pay the principal of and interest on bonds issued by the excluded city to pay for local public improvements that are physically located in or physically connected to that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 46 of this chapter.

(G) Reimburse the excluded city for expenditures for local public improvements (which include buildings, park facilities,

and other items set forth in section 45 of this chapter) that are physically located in or physically connected to that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility that is physically located in or physically connected to that allocation area under any lease entered into under IC 36-1-10.

(I) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

The special fund may not be used for operating expenses of the commission.

(3) Before July 15 of each year, the commission shall do the following:

(A) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to provide the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2) and subsection (g).

(B) Provide a written notice to the county auditor, the fiscal body of the county or municipality that established the department of redevelopment, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(i) state the amount, if any, of excess assessed value that the

commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1); or

(ii) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission. The commission may not authorize an allocation to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (2).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located, is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes

specified in subsection (b)(2) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund the amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund, based on the recommendations of the urban enterprise association, for one (1) or more of the following purposes:

(1) To pay for programs in job training, job enrichment, and basic skill development designed to benefit residents and employers in the enterprise zone. The programs must reserve at least one-half (1/2) of the enrollment in any session for residents of the enterprise zone.

(2) To make loans and grants for the purpose of stimulating business activity in the enterprise zone or providing employment for enterprise zone residents in an enterprise zone. These loans and grants may be made to the following:

(A) Businesses operating in the enterprise zone.

(B) Businesses that will move their operations to the enterprise zone if such a loan or grant is made.

(3) To provide funds to carry out other purposes specified in subsection (b)(2). However, where reference is made in subsection (b)(2) to the allocation area, the reference refers, for purposes of payments from the special zone fund, only to that part of the allocation area that is also located in the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the

department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(2) than would otherwise have been received if the general reassessment or annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

SECTION 408. IC 36-7-31-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. As used in this chapter, "covered taxes" means the following:

(1) With respect to the professional sports development area as it existed on December 31, 2008:

~~(1)~~ **(A)** The state gross retail tax imposed under IC 6-2.5-2-1 or use tax imposed under IC 6-2.5-3-2.

~~(2)~~ **(B)** An adjusted gross income tax imposed under IC 6-3-2-1 on an individual.

~~(3)~~ **(C)** A county option income tax imposed under IC 6-3.5-6.

~~(4)~~ **(D)** A food and beverage tax imposed under IC 6-9.

(2) With respect to an addition to the professional sports development area after December 31, 2008:

(A) The state gross retail tax imposed under IC 6-2.5-2-1

or use tax imposed under IC 6-2.5-3-2.

(B) An adjusted gross income tax imposed under IC 6-3-2-1 on an individual.

(C) A county option income tax imposed under IC 6-3.5-6.

SECTION 409. IC 36-7-31-10, AS AMENDED BY P.L.214-2005, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. **(a)** A commission may establish as part of a professional sports development area any facility **or complex of facilities:**

(1) that is used in the training of a team engaged in professional sporting events; ~~or~~

(2) that is:

(A) financed in whole or in part by:

(i) notes or bonds issued by a political subdivision or issued under IC 36-10-9 or IC 36-10-9.1; or

(ii) a lease or other agreement under IC 5-1-17; and

(B) used to hold a professional sporting event; **or**

(3) that consists of a hotel, motel, or a multibrand complex of hotels and motels, with significant meeting space:

(A) located in an area in Indianapolis, Indiana, bounded on the east by Illinois Street, on the south by Maryland Street, and on the west and north by Washington Street, as those streets were located on June 1, 2009;

(B) that provides:

(i) convenient accommodations for consideration to the general public for periods of less than thirty (30) days, especially for individuals attending professional sporting events, conventions, or similar events in the capital improvements that are owned, leased, or operated by the capital improvement board; and

(ii) significant meeting and convention space that directly enhances events held in the capital improvements that are owned, leased, or operated by the capital improvement board; and

(C) that enhances the convention opportunities for the capital improvement board to hold events that:

(i) would not otherwise be possible; and

(ii) directly affect the success of both the facilities and capital improvements that are owned, leased, or operated by the capital improvement board.

The tax area may include a facility **or complex of facilities** described

in this section and any parcel of land on which the facility **or complex of facilities** is located. An area may contain noncontiguous tracts of land within the county.

(b) With respect to the site or future site of a facility or complex of facilities described in subsection (a)(3), the general assembly finds the following:

(1) That the facility or complex of facilities in the tax area provides both convenient accommodations for professional sporting events, conventions, or similar events and significant meeting and convention space that directly enhance events held in the capital improvements that are owned, leased, or operated by the capital improvement board.

(2) That the facility or complex of facilities in the tax area and the capital improvements that are owned, leased, or operated by the capital improvement board are integrally related to enhancing the convention opportunities that directly affect the success of both the facilities and capital improvements.

(3) That the facility or complex of facilities in the tax area provides the opportunity for the capital improvement board to hold events that would not otherwise be possible.

(4) That the facility or complex of facilities in the tax area protects or increases state and local tax bases and tax revenues.

SECTION 410. IC 36-7-31-11, AS AMENDED BY P.L.214-2005, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) A tax area must be initially established before July 1, 1999, according to the procedures set forth for the establishment of an economic development area under IC 36-7-15.1. A tax area may be changed (including to the exclusion or inclusion of a facility described in this chapter) or the terms governing the tax area may be revised in the same manner as the establishment of the initial tax area. However, **a tax area may be changed as follows:**

(1) After May 14, 2005, ~~(1)~~ a tax area may be changed ~~only~~ to include the site or future site of a facility that is or will be the subject of a lease or other agreement entered into between the capital improvement board and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26. ~~and~~

(2) After June 30, 2009, a tax area may be changed to include the site or future site of a facility or complex of facilities described in section 10(a)(3) of this chapter.

~~(2)~~ **(3)** The terms governing a tax area may be revised only with respect to a facility **or complex of facilities** described in subdivision (1) **or (2).**

(b) In establishing or changing the tax area or revising the terms governing the tax area, the commission must ~~make~~ **do** the following: ~~findings.~~

(1) With respect to a tax area change described in subsection (a)(1), the commission must make the following findings instead of the findings required for the establishment of economic development areas:

~~(1)~~ **(A)** That a project to be undertaken or that has been undertaken in the tax area is for a facility at which a professional sporting event or a convention or similar event will be held.

~~(2)~~ **(B)** That the project to be undertaken or that has been undertaken in the tax area will benefit the public health and welfare and will be of public utility and benefit.

~~(3)~~ **(C)** That the project to be undertaken or that has been undertaken in the tax area will protect or increase state and local tax bases and tax revenues.

(2) With respect to a tax area change described in subsection (a)(2), the commission must make the following findings instead of the findings required for the establishment of an economic development area:

(A) That the facility or complex of facilities in the tax area provides both convenient accommodations for professional sporting events, conventions, or similar events and significant meeting and convention space that directly enhance events held in the capital improvements that are owned, leased, or operated by the capital improvement board.

(B) That the facility or complex of facilities in the tax area and the capital improvements that are owned, leased, or operated by the capital improvement board are integrally related to enhancing the convention opportunities that directly affect the success of both the facilities and capital improvements.

(C) That the facility or complex of facilities in the tax area provides the opportunity for the capital improvement board to hold events that would not otherwise be possible.

(D) That the facility or complex of facilities in the tax area

protects or increases state and local tax bases and tax revenues.

(c) The tax area established by the commission under this chapter is a special taxing district authorized by the general assembly to enable the county to provide special benefits to taxpayers in the tax area by promoting economic development that is of public use and benefit.

SECTION 411. IC 36-7-31-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) The budget agency must approve the resolution before covered taxes may be allocated under section 14 **or 14.2 of this chapter.**

(b) When considering a resolution **with respect to a tax area change described in section 11(a)(1) of this chapter,** the budget committee and the budget agency must make the following findings:

(1) The cost of the facility and facility site specified under the resolution exceeds one hundred thousand dollars ($100,000).

(2) The project specified in the resolution is economically sound and will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the tax area established under this chapter.

(3) The political subdivisions ~~effected~~ **affected** by the project specified in the resolution have committed significant resources towards completion of the improvement.

(c) When considering a resolution with respect to a tax area change described in section 11(a)(2) of this chapter, the budget committee and the budget agency must make the following findings:

(1) That the facility or complex of facilities described in section 10(a)(3) of this chapter will provide accommodations and significant meeting and convention space that directly enhance events and that are located in convenient proximity to capital improvements that are owned, leased, or operated by the capital improvement board.

(2) That the facility or complex of facilities in the tax area and the capital improvements that are owned, leased, or operated by the capital improvement board are integrally related to enhancing the convention opportunities that directly affect the success of both the facilities and capital improvements.

(3) That the facility or complex of facilities specified in the resolution will benefit the people of Indiana by providing the opportunity for the capital improvement board to hold events that would not otherwise be possible.

(4) That the facility or complex of facilities specified in the resolution will protect or increase state and local tax bases and tax revenues.

~~(c)~~ **(d)** Revenues from the tax area may not be allocated until the budget agency approves the resolution.

SECTION 412. IC 36-7-31-14, AS AMENDED BY P.L.214-2005, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. **(a) This section does not apply to that part of the tax area in which a facility or complex of facilities described in section 10(a)(3) of this chapter is located. A reference to "tax area" in this section does not include the part of the tax area in which a facility or complex of facilities described in section 10(a)(3) of this chapter is located.**

~~(a)~~ **(b)** A tax area must be established by resolution. A resolution establishing a tax area must provide for the allocation of covered taxes attributable to a taxable event or covered taxes earned in the tax area to the professional sports development area fund established for the county. The allocation provision must apply to the ~~entire~~ **part of the** tax area **covered by this section.** The resolution must provide that the tax area terminates not later than December 31, 2027.

~~(b)~~ **(c)** All of the salary, wages, bonuses, and other compensation that are:

(1) paid during a taxable year to a professional athlete for professional athletic services;

(2) taxable in Indiana; and

(3) earned in the tax area;

shall be allocated to the tax area if the professional athlete is a member of a team that plays the majority of the professional athletic events that the team plays in Indiana in the tax area.

~~(c)~~ **(d)** Except as provided by section 14.1 of this chapter, the total amount of state revenue captured by the tax area may not exceed five million dollars ($5,000,000) per year for twenty (20) consecutive years.

~~(d)~~ **(e)** The resolution establishing the tax area must designate the facility and the facility site for which the tax area is established and covered taxes will be used.

~~(e)~~ **(f)** The department may adopt rules under IC 4-22-2 and guidelines to govern the allocation of covered taxes to a tax area.

SECTION 413. IC 36-7-31-14.1, AS AMENDED BY P.L.120-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14.1. (a) The budget director appointed under

IC 4-12-1-3 may determine that, commencing July 1, 2007, there may be captured in the tax area up to eleven million dollars ($11,000,000) per year in addition to the up to five million dollars ($5,000,000) of state revenue to be captured by the tax area under section 14 of this chapter **for the professional sports development area fund and in addition to the state revenue to be captured by the part of the tax area covered by section 14.2 of this chapter for the sports and convention facilities operating fund,** for up to thirty-four (34) consecutive years. The budget director's determination must specify that the termination date of the tax area for purposes of the collection of the additional eleven million dollars ($11,000,000) per year **for the professional sports development area fund** is extended to not later than:

(1) January 1, 2041; or

(2) January 1, 2010, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under IC 5-1-17-26.

Following the budget director's determination, and commencing July 1, 2007, the maximum total amount of revenue captured by the tax area for years ending before January 1, 2041, ~~shall be~~ **is** sixteen million dollars ($16,000,000) per year **for the professional sports development area fund.**

(b) The additional revenue captured pursuant to a determination under subsection (a) shall be distributed to the capital improvement board or its designee. So long as there are any current or future obligations owed by the capital improvement board to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency under a lease or another agreement entered into between the capital improvement board and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the capital improvement board or its designee shall deposit the additional revenue received under this subsection in a special fund, which may be used only for the payment of the obligations described in this subsection.

(c) Notwithstanding the budget director's determination under subsection (a), after January 1, 2010, the capture of the additional eleven million dollars ($11,000,000) per year described in subsection (a) terminates on January 1 of the year following the first year in which no obligations of the capital improvement board described in subsection (b) remain outstanding.

SECTION 414. IC 36-7-31-14.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 14.2. (a) This section applies to the part of the tax area in which a facility or complex of facilities described in section 10(a)(3) of this chapter is located. A reference to "tax area addition" in this section includes only the part of the tax area in which a facility or complex of facilities described in section 10(a)(3) of this chapter is located.**

(b) A tax area change described in section 11(a)(2) of this chapter must be established by resolution. A resolution changing the tax area must provide for a request for the allocation of:

(1) covered taxes attributable to a taxable event in the tax area addition; or

(2) covered taxes from income earned in the tax area addition;

to the sports and convention facilities operating fund established by section 16(b) of this chapter. However, to the extent a covered tax has been pledged before January 1, 2009, and allocated under IC 36-10-9-11 to the capital improvement bond fund, that amount shall not be allocated to the sports and convention facilities operating fund.

(c) The allocation provision must apply only to the tax area addition.

(d) The resolution changing the tax area must designate each facility and each facility site for which the money to be distributed from the sports and convention facilities operating fund will be used.

(e) The budget director shall make an annual determination of whether at least one (1) of the following conditions is satisfied:

(1) The maximum additional tax rate for the innkeeper's tax under IC 6-9-8 was adopted after June 30, 2009, and before September 1, 2009, and was in effect on January 1 of the determination year.

(2) As of January 1 of the determination year:

(A) at least four million dollars ($4,000,000) per year is being raised from the innkeeper's tax rate increase that was adopted under IC 6-9-8 after June 30, 2009, and before September 1, 2009; and

(B) the treasurer of state has invested in obligations issued by the capital improvement board under IC 5-13-10.5-18.

If the budget director determines that either of the conditions under subdivision (1) or (2) is satisfied, covered taxes attributable

to the part of the tax area in which a facility or complex of facilities described in section 10(a)(3) of this chapter is located shall then be deposited in the sports and convention facilities operating fund established by section 16(b) of this chapter. For 2009, the budget director may use September 1, 2009, instead of January 1, 2009, to make a determination of whether to make deposits in the sports and convention facilities operating fund in 2009. However, the maximum total amount of covered taxes that may be deposited in the sports and convention facilities operating fund is eight million dollars ($8,000,000) during each year. To the extent a covered tax has been pledged before January 1, 2009, and allocated under IC 36-10-9-11 to the capital improvement bond fund, that amount shall not be allocated to or deposited in the sports and convention facilities operating fund.

(f) The department may adopt rules under IC 4-22-2 and guidelines to govern the allocation of covered taxes from the tax area addition.

SECTION 415. IC 36-7-31-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. **(a)** A professional sports development area fund for the county is established. The fund shall be administered by the department. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) A sports and convention facilities operating fund for the county is established. The fund shall be administered by the department. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

SECTION 416. IC 36-7-31-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. Covered taxes attributable to a taxing area established under section 14 of this chapter shall be deposited in the professional sports development area fund **established by section 16(a) of this chapter** for the county.

SECTION 417. IC 36-7-31-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. On or before the twentieth day of each month, all amounts held in the professional sports development area fund **and in the sports and convention facilities operating fund** for the county **are appropriated for and** shall be distributed to the capital improvement board.

SECTION 418. IC 36-7-31-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20. All distributions from the professional sports development area fund **or the sports and convention facilities operating fund** for the county shall be made by

warrants issued by the auditor of state to the treasurer of state ordering those payments to the capital improvement board.

SECTION 419. IC 36-7-31-21, AS AMENDED BY P.L.214-2005, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. **(a)** Except as provided in section 14.1 of this chapter, the capital improvement board may use money distributed from the **professional sports development area** fund **established by section 16(a) of this chapter** only to construct and equip a capital improvement that is used for a professional sporting event, including the financing or refinancing of a capital improvement or the payment of lease payments for a capital improvement.

(b) The capital improvement board or its designee shall deposit the revenue received from the sports and convention facilities operating fund established by section 16(b) of this chapter in a special fund, which may be used only for paying usual and customary operating expenses with respect to the capital improvements that are owned, leased, or operated by the capital improvement board. The special fund may not be used for the payment of any current or future obligations owed by the capital improvement board:

(1) to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency under a lease or another agreement entered into between the capital improvement board and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26; or

(2) for the construction or equipping of a capital improvement that is used for a professional sporting event or convention, including the financing or refinancing of a capital improvement or the payment of lease payments for a capital improvement.

SECTION 420. IC 36-7-31-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 22. The capital improvement board shall repay to the professional sports development area fund **or the sports and convention facilities operating fund** any amount that is distributed to the capital improvement board and used for:

(1) a purpose that is not described in section 21 of this chapter; or

(2) a facility or facility site other than the facility and facility site to which covered taxes are designated under the resolution described in section 14 **or 14.2** of this chapter.

The department shall distribute the covered taxes repaid to the

professional sports development area fund **or the sports and convention facilities operating fund** under this section proportionately to the funds and the political subdivisions that would have received the covered taxes if the covered taxes had not been allocated to the tax area under this chapter.

SECTION 421. IC 36-7.5-1-11.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 11.3. "Eligible municipality" refers to a municipality that has become a member of the development authority under IC 36-7.5-2-3(i).**

SECTION 422. IC 36-7.5-2-2, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. The development authority may carry out its powers and duties under this article in **the following:**

(1) An eligible county.

(2) An eligible municipality.

SECTION 423. IC 36-7.5-2-3, AS AMENDED BY P.L.1-2007, SECTION 241, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The development authority is governed by the development board appointed under this section.

(b) Except as provided in subsections (e), ~~and~~ (f), **and (h),** the development board is composed of the following seven (7) members:

(1) Two (2) members appointed by the governor. One (1) of the members appointed by the governor under this subdivision must be an individual nominated under subsection (d). The members appointed by the governor under this subdivision serve at the pleasure of the governor.

(2) The following members from a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) One (1) member appointed by the mayor of the largest city in the county in which a riverboat is located.

(B) One (1) member appointed by the mayor of the second largest city in the county in which a riverboat is located.

(C) One (1) member appointed by the mayor of the third largest city in the county in which a riverboat is located.

(D) One (1) member appointed jointly by the county executive and the county fiscal body. A member appointed under this clause may not reside in a city described in clause (A), (B), or (C).

(3) One (1) member appointed jointly by the county executive and county fiscal body of a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).

(c) A member appointed to the development board must have knowledge and at least five (5) years professional work experience in at least one (1) of the following:

(1) Rail transportation or air transportation.

(2) Regional economic development.

(3) Business or finance.

(d) The mayor of the largest city in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000) shall nominate three (3) residents of the county for appointment to the development board. One (1) of the governor's initial appointments under subsection (b)(1) must be an individual nominated by the mayor. At the expiration of the member's term, the mayor of the second largest city in the county shall nominate three (3) residents of the county for appointment to the development board. One (1) of the governor's appointments under subsection (b)(1) must be an individual nominated by the mayor. Thereafter, the authority to nominate the three (3) individuals from among whom the governor shall make an appointment under subsection (b)(1) shall alternate between the mayors of the largest and the second largest city in the county at the expiration of a member's term.

(e) A county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000) shall be an eligible county participating in the development authority if the fiscal body of the county adopts an ordinance before September 15, 2006, providing that the county is joining the development authority, and the fiscal body of a city that is located in the county and that has a population of more than thirty-two thousand eight hundred (32,800) but less than thirty-three thousand (33,000) adopts an ordinance before September 15, 2006, providing that the city is joining the development authority. Notwithstanding subsection (b), if ordinances are adopted under this subsection and the county becomes an eligible county participating in the development authority:

(1) the development board shall be composed of nine (9) members rather than seven (7) members; and

(2) the additional two (2) members shall be appointed in the

following manner:

(A) One (1) additional member shall be appointed by the governor and shall serve at the pleasure of the governor. The member appointed under this clause must be an individual nominated under subsection (f).

(B) One (1) additional member shall be appointed jointly by the county executive and county fiscal body.

(f) This subsection applies only if the county described in subsection (e) is an eligible county participating in the development authority. The mayor of the largest city in the county described in subsection (e) shall nominate three (3) residents of the county for appointment to the development board. The governor's initial appointment under subsection (e)(2)(A) must be an individual nominated by the mayor. At the expiration of the member's term, the mayor of the second largest city in the county described in subsection (e) shall nominate three (3) residents of the county for appointment to the development board. The governor's second appointment under subsection (e)(2)(A) must be an individual nominated by the mayor. Thereafter, the authority to nominate the three (3) individuals from among whom the governor shall make an appointment under subsection (e)(2)(A) shall alternate between the mayors of the largest and the second largest city in the county at the expiration of a member's term.

(g) An individual or entity required to make an appointment under subsection (b) or nominations under subsection (d) must make the initial appointment before September 1, 2005, or the initial nomination before August 15, 2005. If an individual or entity does not make an initial appointment under subsection (b) before September 1, 2005, or the initial nominations required under subsection (d) before September 1, 2005, the governor shall instead make the initial appointment.

(h) Subsection (i) applies only to municipalities located in a county that:

(1) has a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000); and

(2) was a member of the development authority on January 1, 2009, and subsequently ceases to be a member of the development authority.

(i) If the fiscal bodies of at least two (2) municipalities subject to this subsection adopt ordinances to become members of the development authority, those municipalities shall become members of the development authority. If two (2) or more municipalities

become members of the development authority under this subsection, the fiscal bodies of the municipalities that become members of the development authority shall jointly appoint one (1) member of the development board who shall serve in place of the member described in subsection (b)(3). A municipality that becomes a member of the development authority under this subsection is considered an eligible municipality for purposes of this article.

SECTION 424. IC 36-7.5-3-2, AS AMENDED BY P.L.47-2006, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The development authority may do any of the following:

(1) Finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip land and projects located in an eligible county **or eligible municipality.**

(2) Lease land or a project to an eligible political subdivision.

(3) Finance and construct additional improvements to projects or other capital improvements owned by the development authority and lease them to or for the benefit of an eligible political subdivision.

(4) Acquire land or all or a portion of one (1) or more projects from an eligible political subdivision by purchase or lease and lease the land or projects back to the eligible political subdivision, with any additional improvements that may be made to the land or projects.

(5) Acquire all or a portion of one (1) or more projects from an eligible political subdivision by purchase or lease to fund or refund indebtedness incurred on account of the projects to enable the eligible political subdivision to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the eligible political subdivision considers to be unduly burdensome.

(6) Make loans, loan guarantees, and grants or provide other financial assistance to or on behalf of the following:

(A) A commuter transportation district.

(B) An airport authority or airport development authority.

(C) A shoreline development commission.

(D) A regional bus authority. A loan, loan guarantee, grant, or other financial assistance under this clause may be used by a regional bus authority for acquiring, improving, operating,

maintaining, financing, and supporting the following:

(i) Bus services (including fixed route services and flexible or demand-responsive services) that are a component of a public transportation system.

(ii) Bus terminals, stations, or facilities or other regional bus authority projects.

(E) A regional transportation authority.

(7) Provide funding to assist a railroad that is providing commuter transportation services in an eligible county **or eligible municipality.**

(8) Provide funding to assist an airport authority located in an eligible county **or eligible municipality** in the construction, reconstruction, renovation, purchase, lease, acquisition, and equipping of an airport facility or airport project.

(9) Provide funding to assist in the development of an intermodal facility to facilitate the interchange and movement of freight.

(10) Provide funding to assist a shoreline development commission in carrying out the purposes of IC 36-7-13.5.

(11) Provide funding for economic development projects in an eligible county **or eligible municipality.**

(12) Hold, use, lease, rent, purchase, acquire, and dispose of by purchase, exchange, gift, bequest, grant, condemnation, lease, or sublease, on the terms and conditions determined by the development authority, any real or personal property located in an eligible county **or eligible municipality.**

(13) After giving notice, enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a project.

(14) Make or enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this article.

(15) Sue, be sued, plead, and be impleaded.

(16) Design, order, contract for, and construct, reconstruct, and renovate a project or improvements to a project.

(17) Appoint an executive director and employ appraisers, real estate experts, engineers, architects, surveyors, attorneys, accountants, auditors, clerks, construction managers, and any consultants or employees that are necessary or desired by the development authority in exercising its powers or carrying out its duties under this article.

(18) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a political subdivision, or any other public or private source.

(19) Use the development authority's funds to match federal grants or make loans, loan guarantees, or grants to carry out the development authority's powers and duties under this article.

(20) Except as prohibited by law, take any action necessary to carry out this article.

(b) If the development authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this article, the development authority may proceed under IC 32-24-1 to procure the condemnation of the property. The development authority may not institute a proceeding until it has adopted a resolution that:

(1) describes the real property sought to be acquired and the purpose for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the development authority of the property involved; and

(3) sets out any other facts that the development authority considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition.

SECTION 425. IC 36-7.5-4-1, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The development board shall establish and administer a development authority fund.

(b) The development authority fund consists of the following:

(1) Riverboat admissions tax revenue, riverboat wagering tax revenue, or riverboat incentive payments received by a city or county described in IC 36-7.5-2-3(b) and transferred by the county or city to the fund.

(2) County economic development income tax revenue received under IC 6-3.5-7 by a county or city and transferred by the county or city to the fund.

(3) Amounts distributed under IC 8-15-2-14.7.

(4) Food and beverage tax revenue deposited in the fund under IC 6-9-36-8.

(5) Funds received from the federal government.

(6) Appropriations to the fund by the general assembly.

(7) Other local revenue appropriated to the fund by a political subdivision.

(8) Gifts, donations, and grants to the fund.

(c) ~~On the date the development authority issues bonds for any purpose under this article, which are secured in whole or in part by~~ The **development authority shall establish a** development authority fund. The development board shall establish and administer ~~two (2) accounts within the development authority fund. The accounts shall be the~~ **a** general account, ~~and the~~ **a** lease rental account, ~~After the accounts are established,~~ **and such other accounts in the fund as are necessary or appropriate to carry out the powers and duties of the development authority. Except as otherwise provided by law or agreement with holders of any obligations of the development authority,** all money transferred to the development authority fund under ~~subsections~~ **subsection** (b)(1), (b)(2), and (b)(4) shall be deposited in the lease rental account and used only for the payment of or to secure the payment of obligations of an eligible political subdivision under a lease entered into by an eligible political subdivision and the development authority under this chapter. However, any money deposited in the lease rental account and not used for the purposes of this subsection shall be returned by the treasurer of the development authority to the respective counties and cities that contributed the money to the development authority.

(d) ~~Notwithstanding subsection (c),~~ If the amount of ~~all~~ money transferred to the development authority fund under ~~subsections~~ **subsection** (b)(1), (b)(2), and (b)(4) for deposit in the lease rental account in any one (1) calendar year is greater than an amount equal to:

(1) one and twenty-five hundredths (1.25); multiplied by

(2) the total of the highest annual debt service on any bonds then outstanding to their final maturity date, which have been issued under this article and are not secured by a lease, plus the highest annual lease payments on any leases to their final maturity, which are then in effect under this article;

~~then~~ all or a portion of the excess may instead be deposited in the general account.

(e) **Except as otherwise provided by law or agreement with the holders of obligations of the development authority,** all other money and revenues of the development authority may be deposited in the general account or the lease rental account at the discretion of the development board. Money on deposit in the lease rental account may

be used only to make rental payments on leases entered into by the development authority under this article. Money on deposit in the general account may be used for any purpose authorized by this article.

(f) The development authority fund shall be administered by the development authority.

(g) Money in the development authority fund shall be used by the development authority to carry out this article and does not revert to any other fund.

SECTION 426. IC 36-7.5-4-2, AS AMENDED BY P.L.47-2006, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Except as provided in subsection (b), beginning in 2006 the fiscal officer of each city and county described in IC 36-7.5-2-3(b) shall each transfer three million five hundred thousand dollars ($3,500,000) each year to the development authority for deposit in the development authority fund established under section 1 of this chapter. **However, if a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000) ceases to be a member of the development authority and two (2) or more municipalities in the county have become members of the development authority as authorized by IC 36-7.5-2-3(i), the transfer of county economic development income tax transferred under IC 6-3.5-7-13.1(b)(4) is the contribution of the municipalities in the county that have become members of the development authority.**

(b) This subsection applies only if:

(1) the fiscal body of the county described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the county is joining the development authority;

(2) the fiscal body of the city described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the city is joining the development authority; and

(3) the county described in IC 36-7.5-2-3(e) is an eligible county participating in the development authority.

Beginning in 2007, the fiscal officer of the county described in IC 36-7.5-2-3(e) shall transfer two million six hundred twenty-five thousand dollars ($2,625,000) each year to the development authority for deposit in the development authority fund established under section 1 of this chapter. Beginning in 2007, the fiscal officer of the city described in IC 36-7.5-2-3(e) shall transfer eight hundred seventy-five thousand dollars ($875,000) each year to the development authority for

deposit in the development authority fund established under section 1 of this chapter.

(c) The following apply to the transfers required by subsections (a) and (b):

(1) Except for transfers of money described in subdivision (4)(D), the transfers shall be made without appropriation by the city or county fiscal body or approval by any other entity.

(2) Except as provided in subdivision (3), after December 31, 2005, each fiscal officer shall transfer eight hundred seventy-five thousand dollars ($875,000) to the development authority fund before the last business day of January, April, July, and October of each year. Food and beverage tax revenue deposited in the fund under IC 6-9-36-8 is in addition to the transfers required by this section.

(3) After December 31, 2006, the fiscal officer of the county described in IC 36-7.5-2-3(e) shall transfer six hundred fifty-six thousand two hundred fifty dollars ($656,250) to the development authority fund before the last business day of January, April, July, and October of each year. The county is not required to make any payments or transfers to the development authority covering any time before January 1, 2007. The fiscal officer of a city described in IC 36-7.5-2-3(e) shall transfer two hundred eighteen thousand seven hundred fifty dollars ($218,750) to the development authority fund before the last business day of January, April, July, and October of each year. The city is not required to make any payments or transfers to the development authority covering any time before January 1, 2007.

(4) The transfers shall be made from one (1) or more of the following:

(A) Riverboat admissions tax revenue received by the city or county, riverboat wagering tax revenue received by the city or county, or riverboat incentive payments received from a riverboat licensee by the city or county.

(B) Any county economic development income tax revenue received under IC 6-3.5-7 by the city or county.

(C) Any other local revenue other than property tax revenue received by the city or county.

(D) In the case of a county described in IC 36-7.5-2-3(e) or a city described in IC 36-7.5-2-3(e), any money from the major moves construction fund that is distributed to the county or

city under IC 8-14-16.

SECTION 427. IC 36-8-6-5, AS AMENDED BY P.L.146-2008, SECTION 776, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) If the local board determines that the total amount of money available for a year will be insufficient to pay the benefits, pensions, and retirement allowances the local board is obligated to pay under this chapter, the local board shall, before the date on which the budget of the municipality is adopted, prepare an itemized estimate in the form prescribed by the state board of accounts of the amount of money that will be receipted into and disbursed from the 1925 fund during the next fiscal year. The estimated receipts consist of the items enumerated in section 4(a) of this chapter. The estimated disbursements consist of an estimate of the amount of money that will be needed by the local board during the next fiscal year to defray the expenses and obligations incurred and that will be incurred by the local board in making the payments prescribed by this chapter to retired members, to members who are eligible to and expect to retire during the ensuing fiscal year, and to the dependents of deceased members.

(b) The local board may provide in its annual budget and pay all necessary expenses of operating the 1925 fund, including the payment of all costs of litigation and attorney fees arising in connection with the fund, as well as the payment of benefits and pensions, **including the payments described in section 5.5 of this chapter.** Notwithstanding any other law, neither the municipal legislative body, the county board of tax adjustment, nor the department of local government finance may reduce an item of expenditure.

(c) At the time when the estimates are prepared and submitted, the local board shall also prepare and submit a certified statement showing:

(1) the name, age, and date of retirement of each retired member and the monthly and yearly amount of the payment to which the retired member is entitled;

(2) the name and age of each member who is eligible to and expects to retire during the next fiscal year, the date on which the member expects to retire, and the monthly and yearly amount of the payment that the member will be entitled to receive; and

(3) the name and age of each dependent, the date on which the dependent became a dependent, the date on which the dependent will cease to be a dependent by reason of attaining the age at which dependents cease to be dependents, and the monthly and

yearly amount of the payment to which the dependent is entitled.

(d) The total receipts shall be deducted from the total expenditures stated in the itemized estimate and the amount of the excess of the estimated expenditures over the estimated receipts shall be paid by the municipality in the same manner as other expenses of the municipality are paid. A tax levy shall be made annually for this purpose, as provided in subsection (e). The estimates submitted shall be prepared and filed in the same manner and form and at the same time that estimates of other municipal offices and departments are prepared and filed.

(e) The municipal legislative body shall levy an annual tax in the amount and at the rate that are necessary to produce the revenue to pay that part of the police pensions that the municipality is obligated to pay. All money derived from the levy is for the exclusive use of the police pensions and benefits, **including the payments described in section 5.5 of this chapter.** The amounts in the estimated disbursements, if found to be correct and in conformity with the data submitted in the certified statement, are a binding obligation upon the municipality. The legislative body shall make a levy for them that will yield an amount equal to the estimated disbursements, less the amount of the estimated receipts. Notwithstanding any other law, neither the county board of tax adjustment nor the department of local government finance may reduce the levy.

SECTION 428. IC 36-8-6-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5.5. (a) This section applies to a balance in the 1925 fund that:**

(1) accrued from property taxes;

(2) is not necessary to meet the pension, disability, and survivor benefit payment obligations of the 1925 fund because of amendments to IC 5-10.3-11-4.7 in 2008; and

(3) is determined under subsection (c).

(b) A local board may authorize the use of money in the 1925 fund to pay any or all of the following:

(1) The costs of health insurance or other health benefits provided to members, survivors, and beneficiaries of the 1925 fund.

(2) The municipality's employer contributions under IC 36-8-8-6.

(3) The contributions paid by the municipality for a member under IC 36-8-8-8(a).

(c) The maximum amount that may be used under subsection (b) is equal to the sum of:

(1) the unencumbered balance of the 1925 fund on December 31, 2008; plus

(2) the amount of property taxes:

(A) imposed for an assessment date before January 16, 2008, for the benefit of the 1925 fund; and

(B) deposited in the 1925 fund after December 31, 2008.

SECTION 429. IC 36-8-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. The 1937 fund and the appropriations made for the fund shall be used exclusively for the following:

(1) Payments to retired members and the dependents of deceased members.

(2) Death benefits.

(3) Other incidental expenses that are authorized by and are essential to the proper administration of this chapter, including the payment of all costs of litigation (including attorney's fees) arising in connection with the 1937 fund.

(4) Payments described in section 9.5 of this chapter.

SECTION 430. IC 36-8-7-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 9.5. (a) This section applies to a balance in a 1937 fund that:**

(1) accrued from property taxes;

(2) is not necessary to meet the pension, disability, and survivor benefit payment obligations of the 1937 fund because of amendments to IC 5-10.3-11-4.7 in 2008; and

(3) is determined under subsection (c).

(b) A local board may authorize the use of money in the 1937 fund to pay any or all of the following:

(1) The costs of health insurance or other health benefits provided to members, survivors, and beneficiaries of the 1937 fund.

(2) The unit's employer contributions under IC 36-8-8-6.

(3) The contributions paid by the unit for a member under IC 36-8-8-8(a).

(c) The maximum amount that may be used under subsection (b) is equal to the sum of the following:

(1) the unencumbered balance of the 1937 fund on December 31, 2008; plus

(2) the amount of property taxes:

(A) imposed for an assessment date before January 16, 2008, for the benefit of the 1937 fund; and

(B) deposited in the 1937 fund after December 31, 2008.

SECTION 431. IC 36-8-7-14, AS AMENDED BY P.L.146-2008, SECTION 777, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) The local board shall meet annually and prepare an itemized estimate, in the form prescribed by the state board of accounts, of the amount of money that will be receipted into and disbursed from the 1937 fund during the next fiscal year. The estimated receipts consist of the items enumerated in section 8 of this chapter. The estimated disbursements must be divided into two (2) parts, designated as part 1 and part 2.

(b) Part 1 of the estimated disbursements consists of an estimate of the amount of money that will be needed by the local board during the next fiscal year to defray the expenses and obligations incurred and that will be incurred by the local board in making the payments prescribed by this chapter to retired members, to members who are eligible to and expect to retire during the next fiscal year, and to the dependents of deceased members. Part 2 of the estimated disbursements consists of an estimate of the amount of money that will be needed to pay death benefits and other expenditures that are authorized or required by this chapter.

(c) At the time when the estimates are prepared and submitted, the local board shall also prepare and submit a certified statement showing the following:

(1) The name, age, and date of retirement of each retired member and the monthly and yearly amount of the payment to which the retired member is entitled.

(2) The name and age of each member who is eligible to and expects to retire during the next fiscal year, the date on which the member expects to retire, and the monthly and yearly amount of the payment that the member will be entitled to receive.

(3) The name and the age of each dependent, the date on which the dependent became a dependent, the date on which the dependent will cease to be a dependent by reason of attaining the age at which dependents cease to be dependents, and the monthly and yearly amount of the payment to which the dependent is entitled.

(4) The amount that would be required for the next fiscal year to

maintain level cost funding during the active fund members' employment on an actuarial basis.

(5) The amount that would be required for the next fiscal year to amortize accrued liability for active members, retired members, and dependents over a period determined by the local board, but not to exceed forty (40) years.

(d) The total receipts shall be deducted from the total expenditures as listed in the itemized estimate. The amount of the excess of the estimated expenditures over the estimated receipts shall be paid by the unit in the same manner as other expenses of the unit are paid, and an appropriation shall be made annually for that purpose. The estimates submitted shall be prepared and filed in the same manner and form and at the same time that estimates of other offices and departments of the unit are prepared and filed.

(e) The estimates shall be made a part of the annual budget of the unit. When revising the estimates, the executive, the fiscal officer, and other fiduciary officers may not reduce the items in part 1 of the estimated disbursements.

(f) The unit's fiscal body shall make the appropriations necessary to pay that proportion of the budget of the 1937 fund that the unit is obligated to pay under subsection (d). In addition, the fiscal body may make appropriations for purposes of subsection (c)(4), (c)(5), or both. All appropriations shall be made to the local board for the exclusive use of the 1937 fund, **including the payments described in section 9.5 of this chapter.** The amounts listed in part 1 of the estimated disbursements, if found to be correct and in conformity with the data submitted in the certified statement, are a binding obligation upon the unit. Notwithstanding any other law, neither the county board of tax adjustment nor the department of local government finance may reduce the appropriations made to pay the amount equal to estimated disbursements minus estimated receipts.

SECTION 432. IC 36-8-7.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. The 1953 fund is derived from the following sources:

(1) From money or other property that is given to the local board for the use of the fund. The local board may take by gift, grant, devise, or bequest any money, chose in action, personal property, real property, or use the same for the purposes of the 1953 fund or for such purposes specified by the grantor.

(2) From money, fees, and awards of every nature that are given

to the police department of the municipality or to a member of the department because of service or duty performed by the department or a member. This includes fines imposed by the safety board against a member of the department, all money from gambling cases and from gambling devices as well as the proceeds from the sale of lost, stolen, and confiscated property recovered or taken into possession by members of the police department in the performance of their duties and confiscated by court order, and sold at a public sale in accordance with law.

(3) From an assessment made during the period of his employment or for thirty-two (32) years, whichever is shorter, on the salary of each member whom the local board has accepted and designated as a beneficiary of the 1953 fund, an amount equal to six percent (6%) of the salary of a first class patrolman. However, the employer may pay all or a part of the assessment for the member.

(4) From the income from investments of the 1953 fund.

(5) From the proceeds of a tax levied by the police special service district upon taxable property in the district, which the treasurer shall collect and credit to the 1953 fund, to be used exclusively by the 1953 fund, **including the payments described in section 10.5 of this chapter.**

SECTION 433. IC 36-8-7.5-10, AS AMENDED BY P.L.146-2008, SECTION 779, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) If the local board determines that the total amount of money available for a year will be insufficient to pay the benefits, pensions, and retirement allowances the local board is obligated to pay under this chapter, the local board shall, before the date on which the budget of the police special service district is adopted, prepare an itemized estimate in the form prescribed by the state board of accounts of the amount of money that will be receipted into and disbursed from the 1953 fund during the next fiscal year. The estimated receipts consist of the items enumerated in section 8 of this chapter. The estimated disbursements consist of an estimate of the amount of money that will be needed by the local board during the next fiscal year to defray the expenses and obligations incurred and that will be incurred by the local board in making the payments prescribed by this chapter to retired members, to members who are eligible and expect to retire during the ensuing fiscal year, and to the dependents of deceased members.

(b) At the time when the estimates are prepared and submitted, the local board shall also prepare and submit a certified statement showing:

(1) the estimated number of beneficiaries from the 1953 fund during the ensuing fiscal year in each of the various classifications of beneficiaries as prescribed in this chapter, and the names and amount of benefits being paid to those actively on the list of beneficiaries at that time;

(2) the name, age, and length of service of each member of the police department who is eligible to and expects to retire during the ensuing fiscal year, and the monthly and yearly amounts of the payment that the member will be entitled to receive; and

(3) the name and age of each dependent of a member of the police department who is then receiving benefits, the date on which the dependent commenced drawing benefits, and the date on which the dependent will cease to be a dependent by reason of attaining the age limit prescribed by this chapter, and the monthly and yearly amounts of the payments to which each of the dependents is entitled.

(c) After the amounts of receipts and disbursements shown in the itemized estimate are fixed and approved by the executive, fiscal officer, legislative body and other bodies, as provided by law for other municipal funds, the total receipts shall be deducted from the total expenditures stated in the itemized estimate, and the amount of the excess shall be paid by the police special service district in the same manner as other expenses of the district are paid. The legislative body shall levy a tax and the money derived from the levy shall, when collected, be credited exclusively to the 1953 fund, **including the payments described in section 10.5 of this chapter.** The tax shall be levied in the amount and at the rate that is necessary to produce sufficient revenue to equal the deficit. Notwithstanding any other law, neither the county board of tax adjustment nor the department of local government finance may reduce the tax levy.

SECTION 434. IC 36-8-7.5-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 10.5. (a) This section applies to a balance in the 1953 fund that:**

(1) accrued from property taxes;

(2) is not necessary to meet the pension, disability, and survivor benefit payment obligations of the 1953 fund because of amendments to IC 5-10.3-11-4.7 in 2008; and

(3) is determined under subsection (c).

(b) A local board may authorize the use of money in the 1953 fund to pay any or all of the following:

(1) The costs of health insurance or other health benefits provided to members, survivors, and beneficiaries of the 1953 fund.

(2) The consolidated city's employer contributions under IC 36-8-8-6.

(3) The contributions paid by the consolidated city for a member under IC 36-8-8-8(a).

(c) The maximum amount that may be used under subsection (b) is equal to the sum of the following:

(1) the unencumbered balance of the 1953 fund on December 31, 2008; plus

(2) the amount of property taxes:

(A) imposed for an assessment date before January 16, 2008, for the benefit of the 1953 fund; and

(B) deposited in the 1953 fund after December 31, 2008.

SECTION 435. IC 36-8-12-13, AS AMENDED BY P.L.107-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) A volunteer fire department may impose a charge on the owner of property, the owner of a vehicle, or a responsible party (as defined in IC 13-11-2-191(d)) that is involved in a hazardous material or fuel spill or chemical or hazardous material related fire (as defined in IC 13-11-2-96(b)):

(1) that is responded to by the volunteer fire department; and

(2) that members of that volunteer fire department assisted in extinguishing, containing, or cleaning up.

(b) The volunteer fire department shall bill the owner or responsible party of the vehicle for the total dollar value of the assistance that was provided, with that value determined by a method that the state fire marshal shall establish under IC 36-8-12-16. A copy of the fire incident report to the state fire marshal must accompany the bill. This billing must take place within thirty (30) days after the assistance was provided. The owner or responsible party shall remit payment directly to the governmental unit providing the service. Any money that is collected under this section may be:

(1) deposited in the township firefighting fund established in IC 36-8-13-4;

(2) used to pay principal and interest on a loan made by the department of homeland security established by IC 10-19-2-1 or

a division of the department for the purchase of new or used firefighting and other emergency equipment or apparatus; or

(3) used for the purchase of equipment, buildings, and property for firefighting, fire protection, and other emergency services.

(c) Any administrative fees charged by a fire department's agent must be paid only from fees that are collected and allowed by Indiana law and the fire marshal's schedule of fees.

(d) An agent who processes fees on behalf of a fire department shall send all bills, notices, and other related materials to both the fire department and the person being billed for services.

(e) All fees allowed by Indiana law and the fire marshal's fee schedule must be itemized separately from any other charges.

~~(c)~~ **(f)** The volunteer fire department may maintain a civil action to recover an unpaid charge that is imposed under subsection (a).

SECTION 436. IC 36-8-12-16, AS AMENDED BY P.L.3-2008, SECTION 266, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) A volunteer fire department that provides service within a jurisdiction served by the department may establish a schedule of charges for the services that the department provides not to exceed the state fire marshal's recommended schedule for services. The volunteer fire department or its agent may collect a service charge according to this schedule from the owner of property that receives service if the following conditions are met:

(1) At the following times, the department gives notice under IC 5-3-1-4(d) in each political subdivision served by the department of the amount of the service charge for each service that the department provides:

(A) Before the schedule of service charges is initiated.

(B) When there is a change in the amount of a service charge.

(2) The property owner has not sent written notice to the department to refuse service by the department to the owner's property.

(3) The bill for payment of the service charge:

(A) is submitted to the property owner in writing within thirty (30) days after the services are provided; and

(B) includes a copy of a fire incident report in the form prescribed by the state fire marshal, if the service was provided for an event that requires a fire incident report.

(4) Payment is remitted directly to the governmental unit providing the service.

(b) A volunteer fire department shall use the revenue collected from the fire service charges under this section:

(1) for the purchase of equipment, buildings, and property for firefighting, fire protection, or other emergency services;

(2) for deposit in the township firefighting fund established under IC 36-8-13-4; or

(3) to pay principal and interest on a loan made by the department of homeland security established by IC 10-19-2-1 or a division of the department for the purchase of new or used firefighting and other emergency equipment or apparatus.

(c) Any administrative fees charged by a fire department's agent must be paid only from fees that are collected and allowed by Indiana law and the fire marshal's schedule of fees.

(d) An agent who processes fees on behalf of a fire department shall send all bills, notices, and other related materials to both the fire department and the person being billed for services.

(e) All fees allowed by Indiana law and the fire marshal's fee schedule must be itemized separately from any other charges.

~~(c)~~ **(f)** If at least twenty-five percent (25%) of the money received by a volunteer fire department for providing fire protection or emergency services is received under one (1) or more contracts with one (1) or more political subdivisions (as defined in IC 34-6-2-110), the legislative body of a contracting political subdivision must approve the schedule of service charges established under subsection (a) before the schedule of service charges is initiated in that political subdivision.

~~(d)~~ **(g)** A volunteer fire department that:

(1) has contracted with a political subdivision to provide fire protection or emergency services; and

(2) charges for services under this section;

must submit a report to the legislative body of the political subdivision before April 1 of each year indicating the amount of service charges collected during the previous calendar year and how those funds have been expended.

~~(e)~~ **(h)** The state fire marshal shall annually prepare and publish a recommended schedule of service charges for fire protection services.

~~(f)~~ **(i)** The volunteer fire department or its agent may maintain a civil action to recover an unpaid service charge under this section.

SECTION 437. IC 36-8-12.2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. **(a)** A fire department may impose a charge on a person that is a responsible party with

respect to a hazardous materials emergency that:

(1) the fire department responded to;

(2) members of that fire department assisted in containing, controlling, or cleaning up;

(3) with respect to the release or imminent release of hazardous materials at a facility, involves a quantity of hazardous materials that exceeds the spill quantities of hazardous materials that must be reported under 327 IAC 2-6.1-5, as in effect on January 1, 2001; and

(4) with respect to the release or imminent release of hazardous materials from a mode of transportation, involves a quantity of hazardous materials that exceeds the spill quantities of hazardous materials that must be reported under 327 IAC 2-6.1-6, as in effect on January 1, 2001.

(b) The owner or responsible party shall remit payment directly to the governmental unit providing the service.

(c) Any administrative fees charged by a fire department's agent must be paid only from fees that are collected and allowed by Indiana law and the fire marshal's schedule of fees.

(d) An agent who processes fees on behalf of a fire department shall send all bills, notices, and other related materials to both the fire department and the person being billed for services.

(e) All fees allowed by Indiana law and the fire marshal's fee schedule must be itemized separately from any other charges.

SECTION 438. IC 36-8-12.2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. A fire department imposing a charge under this chapter may bill the responsible party for the total value of the assistance provided, as determined from the state fire marshal's schedule of service charges issued under ~~IC 36-8-12-16(c).~~ **IC 36-8-12-16(h).**

SECTION 439. IC 36-8-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The executive of a township, with the approval of the legislative body, may do the following:

(1) Purchase firefighting and emergency services apparatus and equipment for the township, provide for the housing, care, maintenance, operation, and use of the apparatus and equipment to provide services within the township but outside the corporate boundaries of municipalities, and employ full-time or part-time personnel to operate the apparatus and equipment and to provide

services in that area. Preference in employment under this section shall be given according to the following priority:

(A) A war veteran who has been honorably discharged from the United States armed forces.

(B) A person whose mother or father was a:

(i) firefighter of a unit;

(ii) municipal police officer; or

(iii) county police officer;

who died in the line of duty (as defined in IC 5-10-10-2).

A person described in this subdivision may not receive a preference for employment unless the person applies for employment and meets all employment requirements prescribed by law, including physical and age requirements, and all employment requirements prescribed by the fire department.

(2) Contract with a municipality in the township or in a contiguous township that maintains adequate firefighting or emergency services apparatus and equipment to provide fire protection or emergency services for the township in accordance with IC 36-1-7.

(3) Cooperate with a municipality in the township or in a contiguous township in the purchase, maintenance, and upkeep of firefighting or emergency services apparatus and equipment for use in the municipality and township in accordance with IC 36-1-7.

(4) Contract with a volunteer fire department that has been organized to fight fires in the township for the use and operation of firefighting apparatus and equipment that has been purchased by the township in order to save the private and public property of the township from destruction by fire, including use of the apparatus and equipment in an adjoining township by the department if the department has made a contract with the executive of the adjoining township for the furnishing of firefighting service within the township.

(5) Contract with a volunteer fire department that maintains adequate firefighting service in accordance with IC 36-8-12.

(b) This subsection applies only to townships that provide fire protection or emergency services or both under subsection (a)(1) and to municipalities that have ~~all~~ **some part of the** municipal territory ~~completely~~ within a township and do not have a full-time paid fire department. A township may provide fire protection or emergency

services or both without contracts inside the corporate boundaries of the municipalities if before July 1 of a year the following occur:

(1) The legislative body of the municipality adopts an ordinance to have the township provide the services without a contract.

(2) The township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality.

In a township providing services to a municipality under this section, the legislative body of either the township or a municipality in the township may opt out of participation under this subsection by adopting an ordinance or a resolution, respectively, before July 1 of a year.

(c) This subsection applies only to a township that:

(1) is located in a county containing a consolidated city;

(2) has at least three (3) included towns (as defined in IC 36-3-1-7) that have all municipal territory completely within the township on January 1, 1996; and

(3) provides fire protection or emergency services, or both, under subsection (a)(1);

and to included towns (as defined in IC 36-3-1-7) that have all the included town's municipal territory completely within the township. A township may provide fire protection or emergency services, or both, without contracts inside the corporate boundaries of the municipalities if before August 1 of the year preceding the first calendar year to which this subsection applies the township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality. The resolution must identify the included towns to which the resolution applies. In a township providing services to a municipality under this section, the legislative body of the township may opt out of participation under this subsection by adopting a resolution before July 1 of a year. A copy of a resolution adopted under this subsection shall be submitted to the executive of each included town covered by the resolution, the county auditor, and the department of local government finance.

SECTION 440. IC 36-8-15-19, AS AMENDED BY P.L.146-2008, SECTION 784, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 19. (a) This subsection applies to a county that has a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000). For the purpose of raising money to fund the operation of the district, the county fiscal body may impose, for

property taxes first due and payable during each year after the adoption of an ordinance establishing the district, an ad valorem property tax levy on property within the district. The property tax rate for that levy may not exceed five cents ($0.05) on each one hundred dollars ($100) of assessed valuation.

(b) This subsection applies to a county having a consolidated city. The county fiscal body may elect to fund the operation of the district from part of the certified distribution, if any, that the county is to receive during a particular calendar year under IC 6-3.5-6-17. To make such an election, the county fiscal body must adopt an ordinance before September 1 of the immediately preceding calendar year. The county fiscal body must specify in the ordinance the amount of the certified distribution that is to be used to fund the operation of the district. If the county fiscal body adopts such an ordinance, it shall immediately send a copy of the ordinance to the county auditor.

(c) Subject to subsections (d), (e), and (f), if an ordinance or resolution is adopted changing the territory covered by the district or the number of public agencies served by the district, the ~~local government tax control board~~ **department of local government finance** shall, for property taxes first due and payable during the year after the adoption of the ordinance, adjust the maximum permissible ad valorem property tax levy limits of the district and the units participating in the district.

(d) If a unit by ordinance or resolution joins the district or elects to have its public safety agencies served by the district, the ~~local government tax control board~~ **department of local government finance** shall reduce the maximum permissible ad valorem property tax levy of the unit for property taxes first due and payable during the year after the adoption of the ordinance or resolution. The reduction shall be based on the amount budgeted by the unit for public safety communication services in the year in which the ordinance was adopted. If such an ordinance or resolution is adopted, the district shall refer its proposed budget, ad valorem property tax levy, and property tax rate for the following year to the ~~board,~~ **department of local government finance,** which shall review and set the budget, levy, and rate as though the district were covered by IC 6-1.1-18.5-7.

(e) If a unit by ordinance or resolution withdraws from the district or rescinds its election to have its public safety agencies served by the district, the ~~local government tax control board~~ **department of local government finance** shall reduce the maximum permissible ad

valorem property tax levy of the district for property taxes first due and payable during the year after the adoption of the ordinance or resolution. The reduction shall be based on the amounts being levied by the district within that unit. If such an ordinance or resolution is adopted, the unit shall refer its proposed budget, ad valorem property tax levy, and property tax rate for public safety communication services to the ~~board,~~ **department of local government finance,** which shall review and set the budget, levy, and rate as though the unit were covered by IC 6-1.1-18.5-7.

(f) The adjustments provided for in subsections (c), (d), and (e) do not apply to a district or unit located in a particular county if the county fiscal body of that county does not impose an ad valorem property tax levy under subsection (a) to fund the operation of the district.

(g) A county that has adopted an ordinance under section 1(3) of this chapter may not impose an ad valorem property tax levy on property within the district to fund the operation or implementation of the district.

SECTION 441. IC 36-8-19-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6.5. (a) The legislative bodies of all participating units in a territory may agree to change the provider unit of the territory from one (1) participating unit to another participating unit. To change the provider unit, the legislative body of each participating unit must adopt an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that agrees to and specifies the new provider unit. The provider unit may not be changed unless all participating units agree on the participating unit that will become the new provider unit. The participating units may not change the provider unit more than one (1) time in any year.**

(b) The following apply to an ordinance or a resolution adopted under this section to change the provider unit of the territory:

(1) The ordinance or resolution must be adopted after January 1 but before April 1 of a year.

(2) The ordinance or resolution takes effect January 1 of the year following the year in which the ordinance or resolution is adopted.

SECTION 442. IC 36-8-19-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 7.5. (a) This section applies to:**

(1) county adjusted gross income tax, county option income

tax, and county economic development income tax distributions; and

(2) excise tax distributions;

made after December 31, 2009.

(b) For purposes of allocating any county adjusted gross income tax, county option income tax, and county economic development income tax distributions or excise tax distributions that are distributed based on the amount of a taxing unit's property tax levies, each participating unit in a territory is considered to have imposed a part of the property tax levy imposed for the territory. The part of the property tax levy imposed for the territory for a particular year that shall be attributed to a participating unit is equal to the amount determined in the following STEPS:

STEP ONE: Determine the total amount of all property taxes imposed by the participating unit in the year before the year in which a property tax levy was first imposed for the territory.

STEP TWO: Determine the sum of the STEP ONE amounts for all participating units.

STEP THREE: Divide the STEP ONE result by the STEP TWO result.

STEP FOUR: Multiply the STEP THREE result by the property tax levy imposed for the territory for the particular year.

SECTION 443. IC 36-8-19-8, AS AMENDED BY P.L.128-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 8. (a) Upon the adoption of identical ordinances or resolutions, or both, by the participating units under section 6 of this chapter, the designated provider unit must establish a fire protection territory fund from which all expenses of operating and maintaining the fire protection services within the territory, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, and all other expenses lawfully incurred within the territory shall be paid. The purposes described in this subsection are the sole purposes of the fund, and money in the fund may not be used for any other expenses. Except as allowed in subsections (d) and (e) and section 8.5 of this chapter, the provider unit is not authorized to transfer money out of the fund at any time.

(b) The fund consists of the following:

(1) All receipts from the tax imposed under this section.

(2) Any money transferred to the fund by the provider unit as authorized under subsection (d).

(3) Any receipts from a false alarm fee or service charge imposed by the participating units under IC 36-8-13-4.

(4) Any money transferred to the fund by a participating unit under section 8.6 of this chapter.

(c) The provider unit, with the assistance of each of the other participating units, shall annually budget the necessary money to meet the expenses of operation and maintenance of the fire protection services within the territory, plus a reasonable operating balance, not to exceed twenty percent (20%) of the budgeted expenses. **Except as provided in IC 6-1.1-18.5-10.5,** after estimating expenses and receipts of money, the provider unit shall establish the tax levy required to fund the estimated budget. The amount budgeted under this subsection shall be considered a part of each of the participating unit's budget.

(d) If the amount levied in a particular year is insufficient to cover the costs incurred in providing fire protection services within the territory, the provider unit may transfer from available sources to the fire protection territory fund the money needed to cover those costs. In this case:

(1) the levy in the following year shall be increased by the amount required to be transferred; and

(2) the provider unit is entitled to transfer the amount described in subdivision (1) from the fund as reimbursement to the provider unit.

(e) If the amount levied in a particular year exceeds the amount necessary to cover the costs incurred in providing fire protection services within the territory, the levy in the following year shall be reduced by the amount of surplus money that is not transferred to the equipment replacement fund established under section 8.5 of this chapter. The amount that may be transferred to the equipment replacement fund may not exceed five percent (5%) of the levy for that fund for that year. Each participating unit must agree to the amount to be transferred by adopting an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that specifies an identical amount to be transferred.

(f) The tax under this section is ~~not~~ subject to the tax levy limitations imposed ~~on civil taxing units under IC 6-1.1-18.5 for any unit that is a participating unit in a fire protection territory that was established before August 1, 2001.~~ **under IC 6-1.1-18.5-10.5.**

~~(g) This subsection applies to a participating unit in a fire protection territory established under IC 36-8-19 after July 31, 2001. For purposes of calculating a participating unit's maximum permissible ad valorem property tax levy for the three (3) calendar years in which the participating unit levies a tax to support the territory, the unit's maximum permissible ad valorem property tax levy for the preceding calendar year under IC 6-1.1-18.5-3(a) STEP ONE or IC 6-1.1-18.5-3(b) STEP ONE is increased each year by an amount equal to the difference between the:~~

~~(1) amount the unit will have to levy for the ensuing calendar year in order to fund the unit's share of the fire protection territory budget for the operating costs as provided in the ordinance or resolution making the unit a participating unit in the fire protection territory; and~~

~~(2) unit's levy for fire protection services for the calendar year that immediately precedes the ensuing calendar year in which the participating unit levies a tax to support the territory.~~

SECTION 444. IC 36-9-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 1. This chapter applies to all units except townships. **However, with respect to a public transportation system, this chapter does not apply after December 31, 2009, to a county that is a member of the northern Indiana regional transportation district established under IC 8-24 and that has a population of:**

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000);

or a unit located in such a county.

SECTION 445. IC 36-9-3-2, AS AMENDED BY P.L.214-2005, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 2. (a) **Except as provided in subsection (d),** a fiscal body of a county or municipality may, by ordinance, establish a regional transportation authority (referred to as "the authority" in this chapter) for the purpose of acquiring, improving, operating, maintaining, financing, and generally supporting a public transportation system that operates within the boundaries of an area designated as a transportation planning district by the Indiana department of transportation. However, only one (1) public transportation authority may be established within an area designated

as a transportation planning district by the Indiana department of transportation.

(b) The ordinance establishing the authority must include an effective date and a name for the authority. Except as provided in subsection (c), the words "regional transportation authority" must be included in the name of the authority.

(c) **After December 31, 2009, this subsection applies if a county is not a member of the northern Indiana regional transportation district established under IC 8-24.** The words "regional bus authority" must be included in the name of an authority that includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(d) After December 31, 2009, this subsection applies if a county is a member of the northern Indiana regional transportation district established under IC 8-24 and has a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).

In such a county the regional bus authority or regional transportation authority, whichever applies, is abolished effective January 1, 2010. After December 31, 2009, a regional transportation authority may not be established by a fiscal body of such a county or a municipality in such a county.

SECTION 446. IC 36-9-3-5, AS AMENDED BY P.L.70-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 5. (a) An authority is under the control of a board (referred to as "the board" in this chapter) that, except as provided in subsections (b) and (c), consists of:

(1) two (2) members appointed by the executive of each county in the authority;

(2) one (1) member appointed by the executive of the largest municipality in each county in the authority;

(3) one (1) member appointed by the executive of each second class city in a county in the authority; and

(4) one (1) member from any other political subdivision that has public transportation responsibilities in a county in the authority.

(b) An authority that includes a consolidated city is under the control of a board consisting of the following:

(1) Two (2) members appointed by the executive of the county having the consolidated city.

(2) One (1) member appointed by the board of commissioners of the county having the consolidated city.

(3) One (1) member appointed by the executive of each other county in the authority.

(4) Two (2) members appointed by the governor from a list of at least five (5) names provided by the Indianapolis regional transportation council.

(5) One (1) member representing the four (4) largest municipalities in the authority located in a county other than a county containing a consolidated city. The member shall be appointed by the executives of the municipalities acting jointly.

(6) One (1) member representing the excluded cities located in a county containing a consolidated city that are members of the authority. The member shall be appointed by the executives of the excluded cities acting jointly.

(7) One (1) member of a labor organization representing employees of the authority who provide public transportation services within the geographic jurisdiction of the authority. The labor organization shall appoint the member.

(c) **After December 31, 2009, this subsection applies if both a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) and a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000) are not members of the northern Indiana regional transportation district established under IC 8-24.** An authority that includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) is under the control of a board consisting of the following twenty-one (21) members:

(1) Three (3) members appointed by the executive of a city with a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

(2) Two (2) members appointed by the executive of a city with a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(3) One (1) member jointly appointed by the executives of the following municipalities located within a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) A city with a population of more than five thousand one hundred thirty-five (5,135) but less than five thousand two hundred (5,200).

(B) A city with a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800).

(4) One (1) member who is jointly appointed by the fiscal body of the following municipalities located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) A town with a population of more than fifteen thousand (15,000) but less than twenty thousand (20,000).

(B) A town with a population of more than twenty-three thousand (23,000) but less than twenty-four thousand (24,000).

(C) A town with a population of more than twenty thousand (20,000) but less than twenty-three thousand (23,000).

(5) One (1) member who is jointly appointed by the fiscal body of the following municipalities located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) A town with a population of more than eight thousand (8,000) but less than nine thousand (9,000).

(B) A town with a population of more than twenty-four thousand (24,000) but less than thirty thousand (30,000).

(C) A town with a population of more than twelve thousand five hundred (12,500) but less than fifteen thousand (15,000).

(6) One (1) member who is jointly appointed by the following authorities of municipalities located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) The executive of a city with a population of more than nineteen thousand eight hundred (19,800) but less than twenty-one thousand (21,000).

(B) The fiscal body of a town with a population of more than nine thousand (9,000) but less than twelve thousand five hundred (12,500).

(C) The fiscal body of a town with a population of more than five thousand (5,000) but less than eight thousand (8,000).

(D) The fiscal body of a town with a population of less than

one thousand five hundred (1,500).

(E) The fiscal body of a town with a population of more than two thousand two hundred (2,200) but less than five thousand (5,000).

(7) One (1) member appointed by the fiscal body of a town with a population of more than thirty thousand (30,000) located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(8) One (1) member who is jointly appointed by the following authorities of municipalities that are located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) The executive of a city having a population of more than twenty-five thousand (25,000) but less than twenty-seven thousand (27,000).

(B) The executive of a city having a population of more than thirteen thousand nine hundred (13,900) but less than fourteen thousand two hundred (14,200).

(C) The fiscal body of a town having a population of more than one thousand five hundred (1,500) but less than two thousand two hundred (2,200).

(9) Three (3) members appointed by the fiscal body of a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(10) One (1) member appointed by the county executive of a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(11) One (1) member of a labor organization representing employees of the authority who provide public transportation services within the geographic jurisdiction of the authority. The labor organization shall appoint the member. If more than one (1) labor organization represents the employees of the authority, each organization shall submit one (1) name to the governor, and the governor shall appoint the member from the list of names submitted by the organizations.

(12) The executive of a city with a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-eight thousand (28,000), located within a county with a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand

(148,000), or the executive's designee.

(13) The executive of a city with a population of more than thirty-three thousand (33,000) but less than thirty-six thousand (36,000), located within a county with a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), or the executive's designee.

(14) One (1) member of the board of commissioners of a county with a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), appointed by the board of commissioners, or the member's designee.

(15) One (1) member appointed jointly by the township executive of the township containing the following towns:

(A) Chesterton.

(B) Porter.

(C) Burns Harbor.

(D) Dune Acres.

The member appointed under this subdivision must be a resident of a town listed in this subdivision.

(16) One (1) member appointed jointly by the township executives of the following townships located in Porter County:

(A) Washington Township.

(B) Morgan Township.

(C) Pleasant Township.

(D) Boone Township.

(E) Union Township.

(F) Porter Township.

(G) Jackson Township.

(H) Liberty Township.

(I) Pine Township.

The member appointed under this subdivision must be a resident of a township listed in this subdivision.

If a county or city becomes a member of the authority under section 3.5 of this chapter, the executive of the county or city shall appoint one (1) member to serve on the board.

SECTION 447. IC 36-9-3-6, AS AMENDED BY P.L.70-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 6. (a) Except as provided in subsection (d), the appointments required by section 5 of this chapter must be made as

soon as is practical, but not later than sixty (60) days after the adoption of the ordinance establishing the authority. If any appointing authority fails to make the required appointment within the sixty (60) day time limit, the circuit court from the jurisdiction of the appointing authority shall make the appointment without delay.

(b) The term of office of a member of the board is

(1) two (2) years, for a member of a board located in a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), **if such a board exists under this chapter;** and

(2) four (4) years for all other boards;

and continues until the member's successor has qualified for the office. A member may be reappointed for successive terms.

(c) A member of the board serves at the pleasure of the appointing authority.

(d) An appointment to an authority located in a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), **if such an authority exists under this chapter,** must be made not later than sixty (60) days after the adoption of the ordinance establishing the authority, or for the purpose of reappointments, sixty (60) days after a scheduled reappointment. If the appointing authority designated in section 5(c)(3), 5(c)(4), 5(c)(5), 5(c)(6), or 5(c)(8) of this chapter fails to make an appointment, the appointment shall be made by the governor. If a county or city becomes a member of the authority under section 3.5 of this chapter and the executive of the county or city fails to make an appointment to the board within sixty (60) days after the county or city becomes a member of the authority, the appointment shall be made by the governor. The governor shall select an individual from a list comprised of one (1) name from each appointing authority for that particular appointment.

SECTION 448. IC 36-9-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 7. (a) Except as provided in subsection (e), As soon as is practical, but not later than ninety (90) days after the authority is established, the members shall meet and organize themselves as a board.

(b) Except as provided in subsection (f), At its first meeting, and annually after that, the board shall elect from its members a president, a vice president who shall perform the duties of the president during the absence or disability of the president, a secretary, and a treasurer. If the authority includes more than one (1) county, the president and

vice president must be from different counties.

(c) The regional planning commission staff or the metropolitan planning organization if the authority includes a consolidated city shall serve as staff to the board secretary for the purpose of recording the minutes of all board meetings and keeping the records of the authority.

(d) The board shall keep its maps, plans, documents, records, and accounts in a suitable office, subject to public inspection at all reasonable times.

(e) **After December 31, 2009, this subsection applies if a county is not a member of the northern Indiana regional transportation district established under IC 8-24.** If the authority includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), the first meeting of the board shall be at the call of the county council of the county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The president of the county council shall preside over the first meeting until the officers of the board have been elected.

(f) **After December 31, 2009, this subsection applies if a county is not a member of the northern Indiana regional transportation district established under IC 8-24.** If the authority includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), the board shall first meet in January. At the first meeting the board shall elect from its members a president, a vice president who shall perform the duties of the president during the absence or disability of the president, a secretary, a treasurer, and any other officers the board determines are necessary for the board to function.

SECTION 449. IC 36-9-3-9, AS AMENDED BY P.L.1-2007, SECTION 246, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 9. (a) A majority of the members appointed to the board constitutes a quorum for a meeting.

(b) Except as provided in subsection (c), The board may act officially by an affirmative vote of a majority of those present at the meeting at which the action is taken.

(c) **After December 31, 2009, this subsection applies if a county is not a member of the northern Indiana regional transportation district established under IC 8-24.** If the authority includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), then:

(1) an affirmative vote of a majority of the board is necessary for an action to be taken; and

(2) a vacancy in membership does not impair the right of a quorum to exercise all rights and perform all duties of the board.

SECTION 450. IC 36-9-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 10. (a) Except as provided in subsection (b), The members of the board are not entitled to a salary but are entitled to an allowance for actual expenses and mileage at the same rate as other county officials.

(b) **After December 31, 2009, this subsection applies if a county is not a member of the northern Indiana regional transportation district established under IC 8-24.** If the authority includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), a member of the board is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided:

(1) in the procedures established by the department of administration and approved by the budget agency for state employee travel; or

(2) by ordinance of the county fiscal body.

SECTION 451. IC 36-9-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 1. This chapter applies to all municipalities. **However, after December 31, 2009, this chapter does not apply to a municipality if it is located in a county that is a member of the northern Indiana regional transportation district established under IC 8-24 and has a population of:**

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).

SECTION 452. IC 36-9-4-29.4, AS AMENDED BY P.L.99-2007, SECTION 223, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29.4. (a) This section does not apply to a public transportation corporation located in a county having a consolidated city.

(b) A public transportation corporation may provide regularly scheduled passenger service to specifically designated locations outside the system's operational boundaries as described in IC 36-9-1-9 if all of the following conditions are met:

(1) The legislative body of the municipality approves any

expansion of the service outside the municipality's corporate boundaries.

(2) The expanded service is reasonably required to do any of the following:

(A) Enhance employment opportunities in the new service area or the existing service area.

(B) Serve persons who are elderly, persons with a disability, or other persons who are in need of public transportation.

~~(3) The rates or compensation for the expanded service are sufficient, on a fully allocated cost basis, to prevent a property tax increase in the taxing district solely as a result of the expanded service.~~

~~(4)~~ **(3)** Except as provided in subsection (e), the expanded service does not extend beyond the boundary of the county in which the corporation is located.

~~(5) The corporation complies with sections 29.5 and 29.6 of this chapter.~~

(c) Notwithstanding section 39 of this chapter, a public transportation corporation may provide demand responsive service outside of the system's operational boundaries as described in IC 36-9-1-9 if the conditions listed in subsection (b) are met.

(d) The board may contract with a private operator for the operation of an expanded service under this section.

(e) Subsection ~~(b)(4)~~ **(b)(3)** does not apply to a special purpose bus (as defined in IC 20-27-2-10) or a school bus (as defined in IC 20-27-2-8) that provides expanded service for a purpose permitted under IC 20-27-9.

SECTION 453. IC 36-9-41-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. A political subdivision borrowing money under section 3 of this chapter shall execute and deliver to the financial institution the negotiable note of the political subdivision for the sum borrowed. The note must bear interest, with both principal and interest payable in equal or approximately equal installments on January 1 and July 1 each year over a period not exceeding ~~six (6)~~ **ten (10)** years.

SECTION 454. IC 36-10-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The board is composed of nine (9) members. Six (6) members shall be appointed by the executive of the consolidated city, ~~two (2) members~~ **one (1) member** shall be appointed by the board of commissioners of the

county, ~~and~~ one (1) member shall be appointed by the legislative body of the consolidated city from among the members of the legislative body, **and one (1) member shall be appointed jointly by majority vote of a body consisting of one (1) member of the board of county commissioners of each county in which a food and beverage tax is in effect under IC 6-9-35 on January 1 of the year of the appointment. The board of county commissioners that has the greatest population of all counties in which a food and beverage tax is in effect under IC 6-9-35 on January 1 of the year of the appointment shall convene the meeting to make the joint appointment. Each county in which a food and beverage tax is in effect under IC 6-9-35 on January 1 of the year of the appointment is entitled to be represented at the meeting by one (1) member of the county's board of county commissioner, who shall be selected by that county's board of county commissioners.** One (1) of the members appointed by the executive must be engaged in the hotel or motel business in the county. Not more than four (4) of the members appointed by the executive may be affiliated with the same political party. ~~and not more than one (1) member appointed by the board of commissioners may be affiliated with the same political party.~~

(b) The terms of members are for two (2) years beginning on January 15 and until a successor is appointed and qualified. A member may be reappointed after the member's term has expired.

(c) If a vacancy occurs on the board, the appointing authority shall appoint a new member. That member serves for the remainder of the vacated term.

(d) A board member may be removed for cause by the appointing authority who appointed the member.

(e) Each member, before entering upon the duties of office, shall take and subscribe an oath of office in the usual form. The oath shall be endorsed upon the member's certificate of appointment, which shall be promptly filed with the records of the board.

(f) A member does not receive a salary, but is entitled to reimbursement for any expenses necessarily incurred in the performance of the member's duties.

SECTION 455. IC 36-10-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) The board shall prepare a budget for each calendar year covering the projected operating expenses, **projected expenditures for capital improvements or land acquisition,** and estimated income to pay the

operating expenses **and capital expenditures,** including amounts, if any, to be received from excise taxes and ad valorem property taxes. It shall submit the **operating and capital** budget for review, approval, or rejection to the city-county legislative body. The board may make expenditures only as provided in the budget as approved, unless additional expenditures are approved by the legislative body. However, payments to users of any capital improvement that constitute a contractual share of box office receipts are neither an operating expense nor an expenditure within the meaning of this section.

(b) If the board desires to finance a capital improvement in whole or in part by the issuance of bonds under section 12 or 15 of this chapter, the board shall submit the following information to the city-county legislative body at least ~~fifteen (15)~~ **thirty (30)** days before the adoption of a resolution authorizing the issuance of the bonds:

(1) A description of the project to be financed through the issuance of bonds.

(2) The total amount of the project anticipated to be funded through the issuance of bonds.

(3) The total amount of other anticipated revenue sources for the project.

(4) Any other terms upon which the bonds will be issued.

(c) The city-county legislative body must discuss the information provided in subsection (b) in a public hearing **held before the resolution may be adopted by the board.**

(d) The board shall post the board's proposed budget and adopted budget on the board's Internet web site.

SECTION 456. IC 36-10-9-8.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8.1. (a) During 2009, the board shall prepare a long range financial plan covering the period beginning with the year 2010 and ending with the year 2041. The long range financial plan must set forth the following:**

(1) The schedule for the retirement of all debt that is outstanding as of January 1, 2010.

(2) An estimated operating and capital budget for each calendar year that covers the projected operating expenses, debt obligations, expenditures for capital improvements and land acquisition, and estimated income to pay these items, including the source of each type of income.

(b) Before January 1, 2010, the board shall deliver a copy of the

long range financial plan to each member of the city-county legislative body and to the legislative council in an electronic format under IC 5-14-6.

(c) The city-county legislative body shall discuss the long range financial plan in a public hearing.

SECTION 457. IC 36-10-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The treasurer of the board is the official custodian of all funds and assets of the board and is responsible for their safeguarding and accounting. ~~He~~ **The treasurer** shall give bond for the faithful performance and discharge of all duties required of ~~him~~ **the treasurer** by law in the amount and with surety and other conditions that may be prescribed and approved by the board. All funds and assets in the capital improvement fund and the capital improvement bond fund created by this chapter and all other funds, assets, and tax revenues held, collected, or received by the treasurer of the county for the use of the board shall be promptly remitted and paid over by ~~him~~ **the county treasurer** to the treasurer of the board, who shall issue receipts for them.

(b) The treasurer of the board shall deposit all funds coming into ~~his~~ **the treasurer's** hands as required by this chapter and by IC 6-7-1-30.1, and in accordance with IC 5-13. Money so deposited may be invested and reinvested by the treasurer in accordance with general statutes relating to the investment of public funds and in securities that the board specifically directs. All interest and other income earned on investments becomes a part of the particular fund from which the money was invested, except as provided in a resolution, ordinance, or trust agreement providing for the issuance of bonds or notes. All funds invested in deposit accounts as provided in IC 5-13-9 must be insured under IC 5-13-12.

(c) The board shall appoint a controller to act as the auditor and assistant treasurer of the board. ~~He~~ **The controller** shall serve as the official custodian of all books of account and other financial records of the board and has the same powers and duties as the treasurer of the board or the lesser powers and duties that the board prescribes. The controller and any other employee or member of the board authorized to receive, collect, or expend money, shall give bond for the faithful performance and discharge of all duties required of ~~him~~ **the controller** in the amount and with surety and other conditions that may be prescribed and approved by the board. ~~He~~ **The controller** shall keep an accurate account of all money due the board and of all money

received, invested, and disbursed in accordance with generally recognized governmental accounting principles and procedure. All accounting forms and records shall be prescribed or approved by the state board of accounts.

(d) The controller shall issue all warrants for the payment of money from the funds of the board in accordance with procedures prescribed by the board but a warrant may not be issued for the payment of a claim until an itemized and verified statement of the claim has been filed with the controller, who may require evidence that all amounts claimed are justly due. All warrants shall be countersigned by the treasurer of the board or by the executive manager. Warrants may be executed with facsimile signatures.

(e) If there are bonds or notes outstanding issued under this chapter, the controller shall deposit with the paying agent or other paying officer within a reasonable period before the date that any principal or interest becomes due sufficient money for the payment of the principal and interest on the due dates. The controller shall make the deposit with money from the sources provided in this chapter, and he shall make the deposit in an amount that, together with other money available for the payment of the principal and interest, is sufficient to make the payment. In addition, the controller shall make other deposits for the bonds and notes as is required by this chapter or by the resolutions, ordinances, or trust agreements under which the bonds or notes are issued.

(f) The controller shall submit to the board at least annually a report of ~~his~~ **the board's** accounts exhibiting the revenues, receipts, and disbursements and the sources from which the revenues and receipts were derived and the purpose and manner in which they were disbursed. The board may require that the report be prepared by an independent certified public accountant designated by the board. **The state board of accounts shall audit annually the accounts, books, and records of the board and prepare a financial report and a compliance audit report. The board shall submit to the city-county legislative body financial and compliance reports of the state board of accounts. The board shall post the reports of the state board of accounts on the board's Internet web site. The city-county legislative body shall discuss the financial and compliance reports of the state board of accounts in a public hearing.** The handling and expenditure of funds is subject to ~~audit and~~ supervision by the state board of accounts.

SECTION 458. IC 36-10-9-12 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) A capital improvement may be financed in whole or in part by the issuance of bonds payable, to the extent stated in the resolution or trust agreement providing for the issuance of the bonds, solely from one (1) or more of the following sources:

(1) Net income received from the operation of the capital improvement and not required to be deposited in the capital improvement bond fund under section 11 of this chapter.

(2) Net income received from the operation of any other capital improvement or improvements and not required to be deposited in the capital improvement bond fund under section 11 of this chapter.

(3) Money in the capital improvement bond fund available for that purpose.

(4) Money in the capital improvement fund available for that purpose.

(5) Any other funds made available for that purpose.

The resolution or trust agreement may pledge all or part of those amounts to the repayment of the bonds and may secure the bonds by a lien on the amounts pledged.

(b) If the board desires to finance a capital improvement in whole or in part as provided in this section, it shall adopt a resolution authorizing the issuance of revenue bonds. The resolution must state the date or dates on which the principal of the bonds will mature (not exceeding forty (40) years from the date of issuance), the maximum interest rate to be paid, and the other terms upon which the bonds will be issued.

(c) **If the city-county legislative body approves issuance of bonds under IC 36-3-6-9,** the board shall submit the resolution to the executive of the consolidated city, who shall review it. If the executive approves the resolution, the board shall take all actions necessary to issue bonds in accordance with the resolution. The board may, under section 13 of this chapter, enter into a trust agreement with a trust company as trustee for the bondholders. An action to contest the validity of bonds to be issued under this section may not be brought after the fifteenth day following:

(1) the receipt of bids for the bonds, if the bonds are sold at public sale; or

(2) the publication one (1) time in a newspaper of general circulation published in the county of notice of the execution and

delivery of the contract of sale for the bonds;

whichever occurs first.

(d) Bonds issued under this section may be sold at public or private sale for the price or prices that are provided in the resolution authorizing the issuance of bonds. All bonds and interest are exempt from taxation in Indiana as provided in IC 6-8-5.

(e) When issuing revenue bonds, the board may covenant with the purchasers of the bonds that any funds in the capital improvement fund may be used to pay the principal on, or interest of, the bonds that cannot be paid from any other funds.

(f) The revenue bonds may be made redeemable before maturity at the price or prices and under the terms that are determined by the board in the authorizing resolution. The board shall determine the form of bonds, including any interest coupons to be attached, and shall fix the denomination or denominations of the bonds and the place or places of payment of the principal and interest, which may be at any bank or trust company within or outside Indiana. All bonds must have all the qualities and incidents of negotiable instruments under statute. Provision may be made for the registration of any of the bonds as to principal alone or to both principal and interest.

(g) The revenue bonds shall be issued in the name of the county and must recite on the face that the principal of and interest on the bonds is payable solely from the amounts pledged to their payment. The bonds shall be executed by the manual or facsimile signature of the president of the board, and the seal of the county shall be affixed or imprinted on the bonds. The seal shall be attested by the manual or facsimile signature of the auditor of the county. However, one (1) of the signatures must be manual, unless the bonds are authenticated by the manual signature of an authorized officer or a trustee for the bondholders. Any coupons attached must bear the facsimile signature of the president of the board.

(h) This chapter constitutes full and complete authority for the issuance of revenue bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, acts, or things by the board or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to issue any revenue bonds except as prescribed in this chapter.

(i) Revenue bonds issued under this section are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions,

banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under statute.

SECTION 459. IC 36-10-9-15, AS AMENDED BY P.L.146-2008, SECTION 797, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) A capital improvement may be financed in whole or in part by the issuance of general obligation bonds of the county.

(b) If the board desires to finance a capital improvement in whole or in part as provided in this section, it shall have prepared a resolution to be adopted by the board of commissioners of the county authorizing the issuance of general obligation bonds. The resolution must state the date or dates on which the principal of the bonds is payable, the maximum interest rate to be paid, and the other terms upon which the bonds shall be issued. The board shall submit the proposed resolution to the ~~board of commissioners of the county,~~ **city-county legislative body for approval under IC 36-3-6-9,** together with a certificate to the effect that the issuance of bonds in accordance with the resolution will be in compliance with this section. The certificate must also state the estimated annual net income of the capital improvement to be financed by the bonds, the estimated annual tax revenues, and the maximum amount payable in any year as principal and interest on the bonds issued under this chapter, including the bonds proposed to be issued, at the maximum interest rate set forth in the resolution. The bonds issued may mature over a period not exceeding forty (40) years from the date of issue.

(c) ~~Upon receipt of the resolution and certificate, the board of commissioners of the county may adopt them and~~ **If the city-county legislative body approves the issuance of bonds under IC 36-3-6-9, the board shall submit the resolution to the executive of the consolidated city, who shall review the resolution. If the executive approves the resolution, the board shall** take all action necessary to issue the bonds in accordance with the resolution. An action to contest the validity of bonds issued under this section may not be brought after the fifteenth day following the receipt of bids for the bonds.

(d) The provisions of all general statutes relating to:

(1) the filing of a petition requesting the issuance of bonds and giving notice;

(2) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);

(3) the giving of notice of the determination to issue bonds;

(4) the giving of notice of a hearing on the appropriation of the proceeds of bonds;

(5) the right of taxpayers to appear and be heard on the proposed appropriation;

(6) the approval of the appropriation by the department of local government finance; and

(7) the sale of bonds at public sale for not less than par value;

are applicable to the issuance of bonds under this section.

SECTION 460. IC 6-1.1-8-23 IS REPEALED [EFFECTIVE MARCH 1, 2010].

SECTION 461. P.L.146-2008, SECTION 857 IS REPEALED [EFFECTIVE JANUARY 1, 2010].

SECTION 462. IC 6-2.5-5-41 IS REPEALED [EFFECTIVE JULY 1, 2009].

SECTION 463. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 6-1.1-34-3; IC 20-45-1-5.

SECTION 464. IC 20-43-11.5 IS REPEALED [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)].

SECTION 465. IC 6-1.1-20.6-3.5 IS REPEALED [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)].

SECTION 466. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2010]: IC 20-20-34; IC 20-40-4; IC 20-43-1-27; IC 20-43-6-5; IC 20-45-1-2; IC 20-45-1-6; IC 20-45-1-12; IC 20-45-1-21.3; IC 20-45-1-21.5; IC 20-45-1-21.7.

SECTION 467. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 6-1.1-18.5-11; IC 6-1.1-19-4.1; IC 20-18-2-21.5.

SECTION 468. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 36-9-4-29.5; IC 36-9-4-29.6.

SECTION 469. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2010]: IC 36-9-3-12.5; IC 36-9-3-31.

SECTION 470. [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **(a) A prepayment rate determined by the**

department under IC 6-2.5-7 that took effect after December 31, 2008, is legalized and validated.

(b) This SECTION expires December 31, 2009.

SECTION 471. [EFFECTIVE JANUARY 1, 2010] **IC 6-3-3-12, as amended by this act, applies to taxable years beginning after December 31, 2009.**

SECTION 472. [EFFECTIVE JANUARY 1, 2010] **IC 6-3.1-4-2, as amended by this act, applies to taxable years beginning after December 31, 2009.**

SECTION 473. [EFFECTIVE JULY 1, 2009] **(a) IC 36-1-8-17, as added by this act, applies only to a waiver of compensation for calendar years beginning after December 31, 2009.**

(b) This SECTION expires January 1, 2012.

SECTION 474. [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **(a) IC 6-1.1-4-42, as added by this act, does not apply to assessment dates before January 16, 2009. A rule or guideline of the department of local government finance adopted or issued before April 29, 2009, is void to the extent that the rule or guideline is in conflict with IC 6-1.1-4-42, as added by this act.**

(b) This SECTION expires January 1, 2011.

SECTION 475. [EFFECTIVE JULY 1, 2009] **(a) IC 6-1.1-20-1.9, as amended by this act, applies only to a petition requesting the application of the local public question process to bonds or a lease for which the preliminary determination to issue the bonds or enter into the lease is published under IC 6-1.1-20-3.5(b)(2) after June 30, 2009.**

(b) This SECTION expires July 1, 2011.

SECTION 476. [EFFECTIVE JULY 1, 2009] **(a) This SECTION applies to a county that had an amount transferred to the county's levy excess fund established under IC 6-1.1-18.5-17 from the county's:**

(1) family and children's fund under P.L.146-2008, SECTION 823(b); and

(2) children's psychiatric residential treatment services fund under P.L.146-2008, SECTION 824(b).

(b) A county fiscal body may adopt a resolution to transfer the amount referred to in subsection (a) from the county's levy excess fund to the county's rainy day fund established under IC 36-1-8-5.1.

(c) This SECTION expires December 31, 2009.

SECTION 477. [EFFECTIVE UPON PASSAGE] **(a) This**

SECTION applies to a county that had an April 1, 2009, aggregate balance of at least ten million dollars ($10,000,000) in the county's:

(1) family and children's fund (IC 12-19-7 before its repeal); and

(2) children's psychiatric residential treatment services fund (IC 12-19-7.5 before its repeal).

(b) This SECTION applies to a county after balances have been transferred to the county's levy excess fund established under IC 6-1.1-18.5-17 from the county's:

(1) family and children's fund under P.L.146-2008, SECTION 823(b); and

(2) children's psychiatric residential treatment services fund under P.L.146-2008, SECTION 824(b).

(c) As used in this SECTION, "civil taxing unit" has the meaning set forth in:

(1) IC 6-3.5-1.1-1, if the county adjusted gross income tax is in effect in the county; or

(2) IC 6-3.5-6-1, if the county adjusted gross income tax is not in effect in the county.

(d) A county fiscal body may adopt a resolution to distribute an amount equal to those transfers referred to in subsection (b) from the county's levy excess fund to the county's rainy day fund established under IC 36-1-8-5.1 and for public safety as follows:

(1) One million dollars ($1,000,000) from those transfers referred to in subsection (b) shall be distributed to the county's rainy day fund established under IC 36-1-8-5.1.

(2) Two-thirds (2/3) of the amount from those transfers referred to in subsection (b) that remains after the distribution under subdivision (1) shall be distributed to civil taxing units in the county to be used for public safety.

(e) Before August 1, 2009, the county auditor shall determine each civil taxing unit's share of the amount referred to in subsection (d)(2) in the same manner that local income tax distributions are determined under:

(1) IC 6-3.5-1.1-15, if the county adjusted gross income tax is in effect in the county; or

(2) IC 6-3.5-6-18(a)(6), if the county adjusted gross income tax is not in effect in the county.

The county auditor shall make the distributions to the civil taxing units in August 2009.

(f) This SECTION expires December 31, 2011.

SECTION 478. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies only to an entity and to property that meet all of the following conditions:**

(1) The entity is a nonprofit religious affiliated school that has been in existence for more than forty-five (45) years in a county containing a consolidated city.

(2) The entity received a gift of real property and improvements that for the assessment date in 2005 was exempt from property taxes under IC 6-1.1-10.

(3) The entity failed to file a timely application under IC 6-1.1-11 for property tax exemption for the property for the assessment date in 2006.

(4) For the assessment dates in 2006, 2007, and 2008:

(A) property owned by the entity would have been eligible for exemption from property taxes if the entity had timely filed an application under IC 6-1.1-11 for property tax exemption for the property; and

(B) the entity's property was subject to taxation.

(b) Notwithstanding IC 6-1.1-11 or any other law specifying the date by which an application or statement for property tax exemption must be filed to claim or continue an exemption for a particular assessment date, an entity described in subsection (a) may before September 1, 2009, file with the county assessor:

(1) an application for property tax exemption for the 2006 assessment date;

(2) a statement to continue the property tax exemption for the 2007 assessment date; and

(3) an application for property tax exemption for the 2008 assessment date.

(c) Notwithstanding IC 6-1.1-11 or any other law, an application or statement for property tax exemption filed under subsection (b) is considered to be timely filed, and the county assessor shall forward the applications and statement to the county property tax assessment board of appeals for review. The board shall grant an exemption claimed for the assessment dates in 2006, 2007, and 2008 for property tax exemption if the board determines that:

(1) the entity's applications and statement for property tax exemption satisfy the requirements of this SECTION; and

(2) the entity's property was, except for the failure to timely file an application or statement for property tax exemption, otherwise eligible for the claimed exemption.

If an entity is granted an exemption under this SECTION, any unpaid property tax liability, including interest, for the entity's property shall be canceled by the county treasurer.

(d) If an entity has previously paid the tax liability for property with respect to the 2006, 2007, or 2008 assessment date and the property is granted an exemption under this SECTION for the assessment date, the county auditor shall issue a refund of the property tax paid by the entity. An entity is not required to apply for any refund due under this SECTION. The county auditor shall, without an appropriation being required, issue a warrant to the entity payable from the county general fund for the amount of the refund, if any, due the entity. No interest is payable on the refund.

(e) This SECTION expires January 1, 2010.

SECTION 479. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies to:**

(1) an entity that failed, for an assessment date after March 1, 2000, to:

(A) file a timely application under IC 6-1.1-11 for an exemption under IC 6-1.1-10-16; or

(B) accompany a timely filed application for an exemption under IC 6-1.1-10-16 with sufficient information for the county property tax assessment board of appeals to determine whether the applicant was eligible for an exemption under IC 6-1.1-10-16, as specified on a response from the county assessor or property tax assessment board of appeals; and

(2) any part of the entity's property that would have qualified for an exemption under IC 6-1.1-10-16 as property owned, occupied, and predominately used for a charitable purpose, if the omissions described in subdivision (1) had not occurred.

(b) Notwithstanding IC 6-1.1-11 or any other law, an entity described in subsection (a) may, before September 1, 2009, file or refile with the county assessor an application for a property tax exemption under IC 6-1.1-10-16 for an assessment date occurring after March 1, 2000, and before March 1, 2010.

(c) Notwithstanding IC 6-1.1-11 or any other law, an application for a property tax exemption that is filed under subsection (b) is considered to be timely filed for the assessment date for which it is filed, and the county assessor shall forward the application to the county property tax assessment board of appeals for review or reconsideration. The board shall grant an exemption claimed

under this SECTION for the assessment date covered by the application if, after reviewing all of the information submitted by the applicant, the board determines that:

(1) the entity's application for a property tax exemption satisfies the requirements of this SECTION; and

(2) except for the omissions described in subsection (a), part or all of the entity's property would otherwise have qualified for an exemption under IC 6-1.1-10-16 for the assessment date covered by the application.

IC 6-1.1-11-7 and IC 6-1.1-15-3 apply to a determination under this SECTION.

(d) Notwithstanding IC 6-1.1-22-9 or any other law, if an exemption application is filed or refiled under this SECTION and an exemption under IC 6-1.1-10 had been granted for the property for property taxes first due and payable for any year after 1999, any unpaid taxes imposed on property and for a year covered by an exemption application are not due until thirty (30) days after the date the applicant's eligibility for the exemption under this SECTION is finally adjudicated and determined and a revised tax statement under IC 6-1.1-22-8.1 that reflects the final determination concerning the exemption application is delivered to the owner. During the pendency of the proceedings concerning an exemption application under this SECTION, no action under IC 6-1.1-24 or another law may be taken to collect the unpaid taxes for a year covered by the exemption application, including any action to sell the property at a tax sale. If an entity is granted an exemption or a partial exemption under this SECTION, any unpaid property tax liability, including interest, for the entity's property shall be canceled by the county auditor and the county treasurer to the extent of the exemption, and, notwithstanding IC 6-1.1-26-1, if the entity has previously paid the tax liability for property with respect to the assessment date covered by the application, the county auditor shall issue a refund of the property tax paid by the entity to the extent of the exemption. No interest or penalty shall be imposed on any tax liability remaining after the application of the exemption for any period before the taxes are due as provided in this subsection. An entity is not required to apply for any refund due under this SECTION. The county auditor shall, without an appropriation being required, issue a warrant to the entity payable from the county general fund for the amount of the refund, if any, due the entity. No interest is payable on the

refund.

(e) This SECTION expires January 1, 2010.

SECTION 480. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies only to a church and to land that meets all of the following conditions:**

(1) The church owns real property and improvements located in a county containing a consolidated city that was exempt from property taxation under IC 6-1.1-10 for the assessment dates in 2007 and 2008.

(2) The church purchased land that is located adjacent to the real property described in subdivision (1) after the 2007 assessment date but before the final tax statements for taxes first due and payable in 2007 were mailed.

(3) The church failed to timely file an application under IC 6-1.1-11 for a property tax exemption for the land described in subdivision (2) for the 2008 assessment date but filed in 2008 an exemption application that will first apply to the 2009 assessment date under IC 6-1.1-11.

(4) For the assessment date in 2008:

(A) the land owned by the church would have been eligible for exemption from property taxes if the church had timely filed an application under IC 6-1.1-11 for a property tax exemption for the land; and

(B) the church's property will be subject to assessment and taxation.

(b) Notwithstanding IC 6-1.1-11 or any other law specifying the date by which an application for property tax exemption must be filed to claim an exemption for the 2008 assessment date, a church described in subsection (a) may before September 1, 2009, file with the county assessor an application for property tax exemption for the 2008 assessment date.

(c) Notwithstanding IC 6-1.1-11 or any other law, an application for a property tax exemption that is filed under subsection (b) is considered to be timely filed for the 2008 assessment date, and the county assessor shall forward the application to the county property tax assessment board of appeals for review. The board shall grant an exemption claimed for the 2008 assessment date if the board determines that:

(1) the church's application for property tax exemption satisfies the requirements of this SECTION; and

(2) the church's land was, except for the failure to timely file

an application for a property tax exemption, otherwise eligible for the claimed exemption on the 2008 assessment date.

(d) This SECTION expires January 1, 2010.

SECTION 481. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 6-1.1-20 apply to this SECTION.**

(b) This SECTION applies to a controlled project for which notice of a special election was given before July 1, 2009, to the election division of the office of the secretary of state as provided in IC 3-10-8-4.

(c) Notwithstanding the form of the question required by IC 6-1.1-20-3.6, as amended by this act, the following question shall be submitted to the voters at a special election described in subsection (b):

"Shall _____(insert the name of the political subdivision) issue bonds or enter into a lease to finance _____ (insert the name of the controlled project)?".

(d) This SECTION expires January 1, 2010.

SECTION 482. [EFFECTIVE JULY 1, 2009] **(a) Notwithstanding any provision in IC 6-3.5-1.1 (including the August 1 deadlines applicable under IC 6-3.5-1.1-24(a), IC 6-3.5-1.1-24(b), IC 6-3.5-1.1-25(i), and IC 6-3.5-1.1-26(e)), a county council may in 2009 adopt an additional county adjusted gross income tax rate under IC 6-3.5-1.1-24, IC 6-3.5-1.1-25, or IC 6-3.5-1.1-26 at any time before November 1, 2009.**

(b) Notwithstanding any provision in IC 6-3.5-6 (including the August 1 deadlines applicable under IC 6-3.5-6-30(a), IC 6-3.5-6-30(b), IC 6-3.5-6-31(i), and IC 6-3.5-6-32(e)), a county income tax council or county council, as applicable, may in 2009 adopt an additional county option income tax rate under IC 6-3.5-6-30, IC 6-3.5-6-31, or IC 6-3.5-6-32 at any time before November 1, 2009.

(c) Notwithstanding any provision of IC 6-3.5-1.1 or IC 6-3.5-6, any additional county adjusted gross income tax rate adopted in 2009 under IC 6-3.5-1.1-24, IC 6-3.5-1.1-25, or IC 6-3.5-1.1-26 and any additional county option income tax rate adopted in 2009 under IC 6-3.5-6-30, IC 6-3.5-6-31, or IC 6-3.5-6-32 takes effect as follows:

(1) In the case of an ordinance adopted before October 1, 2009, the tax rate takes effect October 1, 2009.

(2) In the case of an ordinance adopted after September 30,

2009, and before October 16, 2009, the tax rate takes effect November 1, 2009.

(3) In the case of an ordinance adopted after October 15, 2009, and before November 1, 2009, the tax rate takes effect December 1, 2009.

SECTION 483. [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **(a) The department of education shall, on the schedule determined by the department of education, adjust the special education grant distributed to a school corporation under IC 20-43-7-6, as amended by this act, in 2009 to reflect any special education preschool grant distributions made to the school corporation under IC 20-20-34-3 before the effective date of this SECTION. The amount of any reduction in a special education grant under this SECTION shall not be considered for purposes of applying IC 20-43-2-3. The unencumbered balance of a school corporation's special education preschool fund shall be transferred to the school corporation's general fund for purposes of the school corporation's general fund as soon as practicable after the effective date of this SECTION.**

(b) This SECTION expires January 1, 2010.

SECTION 484. [EFFECTIVE MARCH 1, 2009 (RETROACTIVE)]: **(a) Appeals under IC 6-1.1-8.5-11 or IC 6-1.1-8.7-8 of assessments by the department of local government finance for assessment dates before March 1, 2009, that are currently pending before the Indiana board of tax review shall be treated as follows:**

(1) Appeals involving the March 1, 2006, assessment date shall proceed as if the amendments to IC 6-1.1-8.5-11 and IC 6-1.1-8.7-8 made by this act had not been made.

(2) Notwithstanding any provision to the contrary, an appeal of the department of local government finance's assessment of an industrial facility (as defined in IC 6-1.1-8.5-2 or IC 6-1.1-8.7-2) involving the March 1, 2007, or March 1, 2008, assessment date shall be stayed, if an appeal involving the March 1, 2006, assessment of that same industrial facility is currently pending before the Indiana board of tax review. The stay remains in effect until the March 1, 2006, assessment of that same industrial facility has been finally determined by the Indiana tax court or the Indiana supreme court.

(b) Notwithstanding any provision to the contrary, the assessed value of an industrial facility (as defined in IC 6-1.1-8.5-2 or IC 6-1.1-8.7-2) that has been assessed by the department of local

government finance under IC 6-1.1-8.5 or IC 6-1.1-8.7 for the March 1, 2007, and March 1, 2008, assessment dates may not exceed the assessed value that is or was:

(1) finally determined on appeal; or

(2) agreed to by the owner of the industrial facility and:

(A) the appropriate township assessor or township assessors; or

(B) the appropriate county assessor;

for that same industrial facility for the March 1, 2006, assessment date, subject to any applicable annual adjustment percentage determined under IC 6-1.1-4-4.5, plus any additions to and less any deletions from the industrial facility's land and improvements as of the March 1, 2007, and March 1, 2008, assessment dates, since the March 1, 2006, assessment date.

(c) This SECTION expires January 1, 2014.

SECTION 485. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies to a fire protection district that:**

(1) was initially established in 2006;

(2) has experienced significant revenue shortfalls due to cumulative mathematical errors in the calculation of its maximum permissible property tax levies in 2007 and 2008; and

(3) may experience a significant revenue shortfall in 2009 and 2010, requiring the district to seek funds in addition to the amounts certified for the district's current budget to provide fire protection to district residents.

(b) A fire protection district described in this SECTION may borrow a specified amount of money if:

(1) the board of fire trustees of the district finds that:

(A) an emergency exists requiring the expenditure of money not included in the district's budget estimates and levy; and

(B) the emergency requiring the expenditure of money is related to paying the operating expenses of the district; and

(2) the fiscal body of the county approves the expenditure of the money.

(c) A fire protection district shall comply with IC 36-8-11-17 with respect to a borrowing under this SECTION.

(d) The county fiscal body shall levy property taxes in an amount sufficient to cover payments due under the borrowing

authorized under this SECTION.

(e) This SECTION expires December 31, 2011.

SECTION 486. P.L.3-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE OCTOBER 1, 2008 (RETROACTIVE)]: SECTION 1. **(a) As used in this SECTION, "continuing care retirement community" means a health care facility that:**

(1) provides independent living services and health facility services in a campus setting with common areas;

(2) holds continuing care agreements with at least twenty-five percent (25%) of its residents (as defined in IC 23-2-4-1);

(3) uses the money from the agreements described in subdivision (2) to provide services to the resident before the resident may be eligible for Medicaid under IC 12-15; and

(4) meets the requirements of IC 23-2-4.

~~(a)~~ **(b)** As used in this SECTION, "health facility" refers to a health facility that is licensed under IC 16-28 as a comprehensive care facility.

~~(b)~~ **(c)** As used in this SECTION, "nursing facility" means a health facility that is certified for participation in the federal Medicaid program under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.).

~~(c)~~ **(d)** As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

~~(d) As used in this SECTION, "total annual revenue" does not include revenue from Medicare services provided under Title XVIII of the federal Social Security Act (42 U.S.C. 1395 et seq.).~~

(e) Effective August 1, 2003, the office shall collect a quality assessment from each ~~nursing~~ **health** facility. ~~that has:~~

~~(1) a Medicaid utilization rate of at least twenty-five percent (25%); and~~

~~(2) at least seven hundred thousand dollars ($700,000) in annual Medicaid revenue, adjusted annually by the average annual percentage increase in Medicaid rates.~~

The office shall offset the collection of the assessment for a health facility:

(1) against a Medicaid payment to the health facility by the office; or

(2) in another manner determined by the office.

(f) ~~If~~ **The office shall implement the waiver approved by** the United States Centers for Medicare and Medicaid Services ~~determines not to approve payments under this SECTION using the methodology described in subsection (e), the office shall revise the state plan~~

~~amendment and waiver request submitted under subsection (l) as soon as possible to demonstrate compliance with 42 CFR 433.68(c)(2)(ii). The revised state plan amendment and waiver request must provide~~ **that provides** for ~~the following:~~

~~(1) Effective August 1, 2003, collection of a quality assessment by the office from each nursing facility.~~

~~(2) Effective August 1, 2003, collection of a quality assessment by the department of state revenue from each health facility that is not a nursing facility.~~

~~(3) An~~ **an** exemption from collection of a quality assessment from the following:

~~(A)~~

(1) A continuing care retirement community **as follows:**

(A) A continuing care retirement community that was registered with the securities commissioner as a continuing care retirement community on January 1, 2007, is not required to meet the definition of a continuing care retirement community in subsection (a).

(B) A continuing care retirement community that, for the period January 1, 2007, through June 30, 2009, operates independent living units, at least twenty-five percent (25%) of which are provided under contracts that require the payment of a minimum entrance fee of at least twenty-five thousand dollars ($25,000).

(C) An organization registered under IC 23-2-4 before July 1, 2009, that provides housing in an independent living unit for a religious order.

(D) A continuing care retirement community that meets the definition set forth in subsection (a).

~~(B) A health facility that only receives revenue from Medicare services provided under 42 U.S.C. 1395 et seq.~~

~~(C)~~

(2) A **hospital based** health facility. ~~that has less than seven hundred fifty thousand dollars ($750,000) in total annual revenue, adjusted annually by the average annual percentage increase in Medicaid rates.~~

~~(D)~~

(3) The Indiana Veterans' Home.

Any revision to the state plan amendment or waiver request under this subsection is subject to and must comply with the provisions of this

SECTION.

(g) If the United States Centers for Medicare and Medicaid Services determines not to approve payments under this SECTION using the methodology described in subsections **(d) and** (e), ~~and (f),~~ the office shall revise the state plan amendment and waiver request submitted under ~~subsection (l)~~ **this SECTION** as soon as possible to demonstrate compliance with 42 CFR 433.68(e)(2)(ii) and to provide for collection of a quality assessment from health facilities effective August 1, 2003. ~~In amending the state plan amendment and waiver request under this subsection, the office may modify the parameters described in subsection (f)(3). However, if the office determines a need to modify the parameters described in subsection (f)(3), the office shall modify the parameters in order to achieve a methodology and result as similar as possible to the methodology and result described in subsection (f). Any revision of the state plan amendment and waiver request under this subsection is subject to and must comply with the provisions of this SECTION.~~

(h) The money collected from the quality assessment may be used only to pay the state's share of the costs for Medicaid services provided under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.) as follows:

(1) **At the following percentages when the state's regular federal medical assistance percentage (FMAP) applies, excluding the time frame in which the adjusted FMAP is provided to the state by the federal American Recovery and Reinvestment Act of 2009:**

(A) Twenty percent (20%) as determined by the office.

~~(2)~~ **(B)** Eighty percent (80%) to nursing facilities.

(2) At the following percentages when the state's federal medical assistance percentage (FMAP) is adjusted by the federal American Recovery and Reinvestment Act of 2009:

(A) Forty percent (40%) as determined by the office.

(B) Sixty percent (60%) to nursing facilities.

(i) After:

(1) the amendment to the state plan and waiver request submitted under this SECTION is approved by the United States Centers for Medicare and Medicaid Services; and

(2) the office calculates and begins paying enhanced reimbursement rates set forth in this SECTION;

the office ~~and the department of state revenue~~ shall begin the collection

of the quality assessment set under this SECTION. The office ~~and the department of state revenue shall~~ **may** establish a method to allow a facility to enter into an agreement to pay the quality assessment collected under this SECTION subject to an installment plan.

(j) If federal financial participation becomes unavailable to match money collected from the quality assessments for the purpose of enhancing reimbursement to nursing facilities for Medicaid services provided under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.), the office ~~and department of state revenue~~ shall cease collection of the quality assessment under this SECTION.

(k) To implement this SECTION, the

~~(1)~~ office shall adopt rules under IC 4-22-2. ~~and~~

~~(2) office and department of state revenue shall adopt joint rules under IC 4-22-2.~~

(l) Not later than July 1, 2003, the office shall do the following:

(1) Request the United States Department of Health and Human Services under 42 CFR 433.72 to approve waivers of 42 CFR 433.68(c) and 42 CFR 433.68(d) by demonstrating compliance with 42 CFR 433.68(e)(2)(ii).

(2) Submit any state Medicaid plan amendments to the United States Department of Health and Human Services that are necessary to implement this SECTION.

(m) After approval of the waivers and state Medicaid plan amendment applied for under ~~subsection (l),~~ **this SECTION,** the office ~~and the department of state revenue~~ shall implement this SECTION effective July 1, 2003.

(n) The select joint commission on Medicaid oversight, established by IC 2-5-26-3, shall review the implementation of this SECTION. The office may not make any change to the reimbursement for nursing facilities unless the select joint commission on Medicaid oversight recommends the reimbursement change.

(o) A nursing facility or a health facility may not charge the facility's residents for the amount of the quality assessment that the facility pays under this SECTION.

(p) The office may withdraw a state plan amendment **submitted** under ~~subsection (c), (f), or (g)~~ **this SECTION** only if the office determines that failure to withdraw the state plan amendment will result in the expenditure of state funds not funded by the quality assessment.

(q) If a health facility fails to pay the quality assessment under this

SECTION not later than ten (10) days after the date the payment is due, the health facility shall pay interest on the quality assessment at the same rate as determined under IC 12-15-21-3(6)(A).

(r) The ~~following shall be provided to the state department of health:~~

~~(1) The~~ office shall report **to the state department of health** each nursing **facility and each health** facility that fails to pay the quality assessment under this SECTION not later than one hundred twenty (120) days after payment of the quality assessment is due.

~~(2) The department of state revenue shall report each health facility that is not a nursing facility that fails to pay the quality assessment under this SECTION not later than one hundred twenty (120) days after payment of the quality assessment is due.~~

(s) The state department of health shall do the following:

(1) Notify each nursing facility and each health facility reported under subsection (r) that the nursing facility's or health facility's license under IC 16-28 will be revoked if the quality assessment is not paid.

(2) Revoke the nursing facility's or health facility's license under IC 16-28 if the nursing facility or the health facility fails to pay the quality assessment.

(t) An action taken under subsection (s)(2) is governed by:

(1) IC 4-21.5-3-8; or

(2) IC 4-21.5-4.

(u) The office shall report the following information to the select joint commission on Medicaid oversight established by IC 2-5-26-3 at every meeting of the commission:

(1) Before the quality assessment is approved by the United States Centers for Medicare and Medicaid Services:

(A) an update on the progress in receiving approval for the quality assessment; and

(B) a summary of any discussions with the United States Centers for Medicare and Medicaid Services.

(2) After the quality assessment has been approved by the United States Centers for Medicare and Medicaid Services:

(A) an update on the collection of the quality assessment;

(B) a summary of the quality assessment payments owed by a nursing facility or a health facility; and

(C) any other relevant information related to the implementation of the quality assessment.

(v) This SECTION expires August 1, ~~2009.~~ **2011.**

SECTION 487. [EFFECTIVE UPON PASSAGE] **(a) The department of education and the state department of revenue may adopt temporary rules in the manner provided in IC 4-22-2-37.1 for the adoption of emergency rules to implement IC 20-51, as added by this act. A temporary rule adopted under this SECTION expires on the earliest of the following:**

(1) The date another temporary rule is adopted under this SECTION that supersedes or repeals the previously adopted temporary rule.

(2) The date that a permanent rule adopted under IC 4-22-2 supersedes or repeals a temporary rule adopted under this SECTION.

(3) The date specified in the temporary rule.

(4) June 30, 2011.

(b) This SECTION expires July 1, 2011.

SECTION 488. [EFFECTIVE UPON PASSAGE] **IC 6-3.1-30.5, as added by this act, applies to contributions made in taxable years beginning after December 31, 2009.**

SECTION 489. [EFFECTIVE JULY 1, 2009] **(a) The commission for higher education with the assistance of the state student assistance commission shall study the funding of college scholarship programs provided by the state student assistance commission and the state's public universities. The study must examine the following issues:**

(1) The limits established for awards and the differences between the limits established for private and public universities.

(2) The extent to which criteria for establishing the eligibility of an applicant should consider receipt of Pell Grants, other wrap-around assistance provided by a university, tax credits, and other assistance.

(3) The relative amounts of assistance provided on the basis of merit and on the basis of need.

(4) Whether means tests should be required for students participating in the twenty-first century scholars program as those students enter college.

(5) Scholarships and awards provided for members of the military and national guard.

(6) Scholarships and awards provided to individuals being held in state correctional facilities.

(b) The state's public universities shall provide the commission for higher education with the data necessary to complete the study. The commission shall before June 30, 2010, provide a report and recommendations to the budget committee for modernizing and improving scholarship programs.

(c) This SECTION expires January 1, 2011.

SECTION 490. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "committee" refers to the gaming study committee established under subsection (b).**

(b) The gaming study committee is established.

(c) The committee shall during the 2009 legislative interim prepare a market analysis of gaming in Indiana to determine viability and profitability in light of gaming in Michigan and Illinois and the potential of gaming in Ohio and Kentucky.

(d) The committee shall during the 2009 legislative interim conduct a comprehensive study of issues related to gaming in Indiana, including a review of the following issues:

(1) Admission taxes for riverboats.

(2) Competition from out of state gaming entities.

(3) Waivers for gaming tournaments.

(4) Land-based gaming.

(5) Non-smoking accommodations.

(6) Restrictions on alcohol prizes.

(7) Authority to regulate type 2 gaming in for-profit ventures.

(8) A referendum concerning gaming in the city of Fort Wayne.

(9) Competition from tribal-operated casinos.

(10) Issues related to the riverboat in French Lick, including modification of trust payments, subsidies paid by other gaming facilities, and land-based gaming.

(11) The movement of riverboats in the city of Gary to new locations.

(12) The need to retain United States Coast Guard compliant marine navigation systems.

(13) Whether permit holders holding a gambling game license issued under IC 4-35-5 (racinos) are properly promoting and supporting the horse racing activities at the site.

(14) Issues related to permit holders holding a gambling game license issued under IC 4-35-5 (racinos), including table games, double taxation, amounts paid to horsemen's associations, bonds, slot machines, and satellite locations.

(15) Gaming license fees and suppliers' license fees.

(16) Parity of confidentiality rules for riverboat gaming licensees and permit holders holding a gambling game license issued under IC 4-35-5 (racinos).

(17) Campaign contribution ban for riverboat gaming licensees.

(e) The committee consists of the following voting members:

(1) The chairperson of the senate committee on appropriations.

(2) The ranking minority member of the senate committee on appropriations.

(3) The chairperson of the house committee on ways and means.

(4) The ranking minority member of the house committee on ways and means.

(5) The chairperson of the senate committee on commerce.

(6) The ranking minority member of the senate committee on commerce.

(7) The chairperson of the house committee on public policy.

(8) The ranking minority member of the house committee on public policy.

In addition, the committee shall include two (2) nonvoting members who are individuals who are not members of the general assembly, one (1) appointed by the speaker of the house of representatives and one (1) appointed by the president pro tempore of the senate. The nonvoting members must have experience or training in financial matters.

(g) The chairperson of the senate committee on appropriations and the chairperson of the house committee on ways and means are the co-chairpersons of the committee.

(h) Except as provided in this SECTION, the committee shall operate under the policies governing study committees adopted by the legislative council.

(i) The committee shall before December 1, 2009, submit a report of its findings and any recommendations to the legislative council.

(j) This SECTION expires July 1, 2010.

SECTION 491. [EFFECTIVE UPON PASSAGE] **(a) The legislative council shall appoint a committee or assign to a study committee the task of studying the mission, organization, and**

management structure of the I-Light fiber optic network. The study shall include the following issues:

(1) Whether the capabilities of the network are being used in a manner that maximizes benefits to the state, public and private universities, and other existing and potential consortium members.

(2) Whether an alternate provider could provide comparable service levels at a lower cost to the state.

(3) Whether there are opportunities for increased use of the network to support electronic learning, worker training, and workforce development.

(b) A public university that uses or benefits from the I-Light fiber optic network must provide to the committee and the legislative council any information concerning the network that is requested by the committee.

(c) The committee shall operate under the rules of the legislative council. The committee shall before November 1, 2009, submit a report of its findings and any recommendations to the governor and (in an electronic format under IC 5-14-6) to the legislative council.

(d) This SECTION expires July 1, 2010.

SECTION 492. [EFFECTIVE UPON PASSAGE] **(a) The commission on state tax and financing policy established under IC 2-5-3 shall do the following during the interim in 2009 between sessions of the general assembly:**

(1) Study the allocation and distribution of county adjusted gross income taxes (IC 6-3.5-1.1), county option income taxes (IC 6-3.5-6), and county economic development income taxes (IC 6-3.5-7) to civil taxing units within a county.

(2) Study whether taxpayers are permitted an appropriate opportunity to participate in the process for determining the levies, tax rates, special assessments, special benefits taxes, and budgets imposed by political subdivisions.

(3) Receive a report from the attorney general concerning the guidelines the attorney general used to determine whether a political subdivision may use private outside legal counsel in an appeal of a tax case. The attorney general shall, as requested by the commission on state tax and financing policy make a presentation to the commission concerning the matters described in this subdivision.

(4) Study the advisability of eliminating the general reassessment of real property under the current schedule and requiring counties to develop plans for the annual assessment of a fixed percentage of the parcels within each class of real property in the county.

(5) Review recommendations from the department of local government finance concerning the actions necessary to restore timelines to the process of local budgeting and the imposition of property taxes.

(b) Before November 1, 2009, the commission on state tax and financing policy shall report its findings and any recommendations concerning the study topic described in subsection (a) in a final report to the legislative council in an electronic format under IC 5-14-6.

(c) This SECTION expires January 1, 2010.

SECTION 493. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "commission" refers to the criminal code evaluation commission established by subsection (b).**

(b) The criminal code evaluation commission is established to evaluate the criminal laws of Indiana. If, based on the commission's evaluation, the commission determines that changes are necessary or appropriate, the commission shall make recommendations to the general assembly for the modification of the criminal laws.

(c) The commission may study other topics assigned by the legislative council or as directed by the commission chair.

(d) The commission may meet during the months of:

(1) July, August, and September of 2009;

(2) April, May, June, July, August, and September of 2010; and

(3) June, July, August, and September of 2011.

(e) The commission consists of seventeen (17) members appointed as follows:

(1) Four (4) members of the senate, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the president pro tempore of the senate.

(2) Four (4) members of the house of representatives, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the speaker of the house of representatives.

(3) The attorney general or the attorney general's designee.

(4) The commissioner of the department of correction or the commissioner's designee.

(5) The executive director of the prosecuting attorneys council of Indiana or the executive director's designee.

(6) The executive director of the public defender council of Indiana or the executive director's designee.

(7) The chief justice of the supreme court or the chief justice's designee.

(8) Two (2) judges who exercise criminal jurisdiction, who may not be affiliated with the same political party, to be appointed by the governor.

(9) Two (2) professors employed by a law school in Indiana whose expertise includes criminal law, to be appointed by the governor.

(f) The chairman of the legislative council shall appoint a legislative member of the commission to serve as chair of the commission. Whenever there is a new chairman of the legislative council, the new chairman may remove the chair of the commission and appoint another chair.

(g) If a legislative member of the commission ceases to be a member of the chamber from which the member was appointed, the member also ceases to be a member of the commission.

(h) A legislative member of the commission may be removed at any time by the appointing authority who appointed the legislative member.

(i) If a vacancy exists on the commission, the appointing authority who appointed the former member whose position is vacant shall appoint an individual to fill the vacancy.

(j) The commission shall submit a final report of the results of its study to the legislative council before November 1, 2011. The report must be in an electronic format under IC 5-14-6.

(k) The Indiana criminal justice institute shall provide staff support to the commission to prepare:

(1) minutes of each meeting; and

(2) the final report.

(l) The legislative services agency shall provide staff support to the commission to:

(1) advise the commission on legal matters, criminal procedures, and legal research; and

(2) draft potential legislation.

(m) Each member of the commission is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative and lay members, respectively, of interim study committees established by the legislative council.

(n) The affirmative votes of a majority of all the members who serve on the commission are required for the commission to take action on any measure, including the final report.

(o) Except as otherwise specifically provided by this SECTION, the commission shall operate under the rules of the legislative council. All funds necessary to carry out this SECTION shall be paid from appropriations to the legislative council and the legislative services agency.

(p) This SECTION expires December 31, 2011.

SECTION 494. [EFFECTIVE JULY 1, 2009] **(a) The budget agency shall review the costs of providing employee health, vision, and dental insurance for state employees and employees of school corporations and public universities. In conducting the review the budget agency shall collect data on the cost of existing plans offered by the state, school corporations, and public universities. School corporations and public universities shall provide the data needed to complete the review as requested by the budget agency. The budget agency shall review the following:**

(1) Comparative costs of providing health insurance among the employer groups.

(2) Comparative benefits among the employee groups.

(3) Differences in amounts paid by employees and amounts paid by the employers.

(4) Opportunities to modernize health plans and take advantage of employee tax incentives in the delivery of health insurance plans.

(5) Opportunities for efficiencies and cost savings for employers and employees by creating additional or larger employee pools.

(6) Any impact on the competitive market for health insurance.

(7) Other factors the budget agency considers relevant to the review.

(b) The budget agency may use a part of the departmental and institutional contingency fund to hire professionals to assist in gathering and examining data. The budget agency shall report findings of the review to the budget committee before July 1, 2010.

(c) This SECTION expires January 1, 2011.

SECTION 495. [EFFECTIVE UPON PASSAGE] **The department of state revenue shall conduct a study of the feasibility of changing the design and method for verifying, tracking, and tracing cigarette stamps (as defined in IC 6-7-1-9), including issues related to the use of electronic cigarette stamp readers, to incorporate the latest technical advances used by other states to reduce counterfeiting and misuse of cigarette stamps. The study must at least:**

(1) describe the changes that could be made;

(2) describe the sources where necessary products and services could be obtained, including whether there is more than one (1) potential source for necessary products and services;

(3) describe and estimate the capital and operating costs necessary to implement a new system;

(4) estimate the likely effects on revenue collection and evaluate any other benefits that would accrue from implementing a new system; and

(5) if beneficial to the state, estimate a schedule on which a conversion could be made and describe any changes in statutory law that would be necessary to implement the changes.

The department shall pay for the study from unrestricted funds that are otherwise available to the department of state revenue. The department of state revenue shall report the results of the study to the legislative council in an electronic format under IC 5-14-6 before November 1, 2009.

SECTION 496. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding any other law and except as provided in subsection (b), the terms of all members of the Marion County capital improvement board under IC 36-10-9-4, before its amendment by this act, terminate on January 15, 2010. Each appointing authority shall make it's respective appointments under IC 36-10-9-4, as amended by this act, before January 15, 2010, and the term of each of these appointed members begins January 15, 2010.**

(b) The term of one (1) of the members appointed by the Marion County board of commissioners to the Marion County capital improvement board under IC 36-10-9-4, before its amendment by this act, terminates on July 1, 2009. The Marion County board of commissioners shall specify which one (1) of the members

appointed by the Marion County board of commissioners under IC 36-10-9-4, before its amendment by this act, to the Marion County capital improvement board shall have the member's term terminated on July 1, 2009. After June 30, 2009, the Marion County board of commissioners has only one (1) appointment to the Marion County capital improvement board.

(c) This SECTION expires July 1, 2010.

SECTION 497. P.L.146-2008, SECTION 840 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 840. **(a)** For property taxes first due and payable after December 31, 2008, the department of local government finance shall reduce the maximum permissible ad valorem property tax levy of any civil taxing unit and special service district by the amount of the payment to be made in 2009 by the state of Indiana under IC 5-10.3-11, as amended by this act, for benefits to members (and survivors and beneficiaries of members) of the 1925 police pension fund, the 1937 firefighters' **pension** fund, or the 1953 police pension fund.

(b) It is the intent of the general assembly that this SECTION be applied in the manner specified by the department of local government finance in its memorandum "Pre-1977 Police and Firefighters' Pension" dated July 23, 2008. An action taken in conformity with the memorandum is legalized and validated.

(c) This SECTION expires January 1, 2011.

SECTION 498. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding any other law or agreement, Brown County School Corporation is not required to make principal or interest payments during the state fiscal years beginning:**

(1) July 1, 2009; and

(2) July 1, 2010;

on any loan received by the school corporation from the counter-cyclical revenue and economic stabilization fund (rainy day fund).

(b) The repayment term of the loan shall be extended as necessary to take into account the waiver described in subsection (a).

(c) This SECTION expires January 1, 2012.

SECTION 499. [EFFECTIVE UPON PASSAGE] **(a) For purposes of IC 1-1-3.5, the population of the town of Fairland in Shelby County is considered to be 325.**

(b) This SECTION expires April 1, 2011.

SECTION 500. P.L.146-2008, SECTION 849 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: SECTION 849. (a) The definitions in IC 6-1.1-1, IC 6-1.1-20.9 (before its repeal), and IC 6-1.1-21 (before its repeal) apply throughout this SECTION.

(b) A taxpayer that is entitled to a standard deduction under IC 6-1.1-12-37 for property taxes assessed for the March 1, 2008, and January 15, 2009, assessment dates is entitled to a homestead credit under this SECTION against the property tax liability (as described in IC 6-1.1-21-5 (before its repeal)) imposed against the taxpayer's homestead for the March 1, 2008, and January 15, 2009, assessment dates.

(c) The amount of the credit to which an owner is entitled under this SECTION equals the product of:

(1) the percentage prescribed in subsection (d)(3); multiplied by

(2) the amount of the individual's property tax liability (as described in IC 6-1.1-21-5 (before its repeal)) that is:

(A) attributable to the homestead during the particular calendar year; and

(B) determined after the application of all deductions from assessed valuation that the owner claims under IC 6-1.1-12 or IC 6-1.1-12.1 for property and the property tax replacement credit under IC 6-1.1-21.

(d) The county auditor of each county shall determine:

(1) the amount of the county's homestead credit allotment determined under subsection (e);

(2) the amount of uniformly applied homestead credits for the year in the county that equals the amount determined under subdivision (1); and

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

(e) There is granted under this SECTION a total of one hundred forty million dollars ($140,000,000) of homestead credits. The homestead credits shall be distributed to each county as prescribed in subsection (f). Before distribution, the department of local government finance shall certify each county's homestead credit allotment to the department of state revenue and to each county auditor.

(f) Each county's certified homestead credit allotment, which shall be calculated by the budget agency, shall be determined under the following STEPS:

STEP ONE: For each county, determine the total property tax liability of all homestead properties in the county for the most recent calendar year before the application of any credits.

STEP TWO: For each county, determine the total property tax liability of all homestead properties resulting from property tax levies that are eliminated or replaced by this act for the most recent calendar year, before the application of any credits.

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

STEP FOUR: Determine the sum of the amounts determined under STEP THREE.

STEP FIVE: Divide the amount determined in STEP THREE by the amount determined in STEP FOUR.

STEP SIX: Multiply the result of STEP THREE by one hundred forty million dollars ($140,000,000).

(g) Each county's homestead credit allotment authorized in this SECTION shall be distributed to that county ~~not more than~~ **in** two (2) ~~weeks after the county mails a property tax bill for which the homestead credit under this SECTION is granted.~~ **equal installments. The first installment shall be distributed not later than the first due date for property taxes payable in the county. The second installment shall be distributed not later than the second due date for property taxes payable in the county.**

(h) In addition to any other appropriations, there is appropriated one hundred forty million dollars ($140,000,000) from the state general fund to make distributions for the homestead credits provided by this SECTION for property taxes assessed for the March 1, 2008, and January 15, 2009, assessment dates. Money distributed under this subsection shall be treated as property taxes for all purposes.

(i) The department of local government finance, the department of state revenue, and the budget agency shall take the actions necessary to carry out this SECTION. The department of local government finance and the budget agency shall make the certifications required under this SECTION based on the best information available at the time the certification is made.

SECTION 501. P.L.146-2008, SECTION 850 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: SECTION 850. (a) The definitions in IC 6-1.1-1, IC 6-1.1-20.9 (before its repeal), and IC 6-1.1-21 (before its repeal) apply throughout this SECTION.

(b) A taxpayer that is entitled to a standard deduction under IC 6-1.1-12-37 for property taxes assessed for the March 1, 2009, and January 15, 2010, assessment dates is entitled to a homestead credit under this SECTION against the property tax liability (as described in IC 6-1.1-21-5 (before its repeal)) imposed against the taxpayer's homestead for the March 1, 2009, and January 15, 2010, assessment dates.

(c) The amount of the credit to which an owner is entitled under this SECTION equals the product of:

(1) the percentage prescribed in subsection (d)(3); multiplied by

(2) the amount of the individual's property tax liability (as described in IC 6-1.1-21-5 (before its repeal)) that is:

(A) attributable to the homestead during the particular calendar year; and

(B) determined after the application of all deductions from assessed valuation that the owner claims under IC 6-1.1-12 or IC 6-1.1-12.1 for property and the property tax replacement credit under IC 6-1.1-21.

(d) The county auditor of each county shall determine:

(1) the amount of the county's homestead credit allotment determined under subsection (e);

(2) the amount of uniformly applied homestead credits for the year in the county that equals the amount determined under subdivision (1); and

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

(e) There is granted under this SECTION a total of eighty million dollars ($80,000,000) of homestead credits. The homestead credits shall be distributed to each county as prescribed in subsection (f). Before distribution, the department of local government finance shall certify each county's homestead credit allotment to the department of state revenue and to each county auditor.

(f) Each county's certified homestead credit allotment, which shall be calculated by the budget agency, shall be determined under the following STEPS:

STEP ONE: For each county, determine the total of state homestead credits granted in the county for the most recent calendar year.

STEP TWO: Determine the sum of the amounts determined under STEP ONE.

STEP THREE: Divide the amount determined in STEP ONE by the amount determined in STEP TWO.

STEP FOUR: Multiply the result of STEP THREE by eighty million dollars ($80,000,000).

(g) Each county's homestead credit allotment authorized in this SECTION shall be distributed to that county ~~not more than~~ **in** two (2) ~~weeks after the county mails a property tax bill for which the homestead credit under this SECTION is granted.~~ **equal installments. The first installment shall be distributed not later than the first due date for property taxes payable in the county. The second installment shall be distributed not later than the second due date for property taxes payable in the county.**

(h) In addition to any other appropriations, there is appropriated eighty million dollars ($80,000,000) from the state general fund to make distributions for the homestead credits provided by this SECTION for property taxes assessed for the March 1, 2009, and January 15, 2010, assessment dates. Money distributed under this subsection shall be treated as property taxes for all purposes.

(i) The department of local government finance, the department of state revenue, and the budget agency shall take the actions necessary to carry out this SECTION. The department of local government finance and the budget agency shall make the certifications required under this SECTION based on the best information available at the time the certification is made.

SECTION 502. [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **(a) The definitions in IC 6-1.1-1 apply throughout this SECTION.**

(b) This SECTION applies to a homestead (as defined in IC 6-1.1-20.9-1, before its repeal) that:

(1) was owned by a trust and occupied by an individual as described in IC 6-1.1-12-17.9 with respect to:

(A) the assessment dates in 2007 and 2008 if the homestead is real property; or

(B) the assessment dates in 2008 and 2009 if the homestead is:

(i) a mobile home; or

(ii) a manufactured home;

that is not assessed as real property; and

(2) received a homestead credit under IC 6-1.1-20.9 (before its repeal) for property taxes first due and payable in 2008.

(c) For property taxes first due and payable in 2010, a homestead is entitled to a credit under this SECTION in the amount of the remainder of:

(1) the amount of property taxes the trust paid with respect to the homestead for taxes first due and payable in 2009; minus

(2) the amount of property taxes for which the trust would have been liable with respect to the homestead for taxes first due and payable in 2009 if for that year the following had applied:

(A) The standard deduction under IC 6-1.1-12-37 in effect on July 1, 2009.

(B) All other deductions and credits that would have applied if the standard deduction under IC 6-1.1-12-37 in effect on July 1, 2009, had applied.

(d) The credit under subsection (c) applies proportionately to all installments of property taxes first due and payable in 2010.

(e) Interest does not apply in the determination of the amount of the credit under this SECTION.

(f) A trust is not required to apply for the credit under this SECTION. The department of local government finance shall prescribe the method of determining the amount of the credit. The county auditor and the county treasurer shall identify the homesteads eligible for the credit and apply the credit.

(g) Subject to IC 6-1.1-17-0.5(e), the county auditor may reduce a taxing unit's assessed value in the manner permitted under IC 6-1.1-17-0.5(d) to enable the taxing unit to absorb the effects of reduced property tax collections for taxes first due and payable in 2010 that are expected to result from credits applied under this SECTION.

(h) This SECTION expires January 1, 2012.

SECTION 503. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding any other law, a local public question described in subsection (c) shall be placed on the ballot at a special election to be held on November 3, 2009, in the county in which a political subdivision created under IC 16-22-8 is located if:**

(1) the board of the political subdivision adopts a resolution requesting the county auditor to certify the public question to the county election board and requesting the county election board to place the public question on the ballot at the special election;

(2) the political subdivision submits the resolution to the county auditor and the county election board before August 1, 2009.

(b) Notwithstanding any other law, a political subdivision created under IC 16-22-8 that meets the requirements of subsection (a) shall, before October 1, 2009:

(1) conduct a public hearing described in IC 6-1.1-20-3.5(b)(1);

(2) adopt a resolution making a preliminary determination to issue the bonds or enter into the lease referred to in the local public question described in subsection (c); and

(3) give notice of the preliminary determination in the manner described in IC 6-1.1-20-3.5(b)(2), with the notice containing the information required by IC 6-1.1-20-3.5(b)(3), except that with respect to the information required by IC 6-1.1-20-3.5(b)(3)(E) the notice need only state that the proposed debt service or lease payments must be approved in an election on the local public question to be held on November 3, 2009.

(c) The local public question under this SECTION shall be as follows:

"Shall the Health and Hospital Corporation of Marion County, Indiana, issue bonds or enter into a lease to finance (insert the description of the project)?".

(d) This SECTION expires December 31, 2009.

SECTION 504. [EFFECTIVE JULY 1, 2009] **(a) This SECTION applies to towns (as defined in IC 36-1-2-21).**

(b) The definitions set forth in IC 6-2.3-1 apply to this SECTION.

(c) This SECTION applies only to a taxable year ending in 2003 or 2004.

(d) A town may claim a refund for gross income taxes erroneously paid under IC 6-2.1 (before its repeal), if the town paid both:

(1) the gross income tax imposed by IC 6-2.1 (before its repeal); and

(2) the utilities receipts tax imposed by IC 6-2.3;

for the same taxable year.

(e) The department shall prescribe the form and procedure that a town must use to claim its refund.

(f) This SECTION expires December 31, 2009.

SECTION 505. IC 1-1-3.2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 3.2. Effective Dates of HEA 1001(ss)-2009

Sec. 1. (a) This chapter applies only to HEA 1001(ss)-2009.

(b) IC 1-1-3.1 does not apply to HEA 1001(ss)-2009.

Sec. 2. Notwithstanding IC 1-1-3.1, the effective dates of the SECTIONS in HEA 1001(ss)-2009 are as specified in HEA 1001(ss)-2009, even if:

(1) the governor signs HEA 1001(ss)-2009 into law after June 30, 2009;

(2) the governor allows HEA 1001(ss)-2009 to become law without the governor's signature under Article 5, Section 14(a)(3) of the Constitution of the State of Indiana after June 30, 2009; or

(3) the governor vetoes HEA 1001(ss)-2009 and the general assembly subsequently overrides the veto of HEA 1001(ss)-2009.

SECTION 506. [EFFECTIVE UPON PASSAGE] **(a) The general assembly may convene a technical session of the general assembly before October 1 , 2009.**

(b) Only the following may be considered and acted upon during a technical session under this SECTION:

(1) Bills:

(A) enacted during 2009 before the date of the technical session; and

(B) vetoed by the governor.

(2) Bills to correct conflicts among bills enacted during 2009 before the date of the technical session.

(3) Bills to correct technical errors in bills enacted during 2009 before the date of the technical session.

(c) A technical session held under this SECTION must adjourn sine die before the first midnight after it convenes.

(d) A technical session shall convene under this SECTION if the speaker of the house of representatives and the president pro tempore of the senate jointly issue an order finding that the purposes for which a technical session may meet under subsection (b) exist.

(e) If the general assembly does not meet in a technical session under this SECTION, the general assembly shall consider and act

upon vetoes of bills enacted during 2009 at the 2010 second regular session.

(f) For purposes of Article 5, Section 14 of the Constitution of the State of Indiana, a technical session held under this SECTION is not considered a regular session if the general assembly does not consider or act upon vetoes of bills enacted during 2009.

(g) This SECTION expires March 15, 2010.

SECTION 507. IC 8-6-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A railroad company operating in this state shall equip every locomotive engine with a whistle and a bell, maintained in good working order, such as are used by other railroad companies. Except when approaching a crossing to which an ordinance adopted under subsection ~~(c)~~ **(d)** applies, the engineer or other person in charge of or operating an engine upon the line of a railroad shall, when the engine approaches the crossing of a turnpike, public highway, or street in this state: ~~beginning not less than one-fourth (1/4) mile from the crossings.~~

(1) sound the whistle on the engine distinctly not less than four (4) times, which sounding shall be prolonged or repeated until the crossing is reached; and

(2) ring the bell attached to the engine continuously from the time of sounding the whistle until the engine has fully passed the crossing.

(b) A railroad company shall erect a sign that is:

(1) not more than one-fourth (1/4) mile in advance of a crossing or multiple consecutive crossings; and

(2) visible from an approaching train;

to notify the engineer or other person in charge of or operating an engine to sound the engine's whistle in accordance with federal law. The railroad company shall maintain the sign in good repair or replace the sign. However, this subsection does not apply to a crossing to which an ordinance adopted under subsection (d) applies. The locomotive engineer or other person in charge of the train shall notify, in writing, the appropriate maintenance of way supervisor of the railroad of any missing or damaged whistle post, and the railroad shall, within thirty (30) days after the maintenance of way supervisor is notified under this subsection, repair or replace the missing or damaged whistle post.

~~(b)~~ **(c)** It is unlawful for an engineer or other person in charge of a locomotive to move the locomotive, or allow it to be moved, over or across a turnpike, public highway, or street crossing if the whistle and

bell are not in good working order. It is unlawful for a railroad company to order or permit a locomotive to be moved over or across a turnpike, public highway, or street crossing if the whistle and bell are not in good working order. When a whistle or bell is not in good working order, the locomotive must stop before each crossing and proceed only after manual protection is provided at the crossing by a member of the crew unless manual protection is known to be provided.

~~(c)~~ **(d)** A city, town, or county may adopt an ordinance to regulate the sounding of a whistle or the ringing of a bell under subsection (a) in the city, the town, or the county. However, an ordinance may not prohibit the sounding of a whistle or the ringing of a bell at a crossing that does not have an automatic train activated warning signal as set forth in IC 8-6-7.7-2. An ordinance adopted after June 30, 2003, that prohibits the sounding of a whistle or the ringing of a bell at a crossing must require that signs be posted at the crossing to warn the public that trains do not sound whistles or ring bells at that crossing. Before an ordinance adopted under this subsection goes into effect, the city, town, or county must receive the written permission of the department to regulate the sounding or the ringing. The department shall grant permission only if the department determines, based upon a study conducted by the department, that the ordinance, as applied to the rail corridor identified in the ordinance, increases the overall safety of the corridor for the public. Notwithstanding anything to the contrary in this subsection, the department shall grant permission to a city or a town to regulate the sounding of a whistle or the ringing of a bell if the city or town had an ordinance regulating the sounding of a whistle or the ringing of a bell that was approved and in effect on January 1, 1991, if the city or town amended or repealed the ordinance, and if the city or town adopts a subsequent ordinance on the same subject. In making its determination during the course of the study, the department shall consider:

(1) school bus routes;
(2) emergency service routes;
(3) hazardous materials routes;
(4) pedestrian traffic;
(5) trespassers;
(6) recreational facilities;
(7) trails; and
(8) measures to increase safety in the corridor, including:
  (A) four (4) quadrant gates;

(B) median barriers;
(C) crossing closures;
(D) law enforcement programs; and
(E) public education.

The study by the department required under this subsection must be completed not later than one hundred twenty (120) days after the department receives notice of the passage of the ordinance from the city, town, or county.

~~(d)~~ **(e)** Notwithstanding a contrary provision in an ordinance adopted under subsection ~~(c),~~ **(d),** an engineer or other person who is operating an engine shall sound the engine's whistle if, in the determination of the engineer or other person who is operating the engine, an apparent emergency exists.

~~(e)~~ **(f)** A railroad company and the employees of the railroad company are immune from criminal or civil liability for injury or property damage that results from an accident that occurs at a crossing to which an ordinance described in subsection ~~(c)~~ **(d)** applies if the injury or property damage was proximately caused solely by the railroad company and the employees failing to sound a whistle.

~~(f)~~ **(g)** The Indiana department of transportation shall review crossing safety at each crossing to which an ordinance adopted under subsection ~~(c)~~ **(d)** applies not less than one (1) time in a five (5) year period.

~~(g)~~ **(h)** The Indiana department of transportation may not revoke the permission granted under subsection ~~(c)~~ **(d)** for an ordinance.

~~(h)~~ **(i)** The Indiana department of transportation may create pilot railroad crossing safety projects to improve railroad crossing safety.

SECTION 508. IC 8-6-4-2, AS AMENDED BY P.L.1-2009, SECTION 69, IS AMENDED TO READ AS FOLLOWS IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. **(a)** Every engineer or other person in charge of or operating ~~any such~~ **an** engine, who shall fail or neglect to comply with the provisions of section 1 of this chapter, shall be held personally liable ~~therefor~~ to the state, ~~of Indiana,~~ in a penalty of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00), to be recovered in a civil action ~~at the suit of said~~ **brought by the** state in the circuit or superior court of any county ~~wherein such~~ **where the** crossing ~~may be~~ **is** located. ~~and~~

(b) A railroad company that violates ~~the provisions of IC 8-6-4-1(b)~~ **section 1(c) of this chapter** shall be held liable therefor to the state ~~of Indiana, in~~ **for** a penalty of not less than two hundred fifty dollars

($250) nor more than five thousand dollars ($5,000), to be recovered in a civil action ~~at the suit of said~~ **brought by the** state in the circuit or superior court of any county ~~wherein such~~ **where the** crossing ~~may be~~ **is** located. ~~and~~ The **railroad** company in whose employ such engineer or person may be, as well as the **engineer or** person ~~himself,~~ **in charge of or operating the engine,** shall be liable in damages to any person, or the person's representatives, who may be injured in property or person, or to any corporation that may be injured in property, by the neglect or failure of said engineer or other person as aforesaid.

(c) A railroad company that violates section 1(b) of this chapter may be held liable to the state for a penalty of not less than two hundred fifty dollars ($250) or more than one thousand dollars ($1,000), to be recovered in a civil action brought by the state in the circuit or superior court of any county where the crossing is located.

SECTION 509. IC 34-30-2-24.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 24.4. ~~IC 8-6-4-1(c)~~ **IC 8-6-4-1(f)** (Concerning a railroad company and its employees for injury or property damage resulting from certain accidents).

SECTION 510. IC 36-7-31.3-8, AS AMENDED BY P.L.176-2009, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) A designating body may designate as part of a professional sports and convention development area any facility that is:

(1) owned by the city, the county, a school corporation, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11, and used by a professional sports franchise for practice or competitive sporting events; ~~or~~

(2) owned by the city, the county, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11, and used as one (1) of the following:

(A) A facility used principally for convention or tourism related events serving national or regional markets.

(B) An airport.

(C) A museum.

(D) A zoo.

(E) A facility used for public attractions of national significance.

(F) A performing arts venue.

(G) A county courthouse registered on the National Register of Historic Places; **or**

(3) a hotel.

Notwithstanding section 9 of this chapter or any other law, a designating body may by resolution approve the expansion of a professional sports and convention development area after June 30, 2009, to include a hotel designated by the designating body. A resolution for such an expansion must be reviewed by the budget committee and approved by the budget agency in the same manner as a resolution establishing a professional sports and convention development area is reviewed and approved. A facility may not include a private golf course or related improvements. The tax area may include only facilities described in this section and any parcel of land on which a facility is located. An area may contain noncontiguous tracts of land within the city, county, or school corporation.

(b) Except for a tax area that is located in a city having a population of:

(1) more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); or

(2) more than ninety thousand (90,000) but less than one hundred five thousand (105,000);

a tax area must include at least one (1) facility described in subsection (a)(1).

(c) A tax area may contain other facilities not owned by the designating body if:

(1) the facility is owned by a city, the county, a school corporation, or a board established under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11; and

(2) an agreement exists between the designating body and the owner of the facility specifying the distribution and uses of the covered taxes to be allocated under this chapter.

(d) This subsection applies to all tax areas located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000). The facilities located at an Indiana University-Purdue University regional campus are added to the tax area designated by the county. The maximum amount of covered taxes that may be captured in all tax areas located in the county is three million dollars ($3,000,000) per year, regardless of the designating body that established the tax area. The county option income taxes

imposed under IC 6-3.5 that are captured must be counted first toward this maximum.

SECTION 511. IC 36-7-31.3-10, AS AMENDED BY P.L.176-2009, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) A tax area must be established by resolution. A resolution establishing a tax area must provide for the allocation of covered taxes attributable to a taxable event or covered taxes earned in the tax area to the professional sports and convention development area fund established for the city or county. The allocation provision must apply to the entire tax area. However, for all tax areas located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000), the allocation each year must be as follows:

(1) The first two million six hundred thousand dollars ($2,600,000) shall be transferred to the county treasurer for deposit in the supplemental coliseum improvement fund.

(2) The remaining amount shall be transferred to the treasurer of the joint county-city capital improvement board in the county.

The resolution must provide the tax area terminates not later than December 31, 2027.

(b) In addition to subsection (a), all of the salary, wages, bonuses, and other compensation that are:

(1) paid during a taxable year to a professional athlete for professional athletic services;

(2) taxable in Indiana; and

(3) earned in the tax area;

shall be allocated to the tax area if the professional athlete is a member of a team that plays the majority of the professional athletic events that the team plays in Indiana in the tax area.

(c) For a tax area **that is:**

(1) not located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000); **and**

(2) not located in a city having a population of more than one hundred five thousand (105,000) and less than one hundred twenty thousand (120,000);

the total amount of state revenue captured by the tax area may not exceed five dollars ($5) per resident of the city or county per year for twenty (20) consecutive years.

(d) For a tax area that is located in a city having a population of more than one hundred five thousand (105,000) and less than one hundred twenty thousand (120,000), the total amount of state revenue captured by the tax area may not exceed six dollars and fifty cents ($6.50) per resident of the city per year for twenty (20) consecutive years.

~~(d)~~ **(e)** The resolution establishing the tax area must designate the facility or proposed facility and the facility site for which the tax area is established.

~~(e)~~ **(f)** The department may adopt rules under IC 4-22-2 and guidelines to govern the allocation of covered taxes to a tax area.

SECTION 512. [EFFECTIVE UPON PASSAGE] **(a) The legislative council shall establish a two (2) year study committee to study issues related to the school funding formula.**

(b) The study committee shall operate under the rules of the legislative council. The study committee shall before November 1, 2010, submit a report of its findings and any recommendations to the legislative council.

(c) This SECTION expires January 1, 2011.

SECTION 513. IC 36-7-25-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) As used in this section, "eligible entity" means a person whose principal functions include the provision of:**

(l) educational programs;

(2) work training programs;

(3) worker retraining programs; or

(4) any other programs;

designed to prepare individuals to participate in the competitive and global economy.

(b) After making the findings set forth in subsection (c), a commission, or two (2) or more commissions acting jointly, may contract with an eligible entity to provide:

(1) educational programs;

(2) work training programs;

(3) worker retraining programs; or

(4) any other programs;

designed to prepare individuals to participate in the competitive and global economy.

(c) Before a commission may contract for a program described in subsection (b), the commission must find that the program will

promote the redevelopment and economic development of the unit, is of utility and benefit, and is in the best interests of the unit's residents.

(d) Except as provided in subsection (e), a commission may use any revenues legally available to the commission to fund a program described in subsection (b).

(e) A commission may not spend:

(1) bond proceeds; or

(2) more than fifteen percent (15%) of the allocated tax proceeds it receives on an annual basis;

to fund a program described in subsection (b).

SECTION 514. [EFFECTIVE JULY 1, 2009] **(a) Notwithstanding SECTION 320 of this act, IC 20-28-11-3(6) and the sentence following IC 20-28-11-3(6) as included in SECTION 320 of this act are replaced with the following language:**

"(6) if federal rules, regulations, or directives require the use of collective program results of tests to evaluate educators in order to qualify for those federal funds, collective program results of tests used by any school corporation that would receive federal funds may be used as a factor, but not the sole factor, to evaluate educators. If collective testing results are used as a factor in evaluations by a school corporation, they must be applied to all educators in that school corporation.

~~However,~~ **Except as provided in subdivision (6),** the plan may not provide for an evaluation that is based in whole or in part on the ISTEP program test scores of the students in the school corporation.".

(b) The publisher of the Indiana Code shall publish IC 20-28-11-3 as amended by this SECTION.

SECTION 515. [EFFECTIVE JULY 1, 2009] **(a) Notwithstanding SECTION 67 of this act, IC 5-10-8-6.7(g) and IC 5-10-8-6.7(h) are deleted and do not take effect.**

(b) The publisher of the Indiana Code shall publish IC 5-10-8-6.7 as amended by this SECTION.

SECTION 516. IC 6-1.1-20.2-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14. Notwithstanding any other provision of this chapter, if an eligible county receives a loan under this chapter from the counter-cyclical revenue and economic stabilization fund (rainy day fund), the money must be used to replace voting equipment damaged by a flood and may not be used to equip any voting centers.**

SECTION 517. [EFFECTIVE JULY 1, 2009] **(a) Notwithstanding any other law, the changes made to IC 5-10-8.5-15 by SECTION 69 of this act shall not take effect.**

(b) The publisher of the Indiana Code shall publish IC 5-10-8.5-15 without the changes made to that section by SECTION 69 of this act.

SECTION 518. [EFFECTIVE JULY 1, 2009] **Notwithstanding SECTION 40 of this act, the following provision of SECTION 40 of this act is deleted and shall not take effect:**

"Of the above authorization for the University of Southern Indiana Teacher Theatre Replacement Project, only eight million dollars ($8,000,000) is eligible for fee replacement.".

SECTION 519. **An emergency is declared for this act.**

CERTIFICATE

INDIANA GENERAL ASSEMBLY

SS:

STATE OF INDIANA

We, the undersigned, do hereby certify that P.L.1-2009 through P.L.181-2009 of the First Regular Session of the One Hundred Sixteenth General Assembly of the State of Indiana have been compared with the enrolled acts from which they were taken and have been found correctly printed.

Signed in the State of Indiana, this 26th day of May, 2009.

B. Patrick Bauer
Speaker, House of Representatives

David C. Long
President Pro Tempore, Senate

Seal

CERTIFICATE

INDIANA GENERAL ASSEMBLY

SS:

STATE OF INDIANA

We, the undersigned, do hereby certify that P.L. 182-2009 of the Special Session of the One Hundred Sixteenth General Assembly of the State of Indiana has been compared with the enrolled act from which it was taken and has been found correctly printed.

Signed in the State of Indiana, this 4 day of Aug., 2009.

B. Patrick Bauer
Speaker, House of Representatives

David C. Long
President Pro Tempore, Senate

Seal

STATEMENT OF FUND NET ASSETS OF AUDITOR OF STATE

For the Year Ended June 30, 2008
(amount expressed in thousands)

	Balance 07/01/07	Revenues	Expenditures	Balance 06/30/08
Governmental Funds				
General Fund	$ 2,382,891	$ 10,912,869	$ 8,963,612	$ 2,873,905
Other Financing Sources (Net)		(1,458,243)		
Special Revenue Funds	4,597,779	14,285,978	15,396,874	4,523,090.00
Other Financing Sources (Net)		1,036,207		
Special item: Proceeds from lease of Toll Road				
Highway Fund	517,912	761,206	1,693,664	173,380
Other Financing Sources (Net)		587,926		
Capital Projects Funds	173,765	212,270	59,490	171,852
Other Financing Sources (Net)		(154,693)		
Permanent Funds	1,077,794	30,608	31,203	1,100,273
Other Financing Sources (Net)		23,074		
Special item: Proceeds from lease of Toll Road		-		
Proprietary Funds				
Enterprise Funds	353,481	646,327	870,436	289,255
Nonoperating Revenues (Net)		156,184		
Operating Transfers (Net)		3,699		
Internal Service Funds	78,532	484,832	435,247	116,125
Nonoperating Revenues (Net)		(3,058)		
Operating Transfers (Net)		(8,934)		
Fiduciary Funds				
Pension Trust Funds	391,324	(4,934)	25,941	360,449
Private-Purpose Trust Funds	35,822	161,693	159,427	38,088
Total	$ 9,609,300	$ 27,673,011	$ 27,635,894	$ 9,646,417

Please see the State's Comprehensive Annual Financial Report for more information

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TABLES

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Affected Provisions	Type	SEC.	Effective	P.L.
Noncode				
0-1986-119-3	Repealed	34	07/01/2009	16-2009
0-1987-368-1	Repealed	34	07/01/2009	16-2009
0-1988-108-8	Repealed	34	07/01/2009	16-2009
0-1989-277-2	Repealed	34	07/01/2009	16-2009
0-1996-18-37	Repealed	34	07/01/2009	16-2009
0-1997-113-3	Repealed	34	07/01/2009	16-2009
0-1998-86-2	Repealed	34	07/01/2009	16-2009
0-1999-101-8	Repealed	34	07/01/2009	16-2009
0-2000-65-1	Repealed	34	07/01/2009	16-2009
0-2000-112-8	Repealed	34	07/01/2009	16-2009
0-2001-152-4	Repealed	34	07/01/2009	16-2009
0-2001-179-6	Repealed	34	07/01/2009	16-2009
0-2002-123-55	Repealed	34	07/01/2009	16-2009
0-2002-133-70	Repealed	34	07/01/2009	16-2009
0-2003-1-107	Repealed	34	07/01/2009	16-2009
0-2003-127-1	Repealed	34	07/01/2009	16-2009
0-2003-129-17	Repealed	34	07/01/2009	16-2009
0-2003-140-1	Repealed	34	07/01/2009	16-2009
0-2003-245-37	Repealed	34	07/01/2009	16-2009
0-2004-28-195	Repealed	34	07/01/2009	16-2009
0-2005-61-1	Repealed	34	07/01/2009	16-2009
0-2005-88-19-93	Repealed	34	07/01/2009	16-2009
0-2005-228-31	Repealed	34	07/01/2009	16-2009
0-2006-35-1	Repealed	34	07/01/2009	16-2009
0-2006-138-16	Repealed	34	07/01/2009	16-2009
0-2006-139-11	Repealed	34	07/01/2009	16-2009
0-2006-140-47	Repealed	34	07/01/2009	16-2009
0-2006-173-56	Repealed	34	07/01/2009	16-2009
0-2006-173-62	Repealed	34	07/01/2009	16-2009
0-2007-3-1	Amended	486	10/01/2008	182-2009(ss)
0-2007-63-6	Repealed	34	07/01/2009	16-2009
0-2007-75-3	Repealed	34	07/01/2009	16-2009
0-2007-77-5	Repealed	34	07/01/2009	16-2009
0-2007-145-17	Repealed	34	07/01/2009	16-2009
0-2007-216-56	Repealed	34	07/01/2009	16-2009
0-2007-216-56	Amended	3	05/12/2009	128-2009
0-2007-218-61	Repealed	34	07/01/2009	16-2009
0-2007-221-48	Repealed	34	07/01/2009	16-2009
0-2007-234-206	Repealed	34	07/01/2009	16-2009
0-2008-7-1	Repealed	34	07/01/2009	16-2009
0-2008-60-1	Repealed	34	07/01/2009	16-2009

Affected Provisions	Type	SEC.	Effective	P.L.
0-2008-63-7	Repealed	34	07/01/2009	16-2009
0-2008-94-68	Repealed	34	07/01/2009	16-2009
0-2008-119-21	Amended	175	04/30/2009	1-2009
0-2008-145-35	Repealed	34	07/01/2009	16-2009
0-2008-146-840	Amended	497	06/30/2009	182-2009(ss)
0-2008-146-849	Amended	500	01/01/2009	182-2009(ss)
0-2008-146-850	Amended	501	01/01/2009	182-2009(ss)
0-2008-146-857	Repealed	461	01/01/2010	182-2009(ss)

Title 1

1-1-3.2	New	505	06/30/2009	182-2009(ss)
1-1-3.5-5	Amended	1	04/30/2009	1-2009
1-1-5-3	Amended	1	07/01/2009	16-2009
1-1-5-4	Amended	2	07/01/2009	16-2009
1-1-5-5	Amended	3	07/01/2009	16-2009
1-1-5-7	Amended	4	07/01/2009	16-2009
1-1-5-8	Amended	5	07/01/2009	16-2009
1-1-5-9	Amended	6	07/01/2009	16-2009
1-1-5-10	New	7	07/01/2009	16-2009
1-3-2	New	1	07/01/2009	106-2009

Title 2

2-3.5-5-3	Amended	1	07/01/2009	30-2009
2-3.5-5-3	Amended	1	07/01/2009	165-2009
2-5-1.1-17	New	8	07/01/2009	16-2009
2-5-16-4	Amended	1	05/12/2009	143-2009
2-5-23-8	Amended	1	05/12/2009	153-2009
2-5-27.2-1	Amended	1	07/01/2009	3-2009
2-5-27.2-2	Amended	2	07/01/2009	3-2009
2-5-27.2-3	Amended	3	07/01/2009	3-2009
2-5-27.2-4	Amended	4	07/01/2009	3-2009
2-5-30	New	1	07/01/2009	175-2009
2-5.5	New	9	07/01/2009	16-2009

Title 3

3-5-2-31.5	New	1	07/01/2009	120-2009
3-6-4.2-14	Amended	2	07/01/2009	120-2009
3-7-15-2	Amended	1	04/30/2009	44-2009
3-7-26.7	New	3	07/01/2009	120-2009
3-7-32-2	Amended	4	07/01/2009	120-2009

Affected Provisions	Type	SEC.	Effective	P.L.
3-7-33-3.5	New	5	07/01/2009	120-2009
3-10-1-7.2	Amended	1	07/01/2009	53-2009
3-10-1-19.5	Amended	2	04/30/2009	1-2009
3-11-4-4	Amended	6	07/01/2009	120-2009
3-11-6.5-1	Amended	3	04/30/2009	1-2009
3-11-8-25.1	Amended	2	07/01/2009	53-2009
3-11-8-25.7	New	7	07/01/2009	120-2009
3-11-10-24	Amended	8	07/01/2009	120-2009
3-11-15-4	Amended	9	07/01/2009	120-2009
3-11-15-13.3	Amended	10	05/11/2009	120-2009
3-11-17-6	Amended	11	07/01/2009	120-2009
3-11.5-4-21	Amended	4	04/30/2009	1-2009

Title 4

4-1-8-1	Amended	1	07/01/2009	142-2009
4-4-10.9-1.2	Amended	5	04/30/2009	1-2009
4-4-10.9-1.2	Amended	1	03/24/2009	2-2009
4-4-11-15.6	Amended	50	01/01/2010	182-2009(ss)
4-4-11.5-1	Amended	49	10/01/2008	182-2009(ss)
4-4-11.5-13.5	New	51	10/01/2008	182-2009(ss)
4-4-11.5-19	Amended	6	04/30/2009	1-2009
4-4-11.5-19.5	New	52	10/01/2008	182-2009(ss)
4-4-11.6	New	2	03/24/2009	2-2009
4-4-31.4-5	Amended	7	04/30/2009	1-2009
4-4-32.2	New	1	07/01/2009	151-2009
4-4-32.3	New	2	07/01/2009	151-2009
4-6-2-1.5	Amended	1	07/01/2009	121-2009
4-6-3-2	Amended	1	07/01/2009	111-2009
4-6-9-7.5	Amended	1	07/01/2009	137-2009
4-6-12-3.5	Amended	8	04/30/2009	1-2009
4-6-13	New	2	07/01/2009	137-2009
4-10-18-10	Amended	53	06/30/2009	182-2009(ss)
4-13-1-4	Amended	54	07/01/2009	182-2009(ss)
4-13-1-24	New	1	07/01/2009	54-2009
4-13-16.5-1	Amended	9	04/30/2009	1-2009
4-13-19	New	55	07/01/2009	182-2009(ss)
4-13.6-8-7	Amended	1	07/01/2009	99-2009
4-13.6-8-7	Amended	1	07/01/2009	71-2009
4-15-10-7	Amended	1	07/01/2009	63-2009
4-15-10-8	Amended	10	04/30/2009	1-2009
4-20.5-1-11	Amended	56	07/01/2009	182-2009(ss)
4-20.5-22	New	62	07/01/2009	182-2009(ss)

Affected Provisions	Type	SEC.	Effective	P.L.
4-22-2-37.1	Amended	1	07/01/2009	177-2009
4-22-2-37.1	Amended	1	07/01/2009	160-2009
4-22-2-37.1	Amended	1	07/01/2009	131-2009
4-23-5.5-6	Amended	1	07/01/2009	178-2009
4-23-5.5-14	Amended	2	07/01/2009	178-2009
4-23-7-5.3	Amended	11	04/30/2009	1-2009
4-23-7.2-8	Repealed	12	07/01/2009	69-2009
4-23-7.2-9	Repealed	12	07/01/2009	69-2009
4-23-30	New	10	07/01/2009	16-2009
4-23-30.2	New	1	07/01/2009	173-2009
4-30-11-7	Amended	1	07/01/2009	108-2009
4-30-11-11	Amended	2	07/01/2009	108-2009
4-31-3-9	Amended	57	06/30/2009	182-2009(ss)
4-31-3-14	New	58	06/30/2009	182-2009(ss)
4-32.2-2-7.5	New	4	07/01/2009	108-2009
4-32.2-2-23.5	New	5	07/01/2009	108-2009
4-32.2-2-24	Amended	6	07/01/2009	108-2009
4-32.2-3-4	Amended	1	07/01/2009	60-2009
4-32.2-3-8	New	2	07/01/2009	60-2009
4-32.2-4-7.5	Amended	7	07/01/2009	108-2009
4-32.2-4-13	Amended	8	07/01/2009	108-2009
4-32.2-5-5	Amended	3	07/01/2009	60-2009
4-32.2-5-8	Amended	9	07/01/2009	108-2009
4-32.2-5-13	Amended	4	07/01/2009	60-2009
4-32.2-5-14	Amended	5	07/01/2009	60-2009
4-32.2-5-14	Amended	10	07/01/2009	108-2009
4-32.2-5-16	Amended	6	07/01/2009	60-2009
4-32.2-5-24	New	7	07/01/2009	60-2009
4-32.2-5-25	New	8	01/01/2009	60-2009
4-32.2-5-26	New	11	07/01/2009	108-2009
4-32.2-6-0.5	Amended	12	07/01/2009	108-2009
4-32.2-9-9	Amended	13	07/01/2009	108-2009
4-32.2-10-5	Amended	9	07/01/2009	60-2009
4-33-2-19	New	2	05/12/2009	142-2009
4-33-3-18	Amended	3	05/12/2009	142-2009
4-33-4-3	Amended	4	05/12/2009	142-2009
4-33-4-21	Amended	59	06/30/2009	182-2009(ss)
4-33-4-24	New	60	06/30/2009	182-2009(ss)
4-33-4-24.2	New	5	05/12/2009	142-2009
4-33-4-25	New	6	05/12/2009	142-2009
4-33-4-26	New	7	05/12/2009	142-2009
4-33-6-2	Amended	8	05/12/2009	142-2009
4-33-6-22	New	9	05/12/2009	142-2009

Affected Provisions	Type	SEC.	Effective	P.L.
4-33-6.5-2	Amended	10	05/12/2009	142-2009
4-33-6.5-16	New	11	05/12/2009	142-2009
4-33-7-1	Amended	12	07/01/2009	142-2009
4-33-7-8	Amended	13	07/01/2009	142-2009
4-33-8-2	Amended	14	07/01/2009	142-2009
4-33-9-1	Amended	15	05/12/2009	142-2009
4-33-21	New	16	05/12/2009	142-2009
4-35-2-11	New	17	05/12/2009	142-2009
4-35-4-2	Amended	18	05/12/2009	142-2009
4-35-4-13	New	61	06/30/2009	182-2009(ss)
4-35-4-13.2	New	19	05/12/2009	142-2009
4-35-4-14	New	20	05/12/2009	142-2009
4-35-4-15	New	21	05/12/2009	142-2009
4-35-5-9	New	22	05/12/2009	142-2009
4-35-6-1	Amended	23	07/01/2009	142-2009
4-35-6-2	Repealed	33	05/12/2009	142-2009
4-35-6-3	Repealed	33	05/12/2009	142-2009
4-35-6-4	Repealed	33	05/12/2009	142-2009
4-35-6-5	Repealed	33	05/12/2009	142-2009
4-35-6-6	Repealed	33	05/12/2009	142-2009
4-35-6-7	Repealed	33	05/12/2009	142-2009
4-35-6-8	Repealed	33	05/12/2009	142-2009
4-35-6-9	Repealed	33	05/12/2009	142-2009
4-35-6-10	Repealed	33	05/12/2009	142-2009
4-35-6.5-2	Amended	24	07/01/2009	142-2009
4-35-7-12	Amended	25	07/01/2009	142-2009
4-35-8.7-2	Amended	26	07/01/2009	142-2009
4-35-8.7-3	Amended	27	07/01/2009	142-2009
4-35-12	New	28	07/01/2009	142-2009
4-36-2-9	Amended	14	07/01/2009	108-2009
4-36-2-15.5	New	15	07/01/2009	108-2009
4-36-4-5	Amended	16	05/07/2009	108-2009
4-36-4-6	Amended	17	07/01/2009	108-2009
4-36-5-1	Amended	18	07/01/2009	108-2009
4-36-5-2	Amended	19	07/01/2009	108-2009
4-36-5-6	Amended	20	07/01/2009	108-2009
4-36-7-4	Amended	21	07/01/2009	108-2009
4-36-9-1	Amended	22	07/01/2009	108-2009

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5-1-14-10	Amended	63	07/01/2009	182-2009(ss)
5-1-14-16	Amended	64	06/30/2009	182-2009(ss)

Affected Provisions	Type	SEC.	Effective	P.L.
5-1-16-19	Amended	12	04/30/2009	1-2009
5-1-16-30	Amended	13	04/30/2009	1-2009
5-2-1-2	Amended	1	07/01/2009	77-2009
5-2-1-6	Amended	1	07/01/2009	110-2009
5-2-1-9	Amended	1	07/01/2009	43-2009
5-2-1-9	Amended	1	07/01/2009	93-2009
5-2-1-9	Amended	14	04/30/2009	1-2009
5-2-1-9	Amended	2	07/01/2009	77-2009
5-2-6-3	Amended	1	07/01/2009	130-2009
5-2-6-14	Amended	2	07/01/2009	130-2009
5-2-6-23	Amended	15	04/30/2009	1-2009
5-2-6.1-5.7	New	1	07/01/2009	129-2009
5-2-6.1-8	Amended	2	07/01/2009	129-2009
5-2-6.1-15	Amended	3	07/01/2009	129-2009
5-2-6.1-17	Amended	4	07/01/2009	129-2009
5-2-6.1-21	Amended	5	07/01/2009	129-2009
5-2-6.1-21.1	New	6	07/01/2009	129-2009
5-2-6.1-39	Amended	7	07/01/2009	129-2009
5-2-6.2	New	11	07/01/2009	16-2009
5-2-6.5-9	Amended	1	07/01/2009	101-2009
5-2-6.6	New	3	07/01/2009	130-2009
5-2-6.7	New	4	07/01/2009	130-2009
5-2-6.8	New	5	07/01/2009	130-2009
5-2-8-1	Amended	1	07/01/2009	20-2009
5-2-8-2	Amended	2	07/01/2009	20-2009
5-2-9-1.2	New	6	07/01/2009	130-2009
5-2-9-1.2	New	1	07/01/2009	116-2009
5-2-9-1.4	New	2	07/01/2009	116-2009
5-2-9-1.4	New	7	07/01/2009	130-2009
5-2-9-1.7	Amended	8	07/01/2009	130-2009
5-2-9-1.7	Amended	3	07/01/2009	116-2009
5-2-9-2.1	Amended	4	07/01/2009	116-2009
5-2-9-2.1	Amended	9	07/01/2009	130-2009
5-2-9-5.5	New	10	07/01/2009	130-2009
5-2-9-5.5	New	5	07/01/2009	116-2009
5-2-9-6	Amended	6	07/01/2009	116-2009
5-2-9-6	Amended	11	07/01/2009	130-2009
5-2-9-6.5	New	7	07/01/2009	116-2009
5-2-9-6.5	New	12	07/01/2009	130-2009
5-2-9-7	Amended	13	07/01/2009	130-2009
5-2-9-7	Amended	8	07/01/2009	116-2009
5-2-9-8	Amended	9	07/01/2009	116-2009
5-2-9-8	Amended	14	07/01/2009	130-2009

Affected Provisions	Type	SEC.	Effective	P.L.
5-2-17-10	Amended	1	07/01/2009	22-2009
5-3-1-1	Amended	1	07/01/2009	141-2009
5-3-1-1.5	New	2	07/01/2009	141-2009
5-3-1-2	Amended	3	07/01/2009	141-2009
5-3-1-3.5	New	4	07/01/2009	141-2009
5-3-1-4	Amended	5	07/01/2009	141-2009
5-4-1-18	Amended	1	07/01/2009	176-2009
5-10-8-2.2	Amended	65	07/01/2009	182-2009(ss)
5-10-8-2.6	Amended	66	07/01/2009	182-2009(ss)
5-10-8-6.7	New	67	07/01/2009	182-2009(ss)
5-10-8-8.5	New	68	06/30/2009	182-2009(ss)
5-10-8-15	New	1	07/01/2009	109-2009
5-10-8.5-15	Amended	69	07/01/2009	182-2009(ss)
5-10-15-2	Amended	1	07/01/2009	59-2009
5-10-15-5.5	New	2	07/01/2009	59-2009
5-10-15-8	Amended	3	07/01/2009	59-2009
5-10-15-9	Amended	4	07/01/2009	59-2009
5-10.2-2-3	Amended	2	07/01/2009	165-2009
5-10.2-2-4	Amended	3	07/01/2009	165-2009
5-10.2-2-11	Amended	16	04/30/2009	1-2009
5-10.2-2-11	Amended	70	07/01/2009	182-2009(ss)
5-10.2-2-11.5	New	71	07/01/2001	182-2009(ss)
5-10.2-2-12.5	Amended	72	07/01/2009	182-2009(ss)
5-10.2-2-12.5	New	4	07/01/2009	165-2009
5-10.2-3-1	Amended	17	04/30/2009	1-2009
5-10.2-3-2	Amended	18	04/30/2009	1-2009
5-10.2-3-5	Amended	5	07/01/2009	165-2009
5-10.2-3-6.3	New	1	07/01/2009	98-2009
5-10.2-3-6.5	Amended	1	07/01/2009	115-2009
5-10.2-3-7.5	Amended	2	07/01/2009	115-2009
5-10.2-3-7.5	Amended	1	01/01/2007	113-2009
5-10.2-3-7.6	Amended	2	01/01/2007	113-2009
5-10.2-4-1.2	Amended	3	07/01/2009	115-2009
5-10.2-4-1.4	Amended	4	07/01/2009	115-2009
5-10.2-4-1.5	Amended	5	07/01/2009	115-2009
5-10.2-4-2	Amended	6	01/01/2010	115-2009
5-10.2-4-7	Amended	7	07/01/2009	115-2009
5-10.2-4-8	Amended	8	07/01/2009	115-2009
5-10.2-10	New	1	07/01/2009	67-2009
5-10.3-3-9	Amended	9	07/01/2009	115-2009
5-10.3-4-1	Repealed	21	07/01/2009	115-2009
5-10.3-4-2	Repealed	21	07/01/2009	115-2009
5-10.3-5-4	Amended	10	07/01/2009	115-2009

Affected Provisions	Type	SEC.	Effective	P.L.
5-10.3-6-7	Amended	11	07/01/2009	115-2009
5-10.3-7-12.5	Amended	6	07/01/2009	165-2009
5-10.3-8-8	Amended	12	07/01/2009	115-2009
5-10.3-9-5	Repealed	21	07/01/2009	115-2009
5-10.3-11-3	Amended	74	07/01/2009	182-2009(ss)
5-10.3-11-6	Amended	75	07/01/2009	182-2009(ss)
5-10.4-3-9	Amended	13	07/01/2009	115-2009
5-10.4-3-14	Amended	14	07/01/2009	115-2009
5-10.4-4-8	Amended	15	07/01/2009	115-2009
5-10.4-4-10	Amended	16	07/01/2009	115-2009
5-10.4-5-9	Amended	17	07/01/2009	115-2009
5-10.4-5-13	Amended	18	07/01/2009	115-2009
5-10.4-6-2	Amended	19	07/01/2009	115-2009
5-10.4-7-1	Amended	19	04/30/2009	1-2009
5-10.4-7-3	Amended	20	04/30/2009	1-2009
5-10.4-7-6	Amended	73	07/01/2009	182-2009(ss)
5-10.4-7-6	Amended	7	07/01/2009	165-2009
5-10.4-7-7	Amended	21	04/30/2009	1-2009
5-10.4-7-7	Amended	8	07/01/2009	165-2009
5-10.4-7-10	Amended	20	07/01/2009	115-2009
5-11-1-2	Amended	2	07/01/2009	176-2009
5-11-1-4	Amended	3	07/01/2009	176-2009
5-11-5-1	Amended	4	07/01/2009	176-2009
5-11-6-1	Amended	5	07/01/2009	176-2009
5-11-10-1	Amended	76	01/01/2010	182-2009(ss)
5-11-10-1.6	Amended	77	01/01/2010	182-2009(ss)
5-11-19-2	Amended	22	04/30/2009	1-2009
5-13-5-6	New	12	07/01/2009	16-2009
5-13-10.5-18	New	78	06/30/2009	182-2009(ss)
5-20-1-4	Amended	1	05/07/2009	105-2009
5-20-1-4	Amended	23	04/30/2009	1-2009
5-20-1-27	Amended	2	05/07/2009	105-2009
5-20-6-3	Amended	3	05/07/2009	105-2009
5-22-5-8	Amended	1	05/12/2009	148-2009
5-22-5-8.5	New	3	07/01/2009	151-2009
5-22-6.5-4	Amended	24	04/30/2009	1-2009
5-22-15-20.5	Amended	1	07/01/2009	123-2009
5-22-21-1	Amended	79	07/01/2009	182-2009(ss)
5-28-2-6	New	1	07/01/2009	56-2009
5-28-5-6.5	New	2	07/01/2009	56-2009
5-28-11.5	New	1	07/01/2009	35-2009
5-28-15-10	Amended	80	12/01/2008	182-2009(ss)
5-28-17-1	Amended	3	07/01/2009	56-2009

Affected Provisions	Type	SEC.	Effective	P.L.
5-28-17-3	New	4	07/01/2009	56-2009
5-28-17-4	New	5	07/01/2009	56-2009
5-28-27	Repealed	48	07/01/2009	175-2009
5-28-30-21	Amended	25	07/01/2008	1-2009
5-28-33	New	1	05/12/2009	152-2009
5-28-34	New	81	07/01/2009	182-2009(ss)

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6-1.1-1-3.8	New	82	01/01/2009	182-2009(ss)
6-1.1-1-5.4	New	83	07/01/2009	182-2009(ss)
6-1.1-1-8.4	Amended	84	01/01/2010	182-2009(ss)
6-1.1-1-11	Amended	26	04/30/2009	1-2009
6-1.1-2-7	Amended	27	04/30/2009	1-2009
6-1.1-4-4	Amended	85	06/30/2009	182-2009(ss)
6-1.1-4-4	Amended	1	07/01/2009	136-2009
6-1.1-4-4.5	Amended	2	07/01/2009	136-2009
6-1.1-4-4.6	New	86	06/30/2009	182-2009(ss)
6-1.1-4-11.5	New	1	01/01/2008	90-2009
6-1.1-4-13.6	Amended	3	05/12/2009	136-2009
6-1.1-4-17	Amended	87	01/01/2010	182-2009(ss)
6-1.1-4-19.5	Amended	88	07/01/2009	182-2009(ss)
6-1.1-4-22	Amended	4	05/12/2009	136-2009
6-1.1-4-42	New	89	07/01/2009	182-2009(ss)
6-1.1-5.5-2	Amended	90	07/01/2009	182-2009(ss)
6-1.1-5.5-3	Amended	28	01/01/2009	1-2009
6-1.1-5.5-4.7	Amended	91	06/30/2009	182-2009(ss)
6-1.1-5.5-5	Amended	1	05/06/2009	75-2009
6-1.1-5.5-5	Amended	1	07/01/2009	87-2009
6-1.1-5.5-13	New	13	07/01/2009	16-2009
6-1.1-7-15	New	92	01/01/2009	182-2009(ss)
6-1.1-8-7	Amended	93	03/01/2010	182-2009(ss)
6-1.1-8-8	Amended	94	03/01/2010	182-2009(ss)
6-1.1-8-9	Amended	95	03/01/2010	182-2009(ss)
6-1.1-8-10	Amended	96	03/01/2010	182-2009(ss)
6-1.1-8-11	Amended	97	03/01/2010	182-2009(ss)
6-1.1-8-12	Amended	98	03/01/2010	182-2009(ss)
6-1.1-8-13	Amended	99	03/01/2010	182-2009(ss)
6-1.1-8-14	Amended	100	03/01/2010	182-2009(ss)
6-1.1-8-15	Amended	101	03/01/2010	182-2009(ss)
6-1.1-8-17	Amended	102	03/01/2010	182-2009(ss)
6-1.1-8-18	Amended	103	03/01/2010	182-2009(ss)
6-1.1-8-23	Repealed	460	03/01/2010	182-2009(ss)

Affected Provisions	Type	SEC.	Effective	P.L.
6-1.1-8.5-6	Amended	104	01/01/2010	182-2009(ss)
6-1.1-8.5-11	Amended	105	03/01/2009	182-2009(ss)
6-1.1-8.7-8	Amended	106	03/01/2009	182-2009(ss)
6-1.1-10-44	New	1	07/01/2009	163-2009
6-1.1-11-4	Amended	107	06/30/2009	182-2009(ss)
6-1.1-12-2	Amended	2	01/01/2009	75-2009
6-1.1-12-2	Amended	108	07/01/2009	182-2009(ss)
6-1.1-12-12	Amended	29	04/30/2009	1-2009
6-1.1-12-14	Amended	30	04/30/2009	1-2009
6-1.1-12-16	Amended	31	04/30/2009	1-2009
6-1.1-12-17.4	Amended	32	04/30/2009	1-2009
6-1.1-12-17.8	Amended	109	07/01/2009	182-2009(ss)
6-1.1-12-17.8	Amended	2	07/01/2009	87-2009
6-1.1-12-20	Amended	33	04/30/2009	1-2009
6-1.1-12-24	Amended	34	04/30/2009	1-2009
6-1.1-12-27.1	Amended	35	04/30/2009	1-2009
6-1.1-12-30	Amended	36	04/30/2009	1-2009
6-1.1-12-35.5	Amended	37	04/30/2009	1-2009
6-1.1-12-37	Amended	38	04/30/2009	1-2009
6-1.1-12-37	Amended	110	07/01/2009	182-2009(ss)
6-1.1-12-37	Amended	3	07/01/2009	87-2009
6-1.1-12-38	Amended	39	04/30/2009	1-2009
6-1.1-12-43	Amended	4	07/01/2009	87-2009
6-1.1-12-44	Amended	5	01/01/2009	87-2009
6-1.1-12-44	Amended	3	01/01/2009	75-2009
6-1.1-12-44	Amended	40	01/01/2009	1-2009
6-1.1-12.6-0.5	Amended	41	04/30/2009	1-2009
6-1.1-12.6-2.1	New	1	05/13/2009	167-2009
6-1.1-15-1	Amended	5	07/01/2009	136-2009
6-1.1-15-1	Amended	111	07/01/2009	182-2009(ss)
6-1.1-15-11	Amended	42	04/30/2009	1-2009
6-1.1-15-11	Amended	6	07/01/2009	141-2009
6-1.1-15-12	Amended	112	03/01/2009	182-2009(ss)
6-1.1-17-0.5	Amended	113	01/01/2009	182-2009(ss)
6-1.1-17-0.5	Amended	2	01/01/2008	90-2009
6-1.1-17-3	Amended	6	07/01/2009	87-2009
6-1.1-17-3	Amended	6	07/01/2009	136-2009
6-1.1-17-3	Amended	114	07/01/2009	182-2009(ss)
6-1.1-17-3.5	Amended	115	07/01/2009	182-2009(ss)
6-1.1-17-5	Amended	116	06/30/2009	182-2009(ss)
6-1.1-17-5.6	Amended	117	06/30/2009	182-2009(ss)
6-1.1-17-9	Amended	118	07/01/2009	182-2009(ss)
6-1.1-17-12	Amended	119	07/01/2009	182-2009(ss)

Affected Provisions	Type	SEC.	Effective	P.L.
6-1.1-17-13	Amended	120	07/01/2009	182-2009(ss)
6-1.1-17-14	Amended	121	07/01/2009	182-2009(ss)
6-1.1-17-15	Amended	122	07/01/2009	182-2009(ss)
6-1.1-17-16	Amended	123	07/01/2009	182-2009(ss)
6-1.1-17-20	Amended	124	01/01/2009	182-2009(ss)
6-1.1-17-20.5	Amended	125	01/01/2009	182-2009(ss)
6-1.1-18.5-7	Amended	126	07/01/2009	182-2009(ss)
6-1.1-18.5-8	Amended	127	07/01/2009	182-2009(ss)
6-1.1-18.5-10	Amended	128	01/01/2009	182-2009(ss)
6-1.1-18.5-10.5	Amended	129	07/01/2009	182-2009(ss)
6-1.1-18.5-11	Repealed	467	07/01/2009	182-2009(ss)
6-1.1-18.5-12	Amended	130	07/01/2009	182-2009(ss)
6-1.1-18.5-13	Amended	131	01/01/2010	182-2009(ss)
6-1.1-18.5-13.5	Amended	132	07/01/2009	182-2009(ss)
6-1.1-18.5-13.6	Amended	133	07/01/2009	182-2009(ss)
6-1.1-18.5-14	Amended	134	07/01/2009	182-2009(ss)
6-1.1-18.5-15	Amended	135	07/01/2009	182-2009(ss)
6-1.1-18.5-16	Amended	136	07/01/2009	182-2009(ss)
6-1.1-18.5-17	Amended	137	07/01/2009	182-2009(ss)
6-1.1-18.5-21	Amended	138	06/30/2009	182-2009(ss)
6-1.1-19-1	Amended	139	07/01/2009	182-2009(ss)
6-1.1-19-3	Amended	140	07/01/2009	182-2009(ss)
6-1.1-19-4.1	Repealed	467	07/01/2009	182-2009(ss)
6-1.1-19-7	Amended	141	07/01/2009	182-2009(ss)
6-1.1-20-1.9	Amended	142	07/01/2009	182-2009(ss)
6-1.1-20-3.1	Amended	143	06/30/2009	182-2009(ss)
6-1.1-20-3.2	Amended	144	01/01/2009	182-2009(ss)
6-1.1-20-3.5	Amended	145	06/30/2009	182-2009(ss)
6-1.1-20-3.6	Amended	146	01/01/2009	182-2009(ss)
6-1.1-20-3.7	New	147	06/30/2009	182-2009(ss)
6-1.1-20-10	Amended	148	07/01/2009	182-2009(ss)
6-1.1-20-10.1	Amended	149	07/01/2009	182-2009(ss)
6-1.1-20.2	New	150	06/30/2009	182-2009(ss)
6-1.1-20.2-14	New	516	06/30/2009	182-2009(ss)
6-1.1-20.3-7	Amended	43	04/30/2009	1-2009
6-1.1-20.4-1	Amended	44	01/01/2009	1-2009
6-1.1-20.6-2	Amended	151	01/01/2009	182-2009(ss)
6-1.1-20.6-3.5	Repealed	465	01/01/2009	182-2009(ss)
6-1.1-20.6-8.5	Amended	152	01/01/2009	182-2009(ss)
6-1.1-21.1	New	153	06/30/2009	182-2009(ss)
6-1.1-21.2-12	Amended	154	07/01/2009	182-2009(ss)
6-1.1-21.2-15	Amended	155	01/01/2009	182-2009(ss)
6-1.1-21.3	New	156	06/30/2009	182-2009(ss)

Affected Provisions	Type	SEC.	Effective	P.L.
6-1.1-21.9-3	Amended	45	04/30/2009	1-2009
6-1.1-22-5	Amended	157	07/01/2009	182-2009(ss)
6-1.1-22-8.1	Amended	46	04/30/2009	1-2009
6-1.1-22-8.1	Amended	7	07/01/2009	87-2009
6-1.1-22-8.1	Amended	7	05/12/2009	136-2009
6-1.1-22-9	Amended	8	07/01/2009	87-2009
6-1.1-22-9.7	Amended	9	07/01/2009	87-2009
6-1.1-22.5-2	Amended	158	07/01/2009	182-2009(ss)
6-1.1-22.5-6	Amended	10	07/01/2009	87-2009
6-1.1-22.5-6.5	New	159	07/01/2009	182-2009(ss)
6-1.1-22.5-7	Amended	160	07/01/2009	182-2009(ss)
6-1.1-22.5-8	Amended	161	07/01/2009	182-2009(ss)
6-1.1-22.5-8	Amended	11	07/01/2009	87-2009
6-1.1-22.5-9	Amended	12	07/01/2009	87-2009
6-1.1-22.5-11	Amended	162	01/01/2008	182-2009(ss)
6-1.1-22.5-12	Amended	163	07/01/2009	182-2009(ss)
6-1.1-22.5-12	Amended	13	07/01/2009	87-2009
6-1.1-22.5-20	Amended	164	07/01/2009	182-2009(ss)
6-1.1-24-5.3	Amended	1	07/01/2009	88-2009
6-1.1-27-9	New	165	06/30/2009	182-2009(ss)
6-1.1-28-1	Amended	166	07/01/2009	182-2009(ss)
6-1.1-29-1	Amended	167	12/30/2008	182-2009(ss)
6-1.1-31.5-2	Amended	168	07/01/2009	182-2009(ss)
6-1.1-33.5-3	Amended	169	07/01/2009	182-2009(ss)
6-1.1-34-1	Amended	170	01/01/2010	182-2009(ss)
6-1.1-34-3	Repealed	463	07/01/2009	182-2009(ss)
6-1.1-34-7	Amended	171	01/01/2010	182-2009(ss)
6-1.1-35-9	Amended	172	07/01/2009	182-2009(ss)
6-1.1-36-17	New	14	07/01/2009	87-2009
6-1.1-37-6	Amended	173	07/01/2009	182-2009(ss)
6-2.5-1-5	Amended	174	06/30/2009	182-2009(ss)
6-2.5-3-6	Amended	175	07/01/2009	182-2009(ss)
6-2.5-4-16	Repealed	174	04/30/2009	1-2009
6-2.5-4-16.2	New	47	04/30/2009	1-2009
6-2.5-4-16.4	New	48	04/30/2009	1-2009
6-2.5-5-8	Amended	176	01/01/2008	182-2009(ss)
6-2.5-5-13	Amended	177	07/01/2009	182-2009(ss)
6-2.5-5-18	Amended	178	07/01/2009	182-2009(ss)
6-2.5-5-19.5	Amended	179	07/01/2009	182-2009(ss)
6-2.5-5-41	Repealed	462	07/01/2009	182-2009(ss)
6-2.5-6-1	Amended	180	01/01/2010	182-2009(ss)
6-2.5-6-17	New	1	07/01/2009	85-2009
6-2.5-7-5	Amended	2	07/01/2009	148-2009

Affected Provisions	Type	SEC.	Effective	P.L.
6-2.5-7-5.5	Repealed	11	07/01/2009	148-2009
6-2.5-7-10	Amended	181	01/01/2010	182-2009(ss)
6-2.5-7-14	Amended	182	07/01/2009	182-2009(ss)
6-2.5-11-10	Amended	183	07/01/2010	182-2009(ss)
6-2.5-12-15	Amended	184	07/01/2009	182-2009(ss)
6-2.5-13-1	Amended	185	01/01/2010	182-2009(ss)
6-3-1-3.5	Amended	186	01/01/2009	182-2009(ss)
6-3-1-3.5	Amended	49	04/30/2009	1-2009
6-3-1-3.7	New	187	01/01/2009	182-2009(ss)
6-3-1-11	Amended	188	01/01/2009	182-2009(ss)
6-3-1-34.5	Amended	189	01/01/2008	182-2009(ss)
6-3-1-35	New	190	01/01/2009	182-2009(ss)
6-3-2-2	Amended	191	01/01/2009	182-2009(ss)
6-3-2-2.5	Amended	192	01/01/2009	182-2009(ss)
6-3-2-2.6	Amended	193	01/01/2009	182-2009(ss)
6-3-2-5.3	New	195	01/01/2009	182-2009(ss)
6-3-2-8	Amended	194	01/01/2009	182-2009(ss)
6-3-2-10	Amended	196	01/01/2009	182-2009(ss)
6-3-3-10	Amended	197	01/01/2009	182-2009(ss)
6-3-3-12	Amended	198	01/01/2010	182-2009(ss)
6-3-4-4.1	Amended	50	04/30/2009	1-2009
6-3-4-8.1	Amended	199	01/01/2010	182-2009(ss)
6-3-4-8.2	Amended	200	07/01/2009	182-2009(ss)
6-3.1-4-2	Amended	201	01/01/2010	182-2009(ss)
6-3.1-20-2	Amended	51	01/01/2009	1-2009
6-3.1-21-6	Amended	52	04/30/2009	1-2009
6-3.1-21-9	Amended	53	04/30/2009	1-2009
6-3.1-26-26	Amended	202	07/01/2009	182-2009(ss)
6-3.1-29-19	Amended	203	06/30/2009	182-2009(ss)
6-3.1-29-20.7	New	204	06/30/2009	182-2009(ss)
6-3.1-30.5	New	205	07/01/2009	182-2009(ss)
6-3.1-31.9-1	Amended	206	06/30/2009	182-2009(ss)
6-3.1-31.9-2	Amended	207	06/30/2009	182-2009(ss)
6-3.1-32-9	Amended	208	07/01/2009	182-2009(ss)
6-3.5-1.1-1.1	Amended	209	07/01/2009	182-2009(ss)
6-3.5-1.1-9	Amended	210	01/01/2010	182-2009(ss)
6-3.5-1.1-11.5	New	1	04/20/2009	26-2009
6-3.5-1.1-14	Amended	211	01/01/2009	182-2009(ss)
6-3.5-1.1-15	Amended	212	07/01/2009	182-2009(ss)
6-3.5-1.1-21	Amended	213	01/01/2010	182-2009(ss)
6-3.5-1.1-21.1	Amended	214	01/01/2010	182-2009(ss)
6-3.5-1.5-1	Amended	215	01/01/2009	182-2009(ss)
6-3.5-1.5-3	Amended	216	01/01/2010	182-2009(ss)

Affected Provisions	Type	SEC.	Effective	P.L.
6-3.5-6-1.1	Amended	217	07/01/2009	182-2009(ss)
6-3.5-6-13.5	New	218	06/30/2009	182-2009(ss)
6-3.5-6-17	Amended	219	01/01/2010	182-2009(ss)
6-3.5-6-17.2	Amended	220	01/01/2010	182-2009(ss)
6-3.5-6-17.3	Amended	221	01/01/2010	182-2009(ss)
6-3.5-6-18	Amended	222	07/01/2009	182-2009(ss)
6-3.5-6-18.6	New	2	04/20/2009	26-2009
6-3.5-6-27	Amended	223	01/01/2010	182-2009(ss)
6-3.5-6-28	Amended	224	01/01/2010	182-2009(ss)
6-3.5-6-29	Amended	225	01/01/2010	182-2009(ss)
6-3.5-6-33	Amended	226	01/01/2010	182-2009(ss)
6-3.5-7-11	Amended	54	04/30/2009	1-2009
6-3.5-7-11	Amended	228	01/01/2010	182-2009(ss)
6-3.5-7-12	Amended	229	07/01/2009	182-2009(ss)
6-3.5-7-13.1	Amended	227	07/01/2009	182-2009(ss)
6-3.5-7-16.5	New	3	04/20/2009	26-2009
6-3.5-7-17.3	Amended	230	01/01/2010	182-2009(ss)
6-4.1-8-1	Amended	231	07/01/2009	182-2009(ss)
6-4.1-8-5	Amended	2	07/01/2009	143-2009
6-4.1-10-1	Amended	232	07/01/2009	182-2009(ss)
6-5.5-1-2	Amended	233	01/01/2009	182-2009(ss)
6-6-1.1-606.5	Amended	234	07/01/2009	182-2009(ss)
6-6-4.1-12	Amended	235	07/01/2009	182-2009(ss)
6-6-4.1-13	Amended	236	07/01/2009	182-2009(ss)
6-6-5-10	Amended	237	07/01/2009	182-2009(ss)
6-6-5.5-1	Amended	238	01/01/2010	182-2009(ss)
6-6-5.5-7	Amended	239	01/01/2009	182-2009(ss)
6-6-5.5-19	Amended	240	01/01/2009	182-2009(ss)
6-6-5.5-20	Amended	241	01/01/2009	182-2009(ss)
6-6-6.5-13	Amended	55	04/30/2009	1-2009
6-6-6.5-15	Amended	56	04/30/2009	1-2009
6-6-6.5-21	Amended	242	07/01/2009	182-2009(ss)
6-6-6.5-23	Amended	243	07/01/2009	182-2009(ss)
6-6-9.7-7	Amended	244	07/01/2009	182-2009(ss)
6-6-11-31	Amended	245	07/01/2009	182-2009(ss)
6-7-1-28.1	Amended	246	07/01/2009	182-2009(ss)
6-8.1-1-1	Amended	57	04/30/2009	1-2009
6-8.1-1-1	Amended	247	07/01/2009	182-2009(ss)
6-8.1-3-4	Amended	248	07/01/2009	182-2009(ss)
6-8.1-3-12	Amended	249	07/01/2009	182-2009(ss)
6-8.1-3-16	Amended	250	01/01/2010	182-2009(ss)
6-8.1-3-21	New	14	07/01/2009	16-2009
6-8.1-3-21.2	New	1	07/01/2009	164-2009

Affected Provisions	Type	SEC.	Effective	P.L.
6-8.1-5-2	Amended	251	07/01/2009	182-2009(ss)
6-8.1-6-4.5	Amended	252	07/01/2009	182-2009(ss)
6-8.1-6-8	New	253	07/01/2009	182-2009(ss)
6-8.1-7-1	Amended	254	07/01/2009	182-2009(ss)
6-8.1-7-1	Amended	58	04/30/2009	1-2009
6-8.1-7-1	Amended	2	04/30/2009	44-2009
6-8.1-8-1.7	New	255	01/01/2010	182-2009(ss)
6-8.1-9-1	Amended	256	07/01/2009	182-2009(ss)
6-8.1-9-2	Amended	257	07/01/2009	182-2009(ss)
6-8.1-10-2.1	Amended	258	01/01/2010	182-2009(ss)
6-8.1-10-5	Amended	259	07/01/2009	182-2009(ss)
6-8.1-10-12	Amended	59	04/30/2009	1-2009
6-9-2.5-7.5	Amended	6	07/01/2009	176-2009
6-9-2.5-7.7	Amended	7	07/01/2009	176-2009
6-9-7-7	Amended	60	04/30/2009	1-2009
6-9-8-3	Amended	260	07/01/2009	182-2009(ss)
6-9-13-2	Amended	261	07/01/2009	182-2009(ss)
6-9-20-3	Amended	8	07/01/2009	176-2009
6-9-20-7	Repealed	31	07/01/2009	176-2009
6-9-20-7.5	Amended	9	07/01/2009	176-2009
6-9-20-8	Repealed	31	07/01/2009	176-2009
6-9-20-8.5	Amended	10	07/01/2009	176-2009
6-9-20-8.8	New	11	07/01/2009	176-2009
6-9-20-8.9	New	12	07/01/2009	176-2009
6-9-20-9	Amended	13	07/01/2009	176-2009
6-9-20-9.5	New	14	07/01/2009	176-2009
6-9-20-11	Amended	15	07/01/2009	176-2009
6-9-23	Repealed	31	07/01/2009	176-2009
6-9-27-9.5	Amended	16	01/01/2010	176-2009
6-9-33-5	Amended	17	07/01/2009	176-2009
6-9-33-8	Amended	18	07/01/2009	176-2009
6-9-33-9	Amended	19	07/01/2009	176-2009
6-9-33-10	Repealed	31	07/01/2009	176-2009
6-9-33-11	New	20	07/01/2009	176-2009
6-9-39-5	Amended	15	07/01/2009	87-2009
6-9-40-9	Amended	61	04/30/2009	1-2009
6-9-41	New	21	05/13/2009	176-2009
6-9-42	New	262	06/30/2009	182-2009(ss)

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7.1-2-5-12	Amended	62	04/30/2009	1-2009
7.1-3-25-4.5	New	1	07/01/2009	11-2009

Affected Provisions	Type	SEC.	Effective	P.L.
7.1-3-25-6	Amended	2	07/01/2009	11-2009
7.1-5-10-1	Amended	63	04/30/2009	1-2009
7.1-5-10-13	Amended	3	04/30/2009	44-2009

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8-1-2-1.2	Amended	64	04/30/2009	1-2009
8-1-2-92	Amended	1	07/01/2009	172-2009
8-1-2-93	Amended	2	07/01/2009	172-2009
8-1-2.6-4	Amended	1	07/01/2009	62-2009
8-1-8.8-10	Amended	4	05/12/2009	151-2009
8-1-8.8-14	Amended	2	07/01/2009	71-2009
8-1-13.1	New	5	05/12/2009	151-2009
8-1-26-1	Amended	2	07/01/2009	62-2009
8-1-26-1.3	New	3	07/01/2009	62-2009
8-1-26-1.5	New	4	07/01/2009	62-2009
8-1-26-3	Amended	5	07/01/2009	62-2009
8-1-26-6	Amended	6	07/01/2009	62-2009
8-1-26-7	Amended	7	07/01/2009	62-2009
8-1-26-10	Amended	8	07/01/2009	62-2009
8-1-26-11	Amended	9	07/01/2009	62-2009
8-1-26-11.2	New	10	07/01/2009	62-2009
8-1-26-11.5	New	11	07/01/2009	62-2009
8-1-26-15	Amended	12	07/01/2009	62-2009
8-1-26-15.5	Repealed	23	07/01/2009	62-2009
8-1-26-16	Amended	13	07/01/2009	62-2009
8-1-26-17	Amended	14	07/01/2009	62-2009
8-1-26-18	Amended	15	07/01/2009	62-2009
8-1-26-19	Amended	16	07/01/2009	62-2009
8-1-26-20	Amended	17	07/01/2009	62-2009
8-1-26-21	Amended	18	07/01/2009	62-2009
8-1-26-23	New	19	07/01/2009	62-2009
8-1-26-24	New	20	07/01/2009	62-2009
8-1-26-25	New	21	07/01/2009	62-2009
8-1-26-26	New	22	07/01/2009	62-2009
8-1-33-8	Amended	2	05/12/2009	152-2009
8-1-36-9	Amended	65	04/30/2009	1-2009
8-1.5-2-7	Amended	3	07/01/2009	172-2009
8-1.5-2-8	Amended	4	07/01/2009	172-2009
8-1.5-2-11	Repealed	8	07/01/2009	172-2009
8-1.5-2-16	Repealed	8	07/01/2009	172-2009
8-1.5-3-8	Amended	5	07/01/2009	172-2009
8-1.5-3-12	Amended	2	07/01/2009	88-2009

Affected Provisions	Type	SEC.	Effective	P.L.
8-3-1.5-14	Amended	66	04/30/2009	1-2009
8-3-1.5-15	Amended	67	04/30/2009	1-2009
8-3-1.5-23	Amended	68	04/30/2009	1-2009
8-5-15-3	Amended	263	07/01/2009	182-2009(ss)
8-6-4-1	Amended	507	07/01/2009	182-2009(ss)
8-6-4-2	Amended	508	07/01/2009	182-2009(ss)
8-6-4-2	Amended	69	04/30/2009	1-2009
8-10-1-23	Amended	70	04/30/2009	1-2009
8-16-2-16	Amended	71	04/30/2009	1-2009
8-16-3.1-0.5	New	264	07/01/2009	182-2009(ss)
8-16-3.1-4	Amended	265	07/01/2009	182-2009(ss)
8-16-3.1-5	New	266	07/01/2009	182-2009(ss)
8-16-17	New	267	06/30/2009	182-2009(ss)
8-21-9-13	Amended	72	04/30/2009	1-2009
8-21-9-23	Amended	73	04/30/2009	1-2009
8-21-9-24	Amended	74	04/30/2009	1-2009
8-21-9-25	Amended	75	04/30/2009	1-2009
8-22-3-11	Amended	268	07/01/2009	182-2009(ss)
8-22-3-23	Amended	269	07/01/2009	182-2009(ss)
8-22-3-31	Amended	270	07/01/2009	182-2009(ss)
8-22-3.5-1	Amended	271	07/01/2009	182-2009(ss)
8-22-3.5-2	Amended	272	07/01/2009	182-2009(ss)
8-22-3.5-2.5	Amended	273	07/01/2009	182-2009(ss)
8-22-3.5-3	Amended	274	07/01/2009	182-2009(ss)
8-22-3.5-5	Amended	275	07/01/2009	182-2009(ss)
8-22-3.5-9	Amended	276	07/01/2009	182-2009(ss)
8-22-3.5-14	Amended	277	07/01/2009	182-2009(ss)
8-23-2-9	Amended	76	04/30/2009	1-2009
8-23-2-10	Amended	77	04/30/2009	1-2009
8-23-8-10	New	279	01/01/2009	182-2009(ss)
8-23-9-4.5	Amended	278	07/01/2009	182-2009(ss)
8-23-24-1	Amended	280	07/01/2009	182-2009(ss)
8-23-24.5	New	281	07/01/2009	182-2009(ss)
8-24	New	282	07/01/2009	182-2009(ss)

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9-13-2-1	Amended	2	07/01/2009	54-2009
9-13-2-1.4	New	1	07/01/2009	147-2009
9-13-2-3	Amended	1	07/01/2009	146-2009
9-13-2-8.5	New	2	07/01/2009	147-2009
9-13-2-24	Amended	1	07/01/2009	70-2009
9-13-2-42	Amended	3	07/01/2009	147-2009

Affected Provisions	Type	SEC.	Effective	P.L.
9-13-2-60	Amended	1	07/01/2009	150-2009
9-13-2-69.7	New	2	07/01/2009	150-2009
9-13-2-92.2	New	1	07/01/2009	145-2009
9-13-2-94.5	Amended	3	07/01/2009	150-2009
9-13-2-97	Amended	4	07/01/2009	147-2009
9-13-2-102.3	New	1	07/01/2009	6-2009
9-13-2-151.5	Amended	1	04/30/2009	37-2009
9-13-2-161	Amended	2	07/01/2009	146-2009
9-13-2-177.3	New	2	07/01/2009	101-2009
9-13-2-198	Amended	4	07/01/2009	150-2009
9-13-2-201	Amended	283	07/01/2009	182-2009(ss)
9-17-1-1	Amended	5	07/01/2009	150-2009
9-17-1-1	Amended	284	07/01/2009	182-2009(ss)
9-17-2-12	Amended	78	04/30/2009	1-2009
9-17-3-3	Amended	79	04/30/2009	1-2009
9-17-3-9	Amended	3	07/01/2009	143-2009
9-17-8-1	Amended	5	07/01/2009	147-2009
9-17-8-4	Amended	6	07/01/2009	147-2009
9-17-8-7	Amended	7	07/01/2009	147-2009
9-17-8-8	Amended	8	07/01/2009	147-2009
9-18-1-1	Amended	6	07/01/2009	150-2009
9-18-1-1	Amended	285	07/01/2009	182-2009(ss)
9-18-2-1	Amended	80	04/30/2009	1-2009
9-18-10-3.5	New	15	07/01/2009	16-2009
9-18-15-1	Amended	286	07/01/2009	182-2009(ss)
9-18-17-4	New	2	07/01/2009	6-2009
9-18-18-2	Amended	3	07/01/2009	6-2009
9-18-26-18	Amended	1	07/01/2009	179-2009
9-18-32-2	Amended	287	07/01/2009	182-2009(ss)
9-18-53	New	288	07/01/2009	182-2009(ss)
9-19-1-1	Amended	7	07/01/2009	150-2009
9-19-1-1	Amended	289	07/01/2009	182-2009(ss)
9-19-2-1	Amended	3	07/01/2009	54-2009
9-19-9-7	Amended	4	07/01/2009	54-2009
9-19-11-2	Amended	3	07/01/2009	146-2009
9-19-11-3	Repealed	7	07/01/2009	146-2009
9-19-11-3.3	Repealed	7	07/01/2009	146-2009
9-19-11-3.7	Amended	4	07/01/2009	146-2009
9-19-13-4.5	Amended	2	07/01/2009	70-2009
9-19-14.5-1	Amended	1	07/01/2009	138-2009
9-20-6-2	Amended	290	07/01/2009	182-2009(ss)
9-20-9-8	Amended	8	07/01/2009	150-2009
9-20-10-2	Amended	9	07/01/2009	150-2009

Affected Provisions	Type	SEC.	Effective	P.L.
9-20-18-7	Amended	5	07/01/2009	54-2009
9-21-1-0.5	New	2	07/01/2009	145-2009
9-21-1-1	Amended	10	07/01/2009	150-2009
9-21-1-3	Amended	291	07/01/2009	182-2009(ss)
9-21-1-3	Amended	11	07/01/2009	150-2009
9-21-1-3.3	Amended	292	07/01/2009	182-2009(ss)
9-21-1-3.3	New	12	07/01/2009	150-2009
9-21-1-8	Amended	3	07/01/2009	145-2009
9-21-5-6	Amended	2	07/01/2009	138-2009
9-21-8-45	Amended	13	07/01/2009	150-2009
9-21-8-52	Amended	3	07/01/2009	70-2009
9-21-8-57	New	293	07/01/2009	182-2009(ss)
9-21-9-0.5	Amended	14	07/01/2009	150-2009
9-21-12-11	Amended	1	07/01/2009	39-2009
9-21-12-17	Amended	4	07/01/2009	145-2009
9-21-12-19	New	2	07/01/2009	39-2009
9-22-1-1	Amended	15	07/01/2009	150-2009
9-22-1-11	Amended	6	07/01/2009	54-2009
9-22-1-15	Amended	7	07/01/2009	54-2009
9-22-1-16	Amended	8	07/01/2009	54-2009
9-22-1-32	Amended	9	07/01/2009	54-2009
9-22-3-0.5	Amended	16	07/01/2009	150-2009
9-22-5-16	Amended	17	07/01/2009	150-2009
9-23-0.7-1	Amended	81	07/01/2008	1-2009
9-23-2-1	Amended	9	07/01/2009	147-2009
9-23-2-2	Amended	10	07/01/2009	147-2009
9-23-2-5.5	New	11	07/01/2009	147-2009
9-23-2-5.7	New	12	07/01/2009	147-2009
9-23-3-4	Amended	13	07/01/2009	147-2009
9-23-4-2	Amended	14	07/01/2009	147-2009
9-23-6-4	Amended	82	07/01/2008	1-2009
9-23-6-6	Amended	15	07/01/2009	147-2009
9-24-1-7	Amended	18	07/01/2009	150-2009
9-24-2.5-1	Amended	12	07/01/2009	120-2009
9-24-2.5-4	Amended	13	07/01/2009	120-2009
9-24-3-1	Amended	3	07/01/2009	101-2009
9-24-3-2	Amended	4	07/01/2009	101-2009
9-24-3-2.5	New	5	07/01/2009	101-2009
9-24-6-2	Amended	1	01/01/2010	76-2009
9-24-7-1	Amended	6	07/01/2009	101-2009
9-24-9-2.5	Amended	1	07/01/2009	162-2009
9-24-9-2.5	Amended	3	07/01/2009	76-2009
9-24-11-0.5	New	7	07/01/2009	101-2009

Affected Provisions	Type	SEC.	Effective	P.L.
9-24-11-3	Amended	4	07/01/2009	76-2009
9-24-11-3	Amended	8	05/07/2009	101-2009
9-24-11-3	Amended	2	07/01/2009	162-2009
9-24-11-3	Amended	5	07/01/2009	145-2009
9-24-11-3.3	New	9	07/01/2009	101-2009
9-24-11-3.3	New	6	07/01/2009	145-2009
9-24-11-5	Amended	3	07/01/2009	162-2009
9-24-11-5	Amended	5	07/01/2009	76-2009
9-24-12-0.5	New	10	07/01/2009	101-2009
9-24-12-1	Amended	11	07/01/2009	101-2009
9-24-12-4	Amended	4	07/01/2009	162-2009
9-24-12-4	Amended	6	07/01/2009	76-2009
9-24-12-5	Amended	2	07/01/2009	76-2009
9-24-12-5	Amended	5	07/01/2009	162-2009
9-24-12-6	Amended	7	01/01/2010	76-2009
9-24-12-12	Amended	6	07/01/2009	162-2009
9-24-12-12	Amended	8	07/01/2009	76-2009
9-24-16-3	Amended	7	07/01/2009	162-2009
9-24-16-3	Amended	9	07/01/2009	76-2009
9-24-16-3.5	Amended	8	07/01/2009	162-2009
9-24-16-3.5	Amended	10	07/01/2009	76-2009
9-24-16-4	Amended	9	07/01/2009	162-2009
9-24-16-4	Amended	11	07/01/2009	76-2009
9-24-16-5	Amended	12	07/01/2009	76-2009
9-24-16-5	Amended	10	07/01/2009	162-2009
9-25-10-1	Amended	83	04/30/2009	1-2009
9-25-10-2	Amended	84	04/30/2009	1-2009
9-25-10-4	Amended	85	04/30/2009	1-2009
9-25-10-6	Amended	86	04/30/2009	1-2009
9-25-10-7	Amended	87	04/30/2009	1-2009
9-26-1-1	Amended	88	04/30/2009	1-2009
9-26-1-2	Amended	10	07/01/2009	54-2009
9-26-6-0.5	New	19	07/01/2009	150-2009
9-29-8-4	Amended	16	07/01/2009	147-2009
9-29-8-7	Amended	17	07/01/2009	147-2009
9-29-9-2	Amended	12	07/01/2009	101-2009
9-30-3-12	Amended	13	07/01/2009	101-2009
9-31-2-30	Amended	4	07/01/2009	143-2009

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10-11-2-28.1	New	16	07/01/2009	16-2009
10-12-5-4	Amended	89	04/30/2009	1-2009

Affected Provisions	Type	SEC.	Effective	P.L.
10-13-3-27	Amended	4	04/30/2009	44-2009
10-13-3-36	Amended	2	01/01/2010	121-2009
10-13-3-38.5	Amended	2	07/01/2009	160-2009
10-13-5-3	Amended	2	07/01/2009	43-2009
10-13-5-4.3	New	3	07/01/2009	43-2009
10-13-5-4.6	New	4	07/01/2009	43-2009
10-13-5-5	Amended	5	07/01/2009	43-2009
10-13-5-6	Amended	6	07/01/2009	43-2009
10-13-5-7	Amended	7	07/01/2009	43-2009
10-13-5-8	Amended	8	07/01/2009	43-2009
10-13-5-8.1	Amended	9	07/01/2009	43-2009
10-13-5-8.5	Amended	10	07/01/2009	43-2009
10-13-5-12	New	11	07/01/2009	43-2009
10-14-3-12	Amended	90	04/30/2009	1-2009
10-14-3-17	Amended	91	04/30/2009	1-2009
10-14-3-28	Amended	2	07/01/2009	110-2009
10-14-3.5-0.5	New	92	04/30/2009	1-2009
10-14-3.5-1	Amended	93	04/30/2009	1-2009
10-14-3.5-17	Amended	94	04/30/2009	1-2009
10-14-3.5-18	Amended	95	04/30/2009	1-2009
10-14-3.5-21	Amended	96	04/30/2009	1-2009
10-14-3.5-22	Amended	97	04/30/2009	1-2009
10-14-3.5-23	Amended	98	04/30/2009	1-2009
10-14-4-6	Amended	3	07/01/2009	110-2009
10-15-2-2	Amended	4	07/01/2009	110-2009
10-15-2-3	Amended	5	07/01/2009	110-2009
10-16-1-9.5	Amended	99	04/30/2009	1-2009
10-17-12-0.7	New	1	04/30/2009	50-2009
10-17-12-1	Amended	2	04/30/2009	50-2009
10-17-12-2	Amended	3	04/30/2009	50-2009
10-17-12-5.5	New	4	04/30/2009	50-2009
10-17-12-7.5	New	5	04/30/2009	50-2009
10-17-12-8	Amended	6	04/30/2009	50-2009
10-17-12-9	Amended	7	04/30/2009	50-2009
10-17-13-3	Amended	8	04/30/2009	50-2009
10-17-13-10	Amended	9	04/30/2009	50-2009
10-17-13-14	Amended	10	04/30/2009	50-2009

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11-8-2-5	Amended	3	07/01/2009	77-2009
11-8-2-14	New	4	07/01/2009	77-2009
11-8-9	New	5	07/01/2009	77-2009

Affected Provisions	Type	SEC.	Effective	P.L.
11-10-4-3	Amended	6	07/01/2009	110-2009
11-10-4-6.6	New	1	07/01/2009	170-2009
11-10-5-5	New	1	07/01/2009	41-2009
11-10-6-3	Amended	1	07/01/2009	104-2009
11-10-7-5	Amended	2	07/01/2009	104-2009
11-10-7-5	Amended	5	04/30/2009	44-2009
11-10-8-6	Amended	3	07/01/2009	104-2009
11-10-8-6	Amended	6	04/30/2009	44-2009
11-10-15	New	4	07/01/2009	104-2009
11-12-2-2	Amended	7	04/30/2009	44-2009
11-12-5-3	Amended	8	04/30/2009	44-2009
11-12-5-5.5	New	1	07/01/2009	80-2009
11-13-3-4	Amended	2	07/01/2009	111-2009
11-13-3-4	Amended	100	04/30/2009	1-2009

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12-7-2-3.3	New	1	07/01/2009	36-2009
12-7-2-44	Amended	15	07/01/2009	130-2009
12-7-2-45	Amended	9	04/30/2009	44-2009
12-7-2-46	Amended	10	04/30/2009	44-2009
12-7-2-70	Repealed	28	07/01/2009	130-2009
12-7-2-91	Amended	16	07/01/2009	130-2009
12-7-2-124.6	Repealed	36	04/30/2009	44-2009
12-7-2-124.8	Repealed	36	04/30/2009	44-2009
12-7-2-178.1	Repealed	174	04/30/2009	1-2009
12-8-1-10	Amended	294	07/01/2009	182-2009(ss)
12-8-1-16	New	17	07/01/2009	16-2009
12-8-2-12	Amended	295	07/01/2009	182-2009(ss)
12-8-6-10	Amended	296	07/01/2009	182-2009(ss)
12-8-8-8	Amended	297	07/01/2009	182-2009(ss)
12-10-10-6	Amended	1	07/01/2009	47-2009
12-10-18-3	Amended	12	07/01/2009	43-2009
12-11-13-13	Amended	5	07/01/2009	3-2009
12-11-13-14	Amended	6	07/01/2009	3-2009
12-12-8-6	Amended	298	06/30/2009	182-2009(ss)
12-12.7-2-19	Amended	7	07/01/2009	3-2009
12-13-5-2	Amended	17	07/01/2009	130-2009
12-13-5-14	New	2	07/01/2009	153-2009
12-13-7-1	Amended	18	07/01/2009	130-2009
12-13-14-3	Amended	101	04/30/2009	1-2009
12-13-14-13	New	1	07/01/2009	96-2009
12-14-28-2	Amended	102	04/30/2009	1-2009

Affected Provisions	Type	SEC.	Effective	P.L.
12-15-1-20	New	2	07/01/2009	47-2009
12-15-1-20.2	New	1	07/01/2009	140-2009
12-15-1-20.4	New	1	01/01/2010	114-2009
12-15-1.5-8	Amended	11	04/30/2009	44-2009
12-15-2-13.5	Amended	1	07/01/2009	107-2009
12-15-2-23	New	1	07/01/2009	14-2009
12-15-2-23.5	New	2	07/01/2009	14-2009
12-15-2.3-13	New	18	07/01/2009	16-2009
12-15-5-9	New	3	07/01/2009	47-2009
12-15-5-9.2	New	2	07/01/2009	109-2009
12-15-5-10	New	4	07/01/2009	47-2009
12-15-9-0.6	Amended	12	04/30/2009	44-2009
12-15-13-6	Amended	1	07/01/2009	15-2009
12-15-34-13	Amended	103	04/30/2009	1-2009
12-15-35-51	New	2	07/01/2009	36-2009
12-15-35.5-3	Amended	104	04/30/2009	1-2009
12-15-35.5-7	Amended	3	07/01/2009	36-2009
12-15-39.6-15	New	19	07/01/2009	16-2009
12-17.2-2-1	Amended	105	04/30/2009	1-2009
12-17.2-2-1.5	Amended	13	07/01/2009	43-2009
12-17.2-4-18.5	Amended	14	07/01/2009	43-2009
12-17.2-5-18.6	Amended	15	07/01/2009	43-2009
12-17.6-4-2	Amended	1	07/01/2009	103-2009
12-18-3	Repealed	28	07/01/2009	130-2009
12-18-4	Repealed	28	07/01/2009	130-2009
12-18-5	Repealed	28	07/01/2009	130-2009
12-19-1-1	Amended	13	04/30/2009	44-2009
12-19-1-2	Amended	14	04/30/2009	44-2009
12-19-1-3	Amended	15	04/30/2009	44-2009
12-19-1-4	Amended	16	04/30/2009	44-2009
12-19-1-5	Amended	17	04/30/2009	44-2009
12-19-1-7	Amended	18	04/30/2009	44-2009
12-19-1-8	Amended	19	04/30/2009	44-2009
12-19-1-9	Amended	20	04/30/2009	44-2009
12-19-1-10	Amended	21	04/30/2009	44-2009
12-19-1-13	Amended	22	04/30/2009	44-2009
12-19-1-15	Amended	23	04/30/2009	44-2009
12-19-1-16	Amended	24	04/30/2009	44-2009
12-19-1-18	Amended	25	04/30/2009	44-2009
12-19-1-19	Amended	26	04/30/2009	44-2009
12-19-2-2	Amended	27	04/30/2009	44-2009
12-19-2-3	Amended	28	04/30/2009	44-2009
12-19-2-5	Amended	29	04/30/2009	44-2009

Affected Provisions	Type	SEC.	Effective	P.L.
12-19-2-6	Amended	30	04/30/2009	44-2009
12-20-28-3	Amended	106	04/30/2009	1-2009
12-21-4.1	New	2	07/01/2009	170-2009
12-23-2-5	Amended	107	04/30/2009	1-2009
12-23-18-0.5	Amended	108	04/30/2009	1-2009
12-24-3-5	New	2	07/01/2009	41-2009
12-24-13-6	Amended	2	07/01/2009	131-2009
12-26-6-8	Amended	7	07/01/2009	110-2009
12-26-7-5	Amended	8	07/01/2009	110-2009
12-29-1-1	Amended	299	01/01/2009	182-2009(ss)
12-29-2-1.2	Amended	300	01/01/2009	182-2009(ss)

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13-11-2-0.5	Repealed	18	07/01/2009	57-2009
13-11-2-8	Amended	1	07/01/2009	127-2009
13-11-2-23.5	New	3	07/01/2009	178-2009
13-11-2-25.5	Repealed	18	07/01/2009	57-2009
13-11-2-31.1	New	4	07/01/2009	178-2009
13-11-2-31.2	New	5	07/01/2009	178-2009
13-11-2-36.5	Repealed	18	07/01/2009	57-2009
13-11-2-38.1	New	6	07/01/2009	178-2009
13-11-2-38.2	New	7	07/01/2009	178-2009
13-11-2-40	Amended	1	07/01/2009	81-2009
13-11-2-40	Amended	2	07/01/2009	127-2009
13-11-2-47.5	New	8	07/01/2009	178-2009
13-11-2-47.7	New	9	07/01/2009	178-2009
13-11-2-50.5	Amended	1	05/06/2009	78-2009
13-11-2-61.3	New	10	07/01/2009	178-2009
13-11-2-61.5	Repealed	18	07/01/2009	57-2009
13-11-2-66.5	Repealed	18	07/01/2009	57-2009
13-11-2-66.7	Repealed	18	07/01/2009	57-2009
13-11-2-71	Amended	3	07/01/2009	127-2009
13-11-2-71.2	New	2	07/01/2009	78-2009
13-11-2-72.5	Repealed	28	06/01/2009	78-2009
13-11-2-87	Amended	1	07/01/2009	57-2009
13-11-2-90	Amended	3	05/06/2009	78-2009
13-11-2-103.9	New	11	07/01/2009	178-2009
13-11-2-116	Amended	12	07/01/2009	178-2009
13-11-2-118.3	Repealed	18	07/01/2009	57-2009
13-11-2-118.5	Repealed	18	07/01/2009	57-2009
13-11-2-126	Amended	13	07/01/2009	178-2009
13-11-2-133	Amended	14	07/01/2009	178-2009

Affected Provisions	Type	SEC.	Effective	P.L.
13-11-2-148	Amended	4	07/01/2009	78-2009
13-11-2-149.5	Amended	5	05/06/2009	78-2009
13-11-2-150	Amended	6	07/01/2009	78-2009
13-11-2-151	Amended	7	07/01/2009	78-2009
13-11-2-156.5	New	15	07/01/2009	178-2009
13-11-2-172.1	New	16	07/01/2009	178-2009
13-11-2-176.5	Amended	17	07/01/2009	178-2009
13-11-2-179.9	New	18	07/01/2009	178-2009
13-11-2-180	Amended	19	07/01/2009	178-2009
13-11-2-180.1	New	20	07/01/2009	178-2009
13-11-2-191	Amended	4	07/01/2009	127-2009
13-11-2-193.5	Amended	8	07/01/2009	78-2009
13-11-2-194	Amended	21	07/01/2009	178-2009
13-11-2-195.7	New	22	07/01/2009	178-2009
13-11-2-203.5	New	23	07/01/2009	178-2009
13-11-2-229.5	Repealed	18	07/01/2009	57-2009
13-11-2-230.1	New	24	07/01/2009	178-2009
13-11-2-245.4	New	25	07/01/2009	178-2009
13-12-3-2	Amended	9	07/01/2009	78-2009
13-13-7-9	Amended	26	07/01/2009	178-2009
13-14-2-6	Amended	10	07/01/2009	78-2009
13-14-2-8	New	11	07/01/2009	78-2009
13-15-3-5	Amended	12	07/01/2009	78-2009
13-15-4-1	Amended	13	05/06/2009	78-2009
13-17-3-4.5	New	20	07/01/2009	16-2009
13-17-14	Repealed	18	07/01/2009	57-2009
13-18-2-3	Amended	14	05/06/2009	78-2009
13-18-3-2	Amended	15	05/06/2009	78-2009
13-18-3-2.1	New	16	05/06/2009	78-2009
13-18-3-14	Amended	17	05/06/2009	78-2009
13-18-10-1	Amended	2	07/01/2009	81-2009
13-18-10-1	Amended	5	07/01/2009	127-2009
13-18-10-1.4	New	6	07/01/2009	127-2009
13-18-10-2	Amended	7	07/01/2009	127-2009
13-18-10-2.1	Amended	8	07/01/2009	127-2009
13-18-10-2.2	Amended	9	07/01/2009	127-2009
13-18-10-4	Amended	10	07/01/2009	127-2009
13-19-5-3	Amended	3	07/01/2009	121-2009
13-20.5	New	27	07/01/2009	178-2009
13-22-5	Repealed	174	04/30/2009	1-2009
13-22-7.5-2	Amended	109	04/30/2009	1-2009
13-23-5-3	New	21	07/01/2009	16-2009
13-25-5-8.5	Amended	18	07/01/2009	78-2009

Affected Provisions	Type	SEC.	Effective	P.L.
13-25-5-18	Amended	19	07/01/2009	78-2009
13-26-5-2	Amended	110	04/30/2009	1-2009
13-26-5-9	New	20	07/01/2009	78-2009
13-30-10-1.5	Amended	2	07/01/2009	57-2009

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14-8-2-77	Amended	1	07/01/2009	69-2009
14-8-2-116.5	New	20	07/01/2009	150-2009
14-8-2-185	Amended	21	07/01/2009	150-2009
14-8-2-203	Amended	1	07/01/2009	17-2009
14-8-2-279.5	Amended	1	07/01/2009	83-2009
14-13-2-7	Amended	1	07/01/2009	181-2009
14-13-2-10	Amended	2	07/01/2009	181-2009
14-13-2-17	Amended	3	07/01/2009	181-2009
14-13-2-30	New	4	07/01/2009	181-2009
14-13-2-31	New	5	07/01/2009	181-2009
14-13-6-19	Amended	1	07/01/2009	118-2009
14-13-6-20	Amended	2	07/01/2009	118-2009
14-13-6-23	New	3	07/01/2009	118-2009
14-13-6-23	Amended	2	07/01/2009	69-2009
14-15-3-12.5	New	22	07/01/2009	16-2009
14-15-3-14	Amended	3	07/01/2009	69-2009
14-15-8-3	Amended	4	07/01/2009	69-2009
14-15-8-17	Amended	5	07/01/2009	69-2009
14-20-16	New	6	07/01/2009	69-2009
14-21-4-5	Amended	111	04/30/2009	1-2009
14-22-6-3	Amended	7	07/01/2009	69-2009
14-22-6-13	Amended	1	07/01/2009	18-2009
14-22-8-2	Amended	8	07/01/2009	69-2009
14-22-11-8	Amended	2	07/01/2009	18-2009
14-22-11-18	Amended	3	07/01/2009	18-2009
14-22-12-1	Amended	4	07/01/2009	18-2009
14-22-12-1	Amended	9	07/01/2009	69-2009
14-22-13-6	Amended	5	07/01/2009	18-2009
14-22-34-19	Amended	10	07/01/2009	69-2009
14-24-4-2	Amended	2	07/01/2009	17-2009
14-24-5-3	Amended	11	07/01/2009	69-2009
14-25-16	New	2	07/01/2009	83-2009
14-26-2-17	Amended	1	07/01/2009	25-2009
14-26-2-23	Amended	2	07/01/2009	25-2009
14-27-7.7	New	23	07/01/2009	16-2009
14-32-8-6	Amended	1	04/20/2009	24-2009

Affected Provisions	Type	SEC.	Effective	P.L.
14-33-5-21	Amended	1	07/01/2009	168-2009
14-33-5-21.1	New	2	07/01/2009	168-2009
14-33-5-21.2	New	3	07/01/2009	168-2009
14-33-9-1	Amended	301	01/01/2009	182-2009(ss)
14-33-9-2	Amended	302	07/01/2009	182-2009(ss)
14-34-3-10	Amended	24	07/01/2009	16-2009
14-34-4-10	Amended	25	07/01/2009	16-2009
14-38-1-13	Amended	4	07/01/2009	118-2009

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15-11-2-3	Amended	3	07/01/2009	71-2009
15-11-9-1	Amended	112	04/30/2009	1-2009
15-11-11-6.5	Amended	1	07/01/2009	4-2009
15-11-11-6.5	Amended	3	07/01/2009	148-2009
15-15-12-29	Amended	4	07/01/2009	148-2009
15-15-12-30	Repealed	12	08/01/2009	148-2009
15-15-12-30.5	New	5	07/01/2009	148-2009
15-15-12-32.5	New	6	07/01/2009	148-2009
15-15-12-33	Amended	7	07/01/2009	148-2009
15-15-12-34	Amended	8	07/01/2009	148-2009
15-15-12-35	Amended	9	07/01/2009	148-2009
15-16-1-10	Amended	3	07/01/2009	81-2009
15-16-1-14	Amended	4	07/01/2009	81-2009
15-16-2-2	Amended	5	07/01/2009	81-2009
15-16-2-3	Amended	6	07/01/2009	81-2009
15-16-2-4	Amended	7	07/01/2009	81-2009
15-16-2-6	Amended	8	07/01/2009	81-2009
15-16-2-7	Amended	9	07/01/2009	81-2009
15-16-2-9	Amended	10	07/01/2009	81-2009
15-16-2-11	Amended	11	07/01/2009	81-2009
15-16-2-13	Amended	12	07/01/2009	81-2009
15-16-2-18	Amended	13	07/01/2009	81-2009
15-16-2-20	Amended	14	07/01/2009	81-2009
15-16-2-23	Amended	15	07/01/2009	81-2009
15-16-2-25	Amended	16	07/01/2009	81-2009
15-16-2-30	Amended	17	07/01/2009	81-2009
15-16-2-31	Amended	18	07/01/2009	81-2009
15-16-2-32	Amended	19	07/01/2009	81-2009
15-16-2-34	Amended	20	07/01/2009	81-2009
15-16-2-35	Amended	21	07/01/2009	81-2009
15-16-2-38	Amended	22	07/01/2009	81-2009
15-16-2-39	Amended	23	07/01/2009	81-2009

Affected Provisions	Type	SEC.	Effective	P.L.
15-16-2-40	Amended	24	07/01/2009	81-2009
15-16-2-41	Amended	25	07/01/2009	81-2009
15-16-2-42	Amended	26	07/01/2009	81-2009
15-16-2-44	Amended	27	07/01/2009	81-2009
15-16-2-44.5	New	28	07/01/2009	81-2009
15-16-2-46	Amended	29	07/01/2009	81-2009
15-16-2-47	Amended	30	07/01/2009	81-2009
15-16-2-48	Repealed	33	07/01/2009	81-2009
15-16-2-49.5	Amended	31	07/01/2009	81-2009
15-16-2-50	Amended	32	07/01/2009	81-2009
15-16-8-1	Amended	113	04/30/2009	1-2009
15-16-10	New	1	07/01/2009	23-2009
15-17-3-13	Amended	3	07/01/2009	111-2009
15-20-2-4	Amended	114	04/30/2009	1-2009
15-21	New	4	01/01/2010	111-2009

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16-18-2-0.5	New	3	07/01/2009	57-2009
16-18-2-50	Repealed	16	07/01/2009	28-2009
16-18-2-54.7	New	4	07/01/2009	57-2009
16-18-2-56.2	Amended	5	07/01/2009	57-2009
16-18-2-66.7	New	6	07/01/2009	57-2009
16-18-2-105.5	New	1	07/01/2009	28-2009
16-18-2-106.6	New	7	07/01/2009	57-2009
16-18-2-114.5	New	8	07/01/2009	57-2009
16-18-2-114.6	New	9	07/01/2009	57-2009
16-18-2-137	Amended	1	05/06/2009	86-2009
16-18-2-137	Amended	115	04/30/2009	1-2009
16-18-2-141	Repealed	16	07/01/2009	28-2009
16-18-2-143	Amended	10	07/01/2009	57-2009
16-18-2-187.5	New	1	07/01/2009	61-2009
16-18-2-187.6	New	2	07/01/2009	61-2009
16-18-2-198.5	New	11	07/01/2009	57-2009
16-18-2-198.7	Amended	12	07/01/2009	57-2009
16-18-2-204.5	New	2	07/01/2009	177-2009
16-18-2-223.7	Amended	1	07/01/2009	29-2009
16-18-2-276	Amended	3	07/01/2009	61-2009
16-18-2-277	Amended	4	07/01/2009	61-2009
16-18-2-287.8	New	2	07/01/2009	86-2009
16-18-2-315.8	Amended	13	07/01/2009	57-2009
16-18-2-319	Amended	2	07/01/2009	28-2009
16-18-2-346.3	New	14	07/01/2009	57-2009

Affected Provisions	Type	SEC.	Effective	P.L.
16-18-2-374	Amended	3	07/01/2009	28-2009
16-27-2-1.5	New	3	07/01/2009	177-2009
16-27-2-2.2	Amended	4	07/01/2009	177-2009
16-27-2-4	Amended	5	07/01/2009	177-2009
16-27-2-5	Amended	6	07/01/2009	177-2009
16-28-14-1	Repealed	3	07/01/2009	29-2009
16-28-14.5	New	2	07/01/2009	29-2009
16-31-2-2	Amended	1	07/01/2009	68-2009
16-31-3-17	Amended	116	04/30/2009	1-2009
16-31-3.5-1	Amended	2	07/01/2009	68-2009
16-31-3.5-3	Amended	3	07/01/2009	68-2009
16-31-3.5-4	Repealed	7	07/01/2009	68-2009
16-31-3.5-4.5	Amended	117	04/30/2009	1-2009
16-31-3.5-4.5	Repealed	7	07/01/2009	68-2009
16-31-3.5-5	Amended	4	07/01/2009	68-2009
16-31-3.5-6	Repealed	7	07/01/2009	68-2009
16-32-3-1	Amended	1	07/01/2009	155-2009
16-32-3-1.5	New	2	07/01/2009	155-2009
16-32-3-2	Amended	3	07/01/2009	155-2009
16-32-3-3	Amended	4	07/01/2009	155-2009
16-32-3-5	Amended	5	07/01/2009	155-2009
16-33-3-10	Amended	31	04/30/2009	44-2009
16-33-4-23	New	3	07/01/2009	41-2009
16-34-2-1.1	Amended	32	04/30/2009	44-2009
16-35-8	New	1	07/01/2009	119-2009
16-37-1-3.1	New	5	07/01/2009	61-2009
16-37-1-5	Amended	6	07/01/2009	61-2009
16-37-1-8	Amended	16	07/01/2009	43-2009
16-37-2-2	Amended	7	07/01/2009	61-2009
16-37-3-3	Amended	8	07/01/2009	61-2009
16-37-3-5	Amended	9	07/01/2009	61-2009
16-38-5-2	Amended	1	07/01/2009	161-2009
16-38-5-3	Amended	2	07/01/2009	161-2009
16-39-7-1	Amended	7	07/01/2009	177-2009
16-41-8-1	Amended	1	07/01/2009	125-2009
16-41-8-4	New	2	07/01/2009	125-2009
16-41-8-5	New	3	07/01/2009	125-2009
16-41-9-15	New	26	07/01/2009	16-2009
16-41-37.5-2	Amended	1	07/01/2009	132-2009
16-41-37.5-2	Amended	4	07/01/2009	168-2009
16-41-37.5-2.5	New	2	07/01/2009	132-2009
16-41-37.5-2.5	New	5	07/01/2009	168-2009
16-41-37.5-3	Amended	3	07/01/2009	132-2009

Affected Provisions	Type	SEC.	Effective	P.L.
16-41-37.5-3	Amended	6	07/01/2009	168-2009
16-41-37.5-5	New	7	07/01/2009	168-2009
16-41-37.5-5	New	4	07/01/2009	132-2009
16-41-39.4-6	Amended	15	07/01/2009	57-2009
16-41-39.4-7	Amended	16	07/01/2009	57-2009
16-41-39.8	New	17	07/01/2009	57-2009
16-42-5-25	Amended	118	04/30/2009	1-2009
16-42-5-29	New	3	05/06/2009	86-2009
16-42-11-1	Repealed	16	07/01/2009	28-2009
16-42-11-1.1	New	4	07/01/2009	28-2009
16-42-11-2	Repealed	16	07/01/2009	28-2009
16-42-11-3	Repealed	16	07/01/2009	28-2009
16-42-11-4	Amended	5	07/01/2009	28-2009
16-42-11-5	Amended	6	07/01/2009	28-2009
16-42-11-6	Amended	7	07/01/2009	28-2009
16-42-11-7	Amended	8	07/01/2009	28-2009
16-42-11-9.5	New	9	07/01/2009	28-2009
16-42-11-10	Amended	10	07/01/2009	28-2009
16-42-11-10.2	New	11	07/01/2009	28-2009
16-42-11-10.4	New	12	07/01/2009	28-2009
16-42-11-11	Amended	13	07/01/2009	28-2009
16-42-11-12	Amended	14	07/01/2009	28-2009
16-42-11-15	Amended	15	07/01/2009	28-2009
16-42-19-5	Amended	8	07/01/2009	177-2009

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20-18-2-21.5	Repealed	467	07/01/2009	182-2009(ss)
20-19-2-8	Amended	14	07/01/2009	101-2009
20-19-3-9	New	303	01/01/2010	182-2009(ss)
20-19-3-9	New	4	07/01/2009	121-2009
20-20-13-0.5	New	1	07/01/2009	31-2009
20-20-13-3	Amended	304	07/01/2009	182-2009(ss)
20-20-13-6	Amended	305	07/01/2009	182-2009(ss)
20-20-13-6	Amended	2	07/01/2009	31-2009
20-20-34	Repealed	466	01/01/2010	182-2009(ss)
20-20-36	Repealed	174	04/30/2009	1-2009
20-20-36.1	New	119	04/30/2009	1-2009
20-20-36.2	New	120	04/30/2009	1-2009
20-20-36.2-5	Amended	306	01/01/2009	182-2009(ss)
20-20-36.2-7	Amended	307	01/01/2009	182-2009(ss)
20-20-36.2-8	Amended	308	01/01/2009	182-2009(ss)
20-20-36.2-11	New	309	07/01/2009	182-2009(ss)

Affected Provisions	Type	SEC.	Effective	P.L.
20-20-37	New	1	07/01/2009	65-2009
20-20-37.4	New	2	07/01/2009	99-2009
20-21-2-8	Amended	33	04/30/2009	44-2009
20-21-4-4	New	4	07/01/2009	41-2009
20-22-2-8	Amended	34	04/30/2009	44-2009
20-22-4-4	New	5	07/01/2009	41-2009
20-23-6-18	New	310	07/01/2009	182-2009(ss)
20-23-9-5	Amended	311	07/01/2009	182-2009(ss)
20-23-9-6	Amended	312	07/01/2009	182-2009(ss)
20-23-9-7	Amended	313	07/01/2009	182-2009(ss)
20-23-15-3	Amended	121	04/30/2009	1-2009
20-24-7-11	Amended	314	06/30/2009	182-2009(ss)
20-24-7-13	New	315	07/01/2009	182-2009(ss)
20-24-8-5	Amended	5	07/01/2009	121-2009
20-24-8-5	Amended	1	07/01/2009	154-2009
20-26-1-1	Amended	6	07/01/2009	121-2009
20-26-2-1.5	New	7	07/01/2009	121-2009
20-26-5-4	Amended	316	07/01/2009	182-2009(ss)
20-26-5-10	Amended	8	07/01/2009	121-2009
20-26-5-30	Amended	122	04/30/2009	1-2009
20-26-5-32	New	1	07/01/2009	66-2009
20-26-5-32.2	New	6	07/01/2009	41-2009
20-26-5-32.4	New	2	01/10/2010	93-2009
20-26-11-9	Amended	3	07/01/2009	131-2009
20-26-11-23	Amended	317	07/01/2009	182-2009(ss)
20-26-13-10	Amended	17	07/01/2009	43-2009
20-27-5-30	Amended	123	04/30/2009	1-2009
20-27-8-4	Amended	1	07/01/2009	82-2009
20-27-8-10.5	New	5	07/01/2009	146-2009
20-27-9-5	Amended	318	06/30/2009	182-2009(ss)
20-27-9-5	Amended	6	07/01/2009	146-2009
20-27-9-16	Amended	4	07/01/2009	70-2009
20-28-1-8	Repealed	17	07/01/2009	121-2009
20-28-2-6	Amended	1	07/01/2009	12-2009
20-28-2-11	New	1	07/01/2009	10-2009
20-28-4-11	Amended	9	07/01/2009	121-2009
20-28-5-8	Amended	10	07/01/2009	121-2009
20-28-5-9	Repealed	17	07/01/2009	121-2009
20-28-5-15	Amended	11	07/01/2009	121-2009
20-28-7-9	Amended	319	07/01/2009	182-2009(ss)
20-28-11-3	Amended	320	07/01/2009	182-2009(ss)
20-28-12-3	Amended	9	07/01/2009	177-2009
20-30-5-19	New	2	07/01/2009	154-2009

Affected Provisions	Type	SEC.	Effective	P.L.
20-31-5-6	Amended	2	07/01/2009	66-2009
20-33-2-10	Amended	18	07/01/2009	43-2009
20-33-2-17.2	Amended	124	04/30/2009	1-2009
20-33-2-29	Amended	125	04/30/2009	1-2009
20-33-5-15	New	1	07/01/2009	9-2009
20-33-8-8	Amended	12	07/01/2009	121-2009
20-33-8-9	Amended	13	05/11/2009	121-2009
20-33-8-12	Amended	3	07/01/2009	66-2009
20-33-8-25	Amended	4	07/01/2009	66-2009
20-33-8.5-5	Amended	321	01/01/2010	182-2009(ss)
20-34-3-12	Amended	3	07/01/2009	161-2009
20-34-3-13	Amended	4	07/01/2009	161-2009
20-34-4-2	Amended	5	07/01/2009	161-2009
20-34-4-7	Repealed	174	04/30/2009	1-2009
20-36-2-2	Amended	2	07/01/2009	173-2009
20-38-3	New	1	07/01/2009	21-2009
20-40-4	Repealed	466	01/01/2010	182-2009(ss)
20-40-8-19	Amended	322	01/01/2010	182-2009(ss)
20-43-1-1	Amended	323	07/01/2009	182-2009(ss)
20-43-1-8	Amended	324	01/01/2010	182-2009(ss)
20-43-1-21.5	New	326	01/01/2009	182-2009(ss)
20-43-1-25	Amended	325	07/01/2009	182-2009(ss)
20-43-1-27	Repealed	466	01/01/2010	182-2009(ss)
20-43-1-31	New	327	07/01/2009	182-2009(ss)
20-43-1-32	New	328	01/01/2009	182-2009(ss)
20-43-2-2	Amended	329	01/01/2009	182-2009(ss)
20-43-2-3	Amended	330	01/01/2010	182-2009(ss)
20-43-3-4	Amended	331	01/01/2010	182-2009(ss)
20-43-4-7	Amended	332	01/01/2010	182-2009(ss)
20-43-5-3	Amended	333	01/01/2010	182-2009(ss)
20-43-5-4	Amended	334	01/01/2010	182-2009(ss)
20-43-5-5	Amended	335	01/01/2010	182-2009(ss)
20-43-5-6	Amended	336	01/01/2010	182-2009(ss)
20-43-5-7	Amended	337	01/01/2010	182-2009(ss)
20-43-6-1	Amended	338	01/01/2010	182-2009(ss)
20-43-6-3	Amended	339	01/01/2010	182-2009(ss)
20-43-6-5	Repealed	466	01/01/2010	182-2009(ss)
20-43-7-6	Amended	340	01/01/2010	182-2009(ss)
20-43-9-4	Amended	341	01/01/2010	182-2009(ss)
20-43-9-6	Amended	342	01/01/2010	182-2009(ss)
20-43-11.5	Repealed	464	01/01/2009	182-2009(ss)
20-43-12	New	343	01/01/2010	182-2009(ss)
20-43-12.2	New	344	01/01/2010	182-2009(ss)

Affected Provisions	Type	SEC.	Effective	P.L.
20-45-1-2	Repealed	466	01/01/2010	182-2009(ss)
20-45-1-5	Repealed	463	07/01/2009	182-2009(ss)
20-45-1-6	Repealed	466	01/01/2010	182-2009(ss)
20-45-1-12	Repealed	466	01/01/2010	182-2009(ss)
20-45-1-21.3	Repealed	466	01/01/2010	182-2009(ss)
20-45-1-21.5	Repealed	466	01/01/2010	182-2009(ss)
20-45-1-21.7	Repealed	466	01/01/2010	182-2009(ss)
20-46-1-7	Amended	345	07/01/2009	182-2009(ss)
20-46-1-18	Amended	126	04/30/2009	1-2009
20-46-3-5	Amended	346	07/01/2009	182-2009(ss)
20-46-3-6	Amended	347	07/01/2009	182-2009(ss)
20-46-3-7	Amended	348	07/01/2009	182-2009(ss)
20-46-5-6.1	New	349	06/30/2009	182-2009(ss)
20-46-5-7	Amended	350	06/30/2009	182-2009(ss)
20-46-5-9	Amended	351	07/01/2009	182-2009(ss)
20-46-5-10	Amended	352	06/30/2009	182-2009(ss)
20-46-6-8.1	New	353	06/30/2009	182-2009(ss)
20-46-6-9	Amended	354	07/01/2009	182-2009(ss)
20-46-6-15	Amended	355	07/01/2009	182-2009(ss)
20-46-6-18	Amended	356	06/30/2009	182-2009(ss)
20-46-6-19	Amended	357	06/30/2009	182-2009(ss)
20-46-7-11	Amended	358	07/01/2009	182-2009(ss)
20-47-1-3	Amended	29	07/01/2009	142-2009
20-47-1-5	Amended	30	07/01/2009	142-2009
20-49-1-3	Amended	359	01/01/2010	182-2009(ss)
20-49-2-9	Amended	360	07/01/2009	182-2009(ss)
20-49-7-10	Amended	361	01/01/2010	182-2009(ss)
20-49-7-11	Amended	362	01/01/2010	182-2009(ss)
20-49-7-21	New	363	07/01/2009	182-2009(ss)
20-51	New	364	07/01/2009	182-2009(ss)

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21-11-3-2	Amended	1	07/01/2009	100-2009
21-12-6-14	Amended	2	07/01/2009	100-2009
21-12-6.5	New	3	07/01/2009	100-2009
21-13-1-5	Amended	3	07/01/2009	170-2009
21-13-3-5	Amended	1	07/01/2009	55-2009
21-13-6	New	4	07/01/2009	170-2009
21-14-6-2	Amended	1	07/01/2009	51-2009
21-14-10-1	Amended	1	07/01/2009	102-2009
21-29-3-3	Amended	365	07/01/2009	182-2009(ss)
21-31-9-3	New	10	05/12/2009	148-2009

Affected Provisions	Type	SEC.	Effective	P.L.
21-34-10-7	Amended	366	07/01/2009	182-2009(ss)
21-44-1-3	Amended	5	07/01/2009	170-2009
21-44-1-10	Amended	1	07/01/2009	126-2009
21-44-1-12	Amended	6	07/01/2009	170-2009
21-44-1-15	New	7	07/01/2009	170-2009
21-44-1-16	New	8	07/01/2009	170-2009
21-44-6	New	9	07/01/2009	170-2009
21-46-3-5	Amended	1	07/01/2009	13-2009

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22-1-1-22	New	2	07/01/2009	164-2009
22-2-2-8	Amended	1	07/01/2009	48-2009
22-2-13-2.5	New	1	07/01/2009	45-2009
22-2-13-5	Amended	2	07/01/2009	45-2009
22-2-13-9	Amended	3	07/01/2009	45-2009
22-2-13-10	Amended	4	07/01/2009	45-2009
22-2-13-11	Amended	5	07/01/2009	45-2009
22-3-1-5	New	3	07/01/2009	164-2009
22-3-6-1	Amended	1	05/13/2009	180-2009
22-3-7-9	Amended	127	04/30/2009	1-2009
22-3-7-9	Amended	2	05/13/2009	180-2009
22-4-2-32	Amended	2	07/01/2009	175-2009
22-4-2-34	Amended	3	05/13/2009	175-2009
22-4-4-2	Amended	4	07/01/2009	175-2009
22-4-6-1	Amended	5	07/01/2009	175-2009
22-4-6-3	Amended	6	07/01/2009	175-2009
22-4-8-2	Amended	7	07/01/2009	175-2009
22-4-10-1	Amended	8	07/01/2009	175-2009
22-4-10-3	Amended	9	07/01/2009	175-2009
22-4-10-5.5	New	10	07/01/2009	175-2009
22-4-10.5	Repealed	48	07/01/2009	175-2009
22-4-11-1	Amended	11	07/01/2009	175-2009
22-4-11-2	Amended	12	07/01/2009	175-2009
22-4-11-3	Amended	13	07/01/2009	175-2009
22-4-11-3.3	Amended	14	07/01/2009	175-2009
22-4-11-3.5	New	15	07/01/2009	175-2009
22-4-11.5-8	Amended	16	07/01/2009	175-2009
22-4-12-2.1	Repealed	48	07/01/2009	175-2009
22-4-12-4	Amended	17	05/13/2009	175-2009
22-4-13-1.1	Amended	18	07/01/2009	175-2009
22-4-14-2	Amended	19	07/01/2009	175-2009
22-4-14-3	Amended	20	07/01/2009	175-2009

Affected Provisions	Type	SEC.	Effective	P.L.
22-4-14-5	Amended	21	07/01/2009	175-2009
22-4-14-6	Amended	22	05/13/2009	175-2009
22-4-15-1	Amended	23	07/01/2009	175-2009
22-4-15-2	Amended	24	07/01/2009	175-2009
22-4-15-6.1	Amended	25	07/01/2009	175-2009
22-4-17-1	Amended	26	05/13/2009	175-2009
22-4-17-2	Amended	27	07/01/2009	175-2009
22-4-17-3	Amended	28	07/01/2009	175-2009
22-4-17-4	Amended	29	07/01/2009	175-2009
22-4-17-5	Amended	30	07/01/2009	175-2009
22-4-17-6	Amended	31	07/01/2009	175-2009
22-4-17-10	Repealed	48	07/01/2009	175-2009
22-4-18-4	Amended	32	07/01/2009	175-2009
22-4-19-6	Amended	367	07/01/2009	182-2009(ss)
22-4-19-6	Amended	33	07/01/2009	175-2009
22-4-19-7	Amended	34	07/01/2009	175-2009
22-4-20-1	Amended	35	07/01/2009	175-2009
22-4-25-1	Amended	368	07/01/2009	182-2009(ss)
22-4-25-1	Amended	36	07/01/2009	175-2009
22-4-29-2	Amended	37	07/01/2009	175-2009
22-4-31-3	Amended	38	07/01/2009	175-2009
22-4-32-16	Amended	39	07/01/2009	175-2009
22-4-32-17	Amended	40	07/01/2009	175-2009
22-4-32-19	Amended	41	07/01/2009	175-2009
22-4-32-20	Amended	42	07/01/2009	175-2009
22-4-32-23	Amended	43	07/01/2009	175-2009
22-4-32-24	Amended	44	07/01/2009	175-2009
22-4-33-1	Amended	45	07/01/2009	175-2009
22-4-37-3	Amended	46	07/01/2009	175-2009
22-4-43	New	47	07/01/2009	175-2009
22-4.1-4-2	Amended	4	07/01/2009	131-2009
22-4.1-4-4	New	4	07/01/2009	164-2009
22-8-1.1-35.1	Amended	2	07/01/2009	48-2009
22-8-1.1-35.6	Amended	1	07/01/2009	33-2009
22-8-1.1-35.7	New	2	07/01/2009	33-2009
22-8-1.1-51	Amended	128	04/30/2009	1-2009
22-9-2-1	Amended	1	07/01/2009	166-2009
22-9-2-2	Amended	2	07/01/2009	166-2009
22-9-2-3	Amended	3	07/01/2009	166-2009
22-9-2-4	Amended	4	07/01/2009	166-2009
22-9-2-9	Repealed	6	07/01/2009	166-2009
22-9-2-11	Amended	5	07/01/2009	166-2009
22-9-5-9.5	New	6	07/01/2009	155-2009

Affected Provisions	Type	SEC.	Effective	P.L.
22-9-5-20	Amended	7	07/01/2009	155-2009
22-12-1-23	Amended	3	07/01/2009	160-2009
22-14-3-2	Amended	9	07/01/2009	110-2009
22-15-6-2	Amended	5	07/01/2009	68-2009
22-15-7-4	Amended	6	07/01/2009	68-2009

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23-1-17-6	New	1	07/01/2009	133-2009
23-1-18-1	Amended	2	07/01/2009	133-2009
23-1-18-4	Amended	3	07/01/2009	133-2009
23-1-18-5	Amended	4	07/01/2009	133-2009
23-1-18-7	Amended	5	07/01/2009	133-2009
23-1-20-2	Amended	6	07/01/2009	133-2009
23-1-20-3.5	New	7	07/01/2009	133-2009
23-1-20-6	Amended	8	07/01/2009	133-2009
23-1-20-6.5	New	9	07/01/2009	133-2009
23-1-20-8.5	New	10	07/01/2009	133-2009
23-1-20-10	Amended	11	07/01/2009	133-2009
23-1-20-17.5	New	12	07/01/2009	133-2009
23-1-20-24.5	New	13	07/01/2009	133-2009
23-1-20-29	Amended	14	07/01/2009	133-2009
23-1-23-1	Amended	15	07/01/2009	133-2009
23-1-26-2	Amended	16	07/01/2009	133-2009
23-1-26-5	Amended	17	07/01/2009	133-2009
23-1-26-8	Amended	18	07/01/2009	133-2009
23-1-29-1	Amended	19	07/01/2009	133-2009
23-1-29-2	Amended	20	07/01/2009	133-2009
23-1-29-4	Amended	21	07/01/2009	133-2009
23-1-29-4.5	Repealed	42	07/01/2009	133-2009
23-1-29-6	Amended	22	07/01/2009	133-2009
23-1-33-5	Amended	23	07/01/2009	133-2009
23-1-33-6	Amended	24	07/01/2009	133-2009
23-1-33-7	Amended	25	07/01/2009	133-2009
23-1-34-2	Amended	26	07/01/2009	133-2009
23-1-35-1	Amended	27	07/01/2009	133-2009
23-1-35-5	New	28	07/01/2009	133-2009
23-1-38.5-3	Amended	29	07/01/2009	133-2009
23-1-38.5-11	Amended	30	07/01/2009	133-2009
23-1-39-1	Amended	31	07/01/2009	133-2009
23-1-39-4	New	32	07/01/2009	133-2009
23-1-40-5	Amended	33	07/01/2009	133-2009
23-1-41-1	Amended	34	07/01/2009	133-2009

Affected Provisions	Type	SEC.	Effective	P.L.
23-1-41-2	Amended	35	07/01/2009	133-2009
23-1-42-4	Amended	36	07/01/2009	133-2009
23-1-43-4	Amended	37	07/01/2009	133-2009
23-1-44-4.5	New	38	07/01/2009	133-2009
23-1-44-8	Amended	39	07/01/2009	133-2009
23-1-53-2	Repealed	42	07/01/2009	133-2009
23-2-2.5-34	Amended	129	07/01/2008	1-2009
23-2-4-1	Amended	3	01/01/2009	153-2009
23-2-4-2	Amended	4	01/01/2009	153-2009
23-2-4-3	Amended	5	01/01/2009	153-2009
23-2-4-4	Amended	6	01/01/2009	153-2009
23-2-4-5	Amended	7	01/01/2009	153-2009
23-2-4-6	Amended	8	01/01/2009	153-2009
23-2-4-7.5	New	9	01/01/2009	153-2009
23-2-4-10	Amended	10	01/01/2009	153-2009
23-2-4-12	Amended	11	01/01/2009	153-2009
23-2-4-13	Amended	12	07/01/2009	153-2009
23-2-4-16	Amended	13	01/01/2009	153-2009
23-2-4-21	Amended	14	01/01/2009	153-2009
23-2-5-3	Amended	1	01/01/2010	156-2009
23-2-5-3	Amended	130	04/30/2009	1-2009
23-2-5-4	Amended	2	01/01/2010	156-2009
23-2-5-5	Amended	3	01/01/2010	156-2009
23-2-5-5.5	New	4	01/01/2010	156-2009
23-2-5-6	Amended	5	01/01/2010	156-2009
23-2-5-7	Amended	6	01/01/2010	156-2009
23-2-5-9.1	Amended	7	01/01/2010	156-2009
23-2-5-10	Amended	8	01/01/2010	156-2009
23-2-5-11	Amended	9	01/01/2010	156-2009
23-2-5-16	Amended	10	07/01/2009	156-2009
23-2-5-18	Amended	11	01/01/2010	156-2009
23-2-5-18.5	Amended	12	01/01/2010	156-2009
23-2-5-18.7	New	13	01/01/2010	156-2009
23-2-5-19	Amended	131	04/30/2009	1-2009
23-2-5-19	Repealed	25	07/01/2009	156-2009
23-2-5-20	Amended	14	07/01/2009	156-2009
23-2-5-20.5	Amended	15	01/01/2010	156-2009
23-2-5-21	Amended	16	01/01/2010	156-2009
23-2-5-22	Amended	17	01/01/2010	156-2009
23-2-5-23	Amended	18	01/01/2010	156-2009
23-2-5-24	New	19	07/01/2009	156-2009
23-2-5-25	New	20	07/01/2009	156-2009
23-2-5-26	New	21	07/01/2009	156-2009

Affected Provisions	Type	SEC.	Effective	P.L.
23-14-31-26	Amended	5	07/01/2009	143-2009
23-14-55-2	Amended	6	07/01/2009	143-2009
23-15-1-1	Amended	40	07/01/2009	133-2009
23-18-12-3	Amended	132	04/30/2009	1-2009
23-19-4-11	Amended	22	07/01/2009	156-2009
23-19-4-11	Amended	1	07/01/2009	149-2009
23-19-4-11.5	New	2	07/01/2009	149-2009
23-19-5-8	Amended	23	07/01/2009	156-2009
23-19-6-4	Amended	24	07/01/2009	156-2009

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24-4-16.4-3	Amended	133	04/30/2009	1-2009
24-4-17	New	2	07/01/2009	85-2009
24-4.4-1-101	Amended	369	07/01/2009	182-2009(ss)
24-4.4-1-201	Amended	134	04/30/2009	1-2009
24-4.4-2-201	Amended	1	07/01/2009	52-2009
24-4.4-2-502	Amended	135	04/30/2009	1-2009
24-4.5-1-102	Amended	370	07/01/2009	182-2009(ss)
24-4.5-1-301	Amended	136	04/30/2009	1-2009
24-4.9-2-2	Amended	3	07/01/2009	137-2009
24-4.9-3-1	Amended	4	07/01/2009	137-2009
24-4.9-3-3.5	New	5	07/01/2009	137-2009
24-4.9-3-4	Amended	6	07/01/2009	137-2009
24-4.9-4-1	Amended	7	07/01/2009	137-2009
24-5-0.5-3	Amended	137	04/30/2009	1-2009
24-5-23.5	New	2	07/01/2009	52-2009
24-5-26	New	8	07/01/2009	137-2009
24-5.5-1-1	Amended	4	07/01/2009	105-2009
24-5.5-3-1	Amended	5	07/01/2009	105-2009
24-5.5-5-7.2	New	3	07/01/2009	52-2009
24-5.5-5-7.2	New	6	07/01/2009	105-2009
24-9-1-1	Amended	4	07/01/2009	52-2009
24-9-1-1	Amended	7	07/01/2009	105-2009
24-9-2-10	Amended	5	07/01/2009	52-2009
24-9-3-6	Amended	6	07/01/2009	52-2009
24-9-3-7	Amended	7	07/01/2009	52-2009
24-9-3-7	Amended	8	07/01/2009	105-2009
24-9-3-8	Amended	8	07/01/2009	52-2009
24-9-3-8	Amended	9	07/01/2009	105-2009
24-9-4-1	Amended	9	07/01/2009	52-2009
24-9-5-4	Amended	10	07/01/2009	105-2009
24-9-8-1	Amended	11	07/01/2009	105-2009

Affected Provisions	Type	SEC.	Effective	P.L.
24-9-8-3	Amended	12	07/01/2009	105-2009

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25-1-2-2.1	Amended	10	07/01/2009	177-2009
25-1-2-6	Amended	1	07/01/2009	122-2009
25-1-2-6	Amended	4	07/01/2009	160-2009
25-1-4-0.3	Amended	2	07/01/2009	122-2009
25-1-4-0.3	Amended	5	07/01/2009	160-2009
25-1-4-0.5	Amended	11	07/01/2009	177-2009
25-1-4-0.7	New	12	07/01/2009	177-2009
25-1-4-5	Amended	13	07/01/2009	177-2009
25-1-5-3	Amended	3	07/01/2009	122-2009
25-1-5-4	Amended	14	07/01/2009	177-2009
25-1-5-10	Amended	4	07/01/2009	122-2009
25-1-5.5	New	15	07/01/2009	177-2009
25-1-6-3	Amended	6	07/01/2009	160-2009
25-1-7-1	Amended	138	04/30/2009	1-2009
25-1-7-1	Amended	7	07/01/2009	160-2009
25-1-7-1	Amended	5	07/01/2009	122-2009
25-1-8-1	Amended	8	07/01/2009	160-2009
25-1-8-1	Amended	6	07/01/2009	122-2009
25-1-8-6	Amended	9	07/01/2009	160-2009
25-1-8-6	Amended	7	07/01/2009	122-2009
25-1-9-1	Amended	8	07/01/2009	122-2009
25-1-9-21	New	16	07/01/2009	177-2009
25-1-11-1	Amended	10	07/01/2009	160-2009
25-1-11-12	Amended	17	07/01/2009	177-2009
25-1-11-17	Amended	13	07/01/2009	105-2009
25-1-11-17	Amended	10	07/01/2009	52-2009
25-1-11-18	Amended	14	07/01/2009	105-2009
25-1-11-18	Amended	11	07/01/2009	52-2009
25-1-14-2	Amended	11	07/01/2009	160-2009
25-1-15	New	18	07/01/2009	177-2009
25-7-5-15	Amended	19	07/01/2009	177-2009
25-7-5-21	Amended	20	07/01/2009	177-2009
25-7-6-11	Amended	21	07/01/2009	177-2009
25-7-6-17	New	22	07/01/2009	177-2009
25-7-10-4	Amended	23	07/01/2009	177-2009
25-8-3-28	Amended	24	07/01/2009	177-2009
25-8-4-2	Amended	25	07/01/2009	177-2009
25-8-4-2.9	New	26	07/01/2009	177-2009
25-8-4-17	Amended	27	07/01/2009	177-2009

Affected Provisions	Type	SEC.	Effective	P.L.
25-8-4-18	Repealed	63	07/01/2009	177-2009
25-8-9-9	Amended	28	07/01/2009	177-2009
25-8-10-4	New	29	07/01/2009	177-2009
25-8-11-8	New	30	07/01/2009	177-2009
25-8-12.5-4	Amended	31	07/01/2009	177-2009
25-8-12.5-7	Repealed	63	07/01/2009	177-2009
25-8-12.5-8	New	32	07/01/2009	177-2009
25-8-15.4-6	Amended	33	07/01/2009	177-2009
25-9-1-0.1	New	12	07/01/2009	160-2009
25-9-1-0.2	New	13	07/01/2009	160-2009
25-9-1-0.3	New	14	07/01/2009	160-2009
25-9-1-0.4	New	15	07/01/2009	160-2009
25-9-1-0.6	New	16	07/01/2009	160-2009
25-9-1-0.8	New	17	07/01/2009	160-2009
25-9-1-0.9	New	18	07/01/2009	160-2009
25-9-1-1	Amended	19	07/01/2009	160-2009
25-9-1-1.5	New	20	07/01/2009	160-2009
25-9-1-3	Amended	21	07/01/2009	160-2009
25-9-1-4	Amended	22	07/01/2009	160-2009
25-9-1-4.5	Amended	23	07/01/2009	160-2009
25-9-1-5	Amended	24	07/01/2009	160-2009
25-9-1-6	Amended	25	07/01/2009	160-2009
25-9-1-7	Amended	26	07/01/2009	160-2009
25-9-1-9	Amended	27	07/01/2009	160-2009
25-9-1-9.5	New	28	07/01/2009	160-2009
25-9-1-10	Amended	29	07/01/2009	160-2009
25-9-1-11	Amended	30	07/01/2009	160-2009
25-9-1-12	Amended	31	07/01/2009	160-2009
25-9-1-13	Amended	32	07/01/2009	160-2009
25-9-1-14.1	Amended	33	07/01/2009	160-2009
25-9-1-15	Amended	34	07/01/2009	160-2009
25-9-1-16	Amended	35	07/01/2009	160-2009
25-9-1-17	Amended	36	07/01/2009	160-2009
25-9-1-18	Amended	37	07/01/2009	160-2009
25-9-1-19	Amended	38	07/01/2009	160-2009
25-9-1-20	Amended	39	07/01/2009	160-2009
25-9-1-20.5	Amended	40	07/01/2009	160-2009
25-9-1-21	Amended	41	07/01/2009	160-2009
25-9-1-22	Amended	42	07/01/2009	160-2009
25-9-1-22.5	Amended	43	07/01/2009	160-2009
25-9-1-24	Amended	44	07/01/2009	160-2009
25-9-1-25	Amended	45	07/01/2009	160-2009
25-9-1-26	Amended	46	07/01/2009	160-2009

Affected Provisions	Type	SEC.	Effective	P.L.
25-9-1-28	Amended	47	07/01/2009	160-2009
25-9-1-34	New	48	07/01/2009	160-2009
25-11-1-9	Amended	139	07/01/2008	1-2009
25-11-1-14	Amended	140	07/01/2008	1-2009
25-11-1-15	Amended	141	07/01/2008	1-2009
25-14-5	New	34	07/01/2009	177-2009
25-15-5-2	Repealed	63	07/01/2009	177-2009
25-15-9-18	Amended	7	07/01/2009	143-2009
25-17.3	New	35	07/01/2009	177-2009
25-20-1-11	Amended	36	07/01/2009	177-2009
25-20.5-1-1	Amended	9	07/01/2009	122-2009
25-20.7	New	37	07/01/2009	177-2009
25-21.8-4-2	Amended	38	07/01/2009	177-2009
25-21.8-4-4	New	39	07/01/2009	177-2009
25-22.5-1-2	Amended	40	07/01/2009	177-2009
25-22.5-5-4.5	Repealed	63	07/01/2009	177-2009
25-22.5-5-4.6	New	41	05/13/2009	177-2009
25-23-1-1.4	Amended	42	07/01/2009	177-2009
25-23-1-20	Amended	43	07/01/2009	177-2009
25-23-1-30	Amended	44	07/01/2009	177-2009
25-23.6-1-1.2	New	10	07/01/2009	122-2009
25-23.6-1-2	Amended	11	07/01/2009	122-2009
25-23.6-1-2.6	New	12	07/01/2009	122-2009
25-23.6-1-3	Amended	13	07/01/2009	122-2009
25-23.6-1-3.8	Amended	14	07/01/2009	122-2009
25-23.6-1-4.3	New	15	07/01/2009	122-2009
25-23.6-1-4.5	New	16	07/01/2009	122-2009
25-23.6-1-4.8	Amended	17	07/01/2009	122-2009
25-23.6-1-5	Amended	18	07/01/2009	122-2009
25-23.6-1-5.5	Amended	19	07/01/2009	122-2009
25-23.6-1-5.7	New	20	07/01/2009	122-2009
25-23.6-1-5.9	New	21	07/01/2009	122-2009
25-23.6-2-1	Amended	22	07/01/2009	122-2009
25-23.6-2-2	Amended	23	07/01/2009	122-2009
25-23.6-2-8	Amended	24	07/01/2009	122-2009
25-23.6-2-9.5	New	25	07/01/2009	122-2009
25-23.6-2-11	Amended	26	07/01/2009	122-2009
25-23.6-4-2	Amended	27	07/01/2009	122-2009
25-23.6-5-3.5	Amended	45	07/01/2009	177-2009
25-23.6-8-1	Amended	46	07/01/2008	177-2009
25-23.6-8-1.7	New	47	07/01/2008	177-2009
25-23.6-8-2.7	Amended	48	07/01/2008	177-2009
25-23.6-10.1	New	28	07/01/2009	122-2009

Affected Provisions	Type	SEC.	Effective	P.L.
25-23.6-10.5	New	29	07/01/2009	122-2009
25-25-2-3	Repealed	2	05/07/2009	102-2009
25-26-13-4	Amended	371	07/01/2009	182-2009(ss)
25-26-13-18	Amended	142	04/30/2009	1-2009
25-26-16-1	Amended	143	04/30/2009	1-2009
25-26-16-4	Amended	144	04/30/2009	1-2009
25-26-22	New	1	07/01/2009	7-2009
25-27.5-2-2	Amended	49	07/01/2009	177-2009
25-27.5-2-4.5	Repealed	63	07/01/2009	177-2009
25-27.5-2-10	Amended	50	07/01/2009	177-2009
25-27.5-3-5	Amended	51	07/01/2009	177-2009
25-27.5-3-7	Repealed	63	07/01/2009	177-2009
25-27.5-4-1	Amended	52	07/01/2009	177-2009
25-27.5-4-4	Amended	53	07/01/2009	177-2009
25-27.5-4-9	Amended	54	07/01/2009	177-2009
25-27.5-5-2	Amended	55	07/01/2009	177-2009
25-27.5-6-4	Amended	56	07/01/2009	177-2009
25-33-1-5.1	Amended	57	07/01/2009	177-2009
25-34.1-2-5	Amended	58	07/01/2009	177-2009
25-34.1-6-2.5	New	15	07/01/2009	105-2009
25-34.1-6-2.5	New	12	07/01/2009	52-2009
25-34.1-8-7.5	Amended	13	07/01/2009	52-2009
25-36.1-2	New	1	07/01/2009	97-2009
25-37.5-1-0.2	New	1	07/01/2009	158-2009
25-37.5-1-0.3	Repealed	9	07/01/2009	158-2009
25-37.5-1-0.5	New	2	07/01/2009	158-2009
25-37.5-1-0.6	Repealed	9	07/01/2009	158-2009
25-37.5-1-1	Amended	3	07/01/2009	158-2009
25-37.5-1-2	Amended	4	07/01/2009	158-2009
25-37.5-1-3	Amended	5	07/01/2009	158-2009
25-38.1-3-1	Amended	59	07/01/2009	177-2009
25-38.1-4-8.5	Amended	5	07/01/2009	111-2009

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26-1-1-201	Amended	1	07/01/2010	135-2009
26-1-3.1-103	Amended	2	07/01/2010	135-2009
26-1-3.1-106	Amended	3	07/01/2010	135-2009
26-1-3.1-116	Amended	4	07/01/2010	135-2009
26-1-3.1-119	Amended	5	07/01/2010	135-2009
26-1-3.1-305	Amended	6	07/01/2010	135-2009
26-1-3.1-309	Amended	7	07/01/2010	135-2009
26-1-3.1-312	Amended	8	07/01/2010	135-2009

Affected Provisions	Type	SEC.	Effective	P.L.
26-1-3.1-416	Amended	9	07/01/2010	135-2009
26-1-3.1-417	Amended	10	07/01/2010	135-2009
26-1-3.1-419	Amended	11	07/01/2010	135-2009
26-1-3.1-602	Amended	12	07/01/2010	135-2009
26-1-3.1-604	Amended	13	07/01/2010	135-2009
26-1-3.1-605	Amended	14	07/01/2010	135-2009
26-1-4-104	Amended	15	07/01/2010	135-2009
26-1-4-207	Amended	16	07/01/2010	135-2009
26-1-4-208	Amended	17	07/01/2010	135-2009
26-1-4-212	Amended	18	07/01/2010	135-2009
26-1-4-301	Amended	19	07/01/2010	135-2009
26-1-4-403	Amended	20	07/01/2010	135-2009
26-1-6.2	New	27	07/01/2009	16-2009
26-1-9.1-102	Amended	3	07/01/2009	108-2009
26-2-6-6	Amended	15	07/01/2009	101-2009
26-2-8-104	Amended	41	07/01/2009	133-2009
26-2-10	New	1	07/01/2009	38-2009
26-3-7-2	Amended	1	07/01/2009	64-2009
26-3-7-2.2	New	2	07/01/2009	64-2009
26-3-7-4.1	New	3	07/01/2009	64-2009
26-3-7-6	Amended	4	07/01/2009	64-2009
26-3-7-6.1	New	5	07/01/2009	64-2009
26-3-7-6.5	Amended	6	07/01/2009	64-2009
26-3-7-10	Amended	7	07/01/2009	64-2009
26-3-7-16	Amended	8	07/01/2009	64-2009
26-3-7-30	Amended	9	07/01/2009	64-2009
26-4-3-2	Amended	1	07/01/2009	5-2009
26-4-4-2	Amended	2	07/01/2009	5-2009
26-4-4-8	Amended	3	07/01/2009	5-2009
26-4-4-9	Amended	4	07/01/2009	5-2009

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27-1-3-31	New	1	05/12/2009	144-2009
27-1-6-3	Amended	145	04/30/2009	1-2009
27-2-21-16	Amended	1	07/01/2009	84-2009
27-4-1-4	Amended	146	04/30/2009	1-2009
27-5.1-2-44	New	28	07/01/2009	16-2009
27-7-3-15.5	Amended	16	01/01/2010	105-2009
27-7-3.7	New	1	07/01/2009	92-2009
27-7-5-1.5	Repealed	4	01/01/2010	124-2009
27-7-5-2	Amended	1	07/01/2009	124-2009
27-8-5-16.3	New	29	07/01/2009	16-2009

Affected Provisions	Type	SEC.	Effective	P.L.
27-8-9-7	Amended	1	07/01/2009	74-2009
27-8-11-11	New	2	07/01/2009	144-2009
27-8-25	New	3	07/01/2009	109-2009
27-8-32	New	1	07/01/2009	46-2009
27-13-7-20	New	2	07/01/2009	46-2009
27-13-7-20.2	New	4	07/01/2009	109-2009
27-13-36-12	New	3	07/01/2009	144-2009

Title 28

28-1-2-30.5	Amended	147	04/30/2009	1-2009
28-1-29-8	Amended	148	04/30/2009	1-2009
28-7-5-4	Amended	149	04/30/2009	1-2009
28-8-4-25	Amended	150	04/30/2009	1-2009
28-10-1-1	Amended	372	07/01/2009	182-2009(ss)

Title 29

29-1-2-1	Amended	151	04/30/2009	1-2009
29-1-2-1	Amended	8	05/12/2009	143-2009
29-1-4-1	Amended	9	07/01/2009	143-2009
29-1-7-7	Amended	10	07/01/2009	143-2009
29-1-7.5-1.5	Amended	11	07/01/2009	143-2009
29-1-10-6	Amended	12	07/01/2009	143-2009
29-1-10-6.5	New	13	07/01/2009	143-2009
29-2-19	New	14	07/01/2009	143-2009
29-3-6-1	Amended	15	07/01/2009	143-2009
29-3-7-7	New	5	05/12/2009	131-2009
29-3-8-6.5	Amended	16	07/01/2009	143-2009

Title 30

30-2-10-9	Amended	152	04/30/2009	1-2009
30-2-13-9	Amended	17	07/01/2009	143-2009
30-2-13-15	Amended	60	07/01/2009	177-2009
30-2-13-38	Amended	18	07/01/2009	143-2009
30-2-14-31	Amended	19	07/01/2009	143-2009
30-2-14-42	Amended	20	07/01/2009	143-2009
30-4-1-7	Amended	153	04/30/2009	1-2009
30-4-3-25.5	New	3	07/01/2009	14-2009
30-5-2-2	Amended	21	07/01/2009	143-2009
30-5-2-6	Amended	22	07/01/2009	143-2009
30-5-2-7	Amended	23	07/01/2009	143-2009

Affected Provisions	Type	SEC.	Effective	P.L.
30-5-3-2	Amended	24	07/01/2009	143-2009
30-5-3-6	New	25	07/01/2009	143-2009
30-5-3-7	New	26	07/01/2009	143-2009
30-5-4-2	Amended	27	07/01/2009	143-2009
30-5-4-4	Amended	28	07/01/2009	143-2009
30-5-5-7.5	New	29	07/01/2009	143-2009
30-5-5-16	Amended	30	07/01/2009	143-2009
30-5-9-11	New	31	07/01/2009	143-2009
30-5-10-0.5	New	32	07/01/2009	143-2009

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31-9-2-0.4	New	154	04/30/2009	1-2009
31-9-2-0.5	Amended	155	04/30/2009	1-2009
31-9-2-9.6	New	6	07/01/2009	131-2009
31-9-2-21	Repealed	76	07/01/2009	131-2009
31-9-2-29.5	Amended	6	07/01/2009	111-2009
31-9-2-42.3	New	7	07/01/2009	131-2009
31-9-2-52	Amended	10	07/01/2009	170-2009
31-9-2-58.5	Repealed	76	07/01/2009	131-2009
31-9-2-67	Amended	1	07/01/2009	95-2009
31-9-2-80	Repealed	76	07/01/2009	131-2009
31-9-2-89	Amended	1	07/01/2009	42-2009
31-9-2-93	Amended	1	07/01/2009	58-2009
31-9-2-103	Repealed	76	07/01/2009	131-2009
31-9-2-107	Amended	8	07/01/2009	131-2009
31-9-2-113	Repealed	76	07/01/2009	131-2009
31-9-2-117.3	Amended	2	07/01/2009	58-2009
31-9-2-123	Amended	9	07/01/2009	131-2009
31-9-2-132	Amended	10	07/01/2009	131-2009
31-14-7-2	Amended	156	04/30/2009	1-2009
31-14-9-0.5	New	3	07/01/2009	58-2009
31-14-9-2	Amended	4	07/01/2009	58-2009
31-14-11-15	Amended	157	04/30/2009	1-2009
31-14-13-2.3	New	2	07/01/2009	95-2009
31-14-13-4	Amended	3	07/01/2009	95-2009
31-14-14-1	Amended	4	07/01/2009	95-2009
31-14-21-9	Amended	5	07/01/2009	58-2009
31-14-21-9.1	Amended	6	07/01/2009	58-2009
31-14-21-9.2	Amended	7	07/01/2009	58-2009
31-14-21-13	New	8	07/01/2009	58-2009
31-16-9-3	Amended	158	04/30/2009	1-2009
31-16-10-2	Amended	159	04/30/2009	1-2009

Affected Provisions	Type	SEC.	Effective	P.L.
31-16-12-6	Amended	11	07/01/2009	131-2009
31-16-12-6.5	New	12	07/01/2009	131-2009
31-19-2-6	Amended	13	07/01/2009	131-2009
31-19-2-12	Amended	14	07/01/2009	131-2009
31-19-2.5-4	Amended	9	07/01/2009	58-2009
31-19-4-3	Amended	10	07/01/2009	58-2009
31-19-5-1	Amended	11	07/01/2009	58-2009
31-19-5-6	Amended	12	07/01/2009	58-2009
31-19-5-7	Amended	13	07/01/2009	58-2009
31-19-5-9	Amended	14	07/01/2009	58-2009
31-19-5-15	Amended	15	07/01/2009	58-2009
31-19-5-16	Amended	16	07/01/2009	58-2009
31-19-5-17	Amended	17	07/01/2009	58-2009
31-19-5-21	Amended	18	07/01/2009	58-2009
31-19-6-1	Amended	19	07/01/2009	58-2009
31-19-6-2	Amended	20	07/01/2009	58-2009
31-19-6-3	Amended	21	07/01/2009	58-2009
31-19-8-1	Amended	15	07/01/2009	131-2009
31-19-8-3	Amended	16	07/01/2009	131-2009
31-19-8-4	Amended	17	07/01/2009	131-2009
31-19-8-5	Amended	18	07/01/2009	131-2009
31-19-8-6	Amended	19	07/01/2009	131-2009
31-19-8-7	Amended	20	07/01/2009	131-2009
31-19-8-8	Amended	21	07/01/2009	131-2009
31-19-9-1	Amended	22	07/01/2009	58-2009
31-19-10-4	Amended	23	07/01/2009	58-2009
31-19-11-3	Amended	22	07/01/2009	131-2009
31-19-15-1	Amended	24	07/01/2009	58-2009
31-19-17-2	Amended	25	07/01/2009	58-2009
31-19-17-3	Amended	23	07/01/2009	131-2009
31-19-17-3	Amended	26	07/01/2009	58-2009
31-19-17-4	Amended	24	07/01/2009	131-2009
31-19-17-5	Amended	27	07/01/2009	58-2009
31-19-17-5	Amended	25	07/01/2009	131-2009
31-19-18-2	Amended	28	07/01/2009	58-2009
31-19-19-0.5	New	2	07/01/2009	42-2009
31-19-22-8	Amended	29	07/01/2009	58-2009
31-19-25-3	Amended	30	07/01/2009	58-2009
31-19-27-1.5	New	3	07/01/2009	42-2009
31-25-2-4	Amended	26	07/01/2009	131-2009
31-25-2-4.5	New	4	07/01/2009	100-2009
31-25-2-6	Amended	27	07/01/2009	131-2009
31-25-2-8	Amended	28	07/01/2009	131-2009

Affected Provisions	Type	SEC.	Effective	P.L.
31-25-2-9	Repealed	174	04/30/2009	1-2009
31-25-2-10	Amended	30	07/01/2009	131-2009
31-25-2-11	Amended	31	07/01/2009	131-2009
31-25-2-20.4	Amended	32	07/01/2009	131-2009
31-25-2-21	Amended	33	07/01/2009	131-2009
31-25-4-32	Amended	34	07/01/2009	131-2009
31-25-5	New	373	07/01/2009	182-2009(ss)
31-27-2-4	Amended	35	07/01/2009	131-2009
31-27-3-18	Amended	374	07/01/2009	182-2009(ss)
31-27-4-2	Amended	36	07/01/2009	131-2009
31-27-4-3	Amended	37	07/01/2009	131-2009
31-27-4-21	Amended	375	07/01/2009	182-2009(ss)
31-27-5-18	Amended	376	07/01/2009	182-2009(ss)
31-27-6-15	Amended	377	07/01/2009	182-2009(ss)
31-30-1-2.5	Amended	38	05/12/2009	131-2009
31-32-6-4	Amended	11	07/01/2009	170-2009
31-32-11-1	Amended	30	07/01/2009	122-2009
31-33-3-7	Amended	39	07/01/2009	131-2009
31-33-7-6.5	Amended	40	07/01/2009	131-2009
31-33-7-7	Amended	41	07/01/2009	131-2009
31-33-7-8	Amended	42	07/01/2009	131-2009
31-33-8-1	Amended	43	07/01/2009	131-2009
31-33-8-3	Amended	44	07/01/2009	131-2009
31-33-8-6	Amended	45	07/01/2009	131-2009
31-33-8-7	Amended	46	07/01/2009	131-2009
31-33-8-8	Amended	47	07/01/2009	131-2009
31-33-8-9	Amended	48	07/01/2009	131-2009
31-33-8-10	Amended	49	07/01/2009	131-2009
31-33-8-12	Amended	50	07/01/2009	131-2009
31-33-11-1	Amended	51	07/01/2009	131-2009
31-33-18-1	Amended	378	07/01/2009	182-2009(ss)
31-33-18-1.5	Amended	52	07/01/2009	131-2009
31-33-18-1.5	Amended	379	07/01/2009	182-2009(ss)
31-33-18-2	Amended	380	07/01/2009	182-2009(ss)
31-33-18-4	Amended	53	07/01/2009	131-2009
31-33-22-2	Amended	54	07/01/2009	131-2009
31-33-22-3	Amended	55	07/01/2009	131-2009
31-33-25-6	Amended	381	07/01/2009	182-2009(ss)
31-33-25-8	Amended	382	07/01/2009	182-2009(ss)
31-33-26-3	Amended	56	07/01/2009	131-2009
31-33-26-5	Amended	383	07/01/2009	182-2009(ss)
31-33-26-15	Amended	57	07/01/2009	131-2009
31-34-1-9	Amended	58	07/01/2009	131-2009

Affected Provisions	Type	SEC.	Effective	P.L.
31-34-2-5	Amended	19	07/01/2009	43-2009
31-34-2.5-2	Amended	20	07/01/2009	43-2009
31-34-3-4.5	New	59	07/01/2009	131-2009
31-34-5-1	Amended	60	07/01/2009	131-2009
31-34-5-1.5	Amended	61	07/01/2009	131-2009
31-34-10-2	Amended	62	07/01/2009	131-2009
31-34-12-7	New	63	07/01/2009	131-2009
31-34-13-2	Amended	160	04/30/2009	1-2009
31-34-15-4	Amended	64	07/01/2009	131-2009
31-35-1-6	Amended	31	07/01/2009	58-2009
31-35-2-4	Amended	65	07/01/2009	131-2009
31-35-2-4.5	Amended	66	07/01/2009	131-2009
31-36-1-3	Amended	21	07/01/2009	43-2009
31-36-1-5	Amended	22	07/01/2009	43-2009
31-36-2-2	Amended	23	07/01/2009	43-2009
31-36-3-2	Amended	1	07/01/2009	72-2009
31-37-5-8	Amended	67	07/01/2009	131-2009
31-37-17-1	Amended	2	07/01/2009	114-2009
31-37-17-1	Amended	68	07/01/2009	131-2009
31-37-17-8	New	69	07/01/2009	131-2009
31-37-18-9	Amended	70	07/01/2009	131-2009
31-37-19-1.5	Amended	71	07/01/2009	131-2009
31-37-19-28	New	3	07/01/2009	114-2009
31-37-22-4.5	New	72	07/01/2009	131-2009
31-37-22-9	New	4	07/01/2009	114-2009
31-38	Repealed	76	07/01/2009	131-2009
31-39-2-6	Amended	384	07/01/2009	182-2009(ss)
31-39-4-7	Amended	385	07/01/2009	182-2009(ss)
31-39-9-1	Amended	386	07/01/2009	182-2009(ss)
31-40-1-2	Amended	387	07/01/2009	182-2009(ss)
31-40-1-3	Amended	388	07/01/2009	182-2009(ss)
31-40-1-6	Amended	389	07/01/2009	182-2009(ss)

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32-17-9	Repealed	52	07/01/2009	143-2009
32-17-11-5	Amended	33	07/01/2009	143-2009
32-17-11-7	Amended	34	07/01/2009	143-2009
32-17-11-10	Repealed	52	07/01/2009	143-2009
32-17-11-11	Repealed	52	07/01/2009	143-2009
32-17-11-16	Amended	35	07/01/2009	143-2009
32-17-11-17	Amended	36	07/01/2009	143-2009
32-17-11-18	Amended	37	07/01/2009	143-2009

Affected Provisions	Type	SEC.	Effective	P.L.
32-17-11-21.1	Amended	38	07/01/2009	143-2009
32-17-11-24	Repealed	52	07/01/2009	143-2009
32-17-11-26	Amended	39	07/01/2009	143-2009
32-17-13-1	Amended	40	07/01/2009	143-2009
32-17-14	New	41	07/01/2009	143-2009
32-21-2-3	Amended	42	07/01/2009	143-2009
32-21-7-2	Amended	30	07/01/2009	16-2009
32-23-12	New	1	07/01/2009	94-2009
32-24-2-6	Amended	6	07/01/2009	172-2009
32-25.5	New	2	07/01/2009	167-2009
32-28-13-4	Amended	1	05/06/2009	73-2009
32-28-13-5	Amended	2	05/06/2009	73-2009
32-28-14-8	Amended	3	07/01/2009	167-2009
32-28-14-9	Amended	4	07/01/2009	167-2009
32-29-7-10	Amended	17	07/01/2009	105-2009
32-30-10-3	Amended	18	07/01/2009	105-2009
32-30-10-10	Amended	19	07/01/2009	105-2009
32-30-10-14	Amended	390	07/01/2009	182-2009(ss)
32-30-10-14	Amended	3	07/01/2009	88-2009
32-30-10.5	New	20	07/01/2009	105-2009
32-30-12-1	Amended	21	07/01/2009	105-2009
32-31-1-21	New	1	07/01/2009	27-2009
32-31-3-1.1	New	31	07/01/2009	16-2009
32-33-16-0.5	New	3	05/06/2009	73-2009
32-33-20	New	4	05/06/2009	73-2009

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33-23-1-9.5	New	10	07/01/2009	110-2009
33-23-15	New	11	07/01/2009	110-2009
33-24-6-3	Amended	12	07/01/2009	110-2009
33-24-6-3	Amended	19	07/01/2009	130-2009
33-28-5-18	Amended	1	01/01/2010	157-2009
33-34-8-3	Amended	391	07/01/2009	182-2009(ss)
33-37-3-2	Amended	1	07/01/2009	89-2009
33-37-4-1	Amended	392	07/01/2009	182-2009(ss)
33-37-4-2	Amended	393	07/01/2009	182-2009(ss)
33-37-4-4	Amended	22	05/07/2009	105-2009
33-37-5-21	Amended	394	07/01/2009	182-2009(ss)
33-37-5-30	New	23	05/07/2009	105-2009
33-37-7-2	Amended	24	05/07/2009	105-2009
33-37-7-2	Amended	395	07/01/2009	182-2009(ss)
33-37-7-8	Amended	396	07/01/2009	182-2009(ss)

Affected Provisions	Type	SEC.	Effective	P.L.
33-37-7-9	Amended	20	07/01/2009	130-2009
33-37-9-4	Amended	21	07/01/2009	130-2009
33-39-1-8	Amended	16	07/01/2009	101-2009
33-39-6-2	Amended	1	07/01/2009	112-2009

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34-6-2-11.5	New	1	07/01/2009	134-2009
34-6-2-29.5	New	2	07/01/2009	134-2009
34-6-2-38	Amended	14	07/01/2009	121-2009
34-6-2-69.5	New	3	07/01/2009	134-2009
34-6-2-142.5	New	4	07/01/2009	134-2009
34-6-2-143.8	New	5	07/01/2009	134-2009
34-6-2-148.5	New	10	07/01/2009	116-2009
34-9-3-4	Amended	43	07/01/2009	143-2009
34-10-1-3	New	1	07/01/2009	128-2009
34-13-3-3	Amended	15	07/01/2009	121-2009
34-16-1-5	Amended	161	04/30/2009	1-2009
34-23-2-1	Amended	8	07/01/2009	129-2009
34-24-1-1	Amended	162	04/30/2009	1-2009
34-24-1-1	Amended	44	07/01/2009	143-2009
34-25-2-1	Amended	22	07/01/2009	176-2009
34-25-2-5	Amended	23	07/01/2009	176-2009
34-26-5-3	Amended	22	07/01/2009	130-2009
34-26-5-3	Amended	11	07/01/2009	116-2009
34-26-5-8	Amended	23	07/01/2009	130-2009
34-26-5-8	Amended	12	07/01/2009	116-2009
34-26-5-9	Amended	24	07/01/2009	130-2009
34-26-5-9	Amended	13	07/01/2009	116-2009
34-26-5-17	Amended	25	07/01/2009	130-2009
34-26-5-17	Amended	14	07/01/2009	116-2009
34-26-5-18	Amended	26	07/01/2009	130-2009
34-26-5-18	Amended	15	07/01/2009	116-2009
34-26-5-20	New	32	07/01/2009	16-2009
34-28-5-1	Amended	17	07/01/2009	101-2009
34-28-5-4	Amended	18	07/01/2009	101-2009
34-30-2-11.4	New	2	07/01/2009	67-2009
34-30-2-24.4	Amended	509	07/01/2009	182-2009(ss)
34-30-2-35.7	Amended	24	07/01/2009	43-2009
34-30-2-39.6	New	397	07/01/2009	182-2009(ss)
34-30-2-39.7	New	398	07/01/2009	182-2009(ss)
34-30-2-46	Amended	35	04/30/2009	44-2009
34-30-2-77.8	New	61	07/01/2009	177-2009

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34-30-2-81.3	New	4	07/01/2009	125-2009
34-30-2-84.7	New	16	07/01/2009	121-2009
34-30-2-98.1	New	62	07/01/2009	177-2009
34-30-2-125.4	New	45	07/01/2009	143-2009
34-30-2-134.8	New	46	07/01/2009	143-2009
34-30-25	New	2	07/01/2009	72-2009
34-31-2-11	Amended	1	07/01/2009	174-2009
34-31-8	New	6	07/01/2009	134-2009
34-58-2-1	Repealed	4	07/01/2009	128-2009

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35-32-2-6	Amended	9	07/01/2009	137-2009
35-33-6-2	Amended	6	07/01/2009	77-2009
35-33-8-3.2	Amended	7	07/01/2009	111-2009
35-36-2-4	Amended	13	07/01/2009	110-2009
35-36-2-5	Amended	14	07/01/2009	110-2009
35-36-3-1	Amended	15	07/01/2009	110-2009
35-36-7-3	Amended	1	07/01/2009	169-2009
35-37-4-6	Amended	10	07/01/2009	137-2009
35-38-1-10.5	Amended	5	07/01/2009	125-2009
35-38-1-10.6	Amended	6	07/01/2009	125-2009
35-38-1-10.7	Repealed	9	07/01/2009	125-2009
35-38-2-2.3	Amended	8	07/01/2009	111-2009
35-40-5-1	Amended	2	07/01/2009	169-2009
35-40-5-11	New	3	07/01/2009	169-2009
35-40-14	New	11	07/01/2009	137-2009
35-41-1-1	Amended	12	07/01/2009	137-2009
35-41-1-6.5	Amended	9	07/01/2009	111-2009
35-41-1-16.5	New	6	07/01/2009	158-2009
35-41-1-17	Amended	7	07/01/2009	77-2009
35-41-4-2	Amended	47	07/01/2009	143-2009
35-42-1-6	Amended	1	07/01/2009	40-2009
35-42-2-1	Amended	73	07/01/2009	131-2009
35-42-2-6	Amended	74	07/01/2009	131-2009
35-42-3.5-4	Amended	27	07/01/2009	130-2009
35-42-4-7	Amended	7	07/01/2009	125-2009
35-43-2-2	Amended	7	07/01/2009	158-2009
35-43-2-2	Amended	4	07/01/2009	88-2009
35-43-2-3	Amended	1	07/01/2009	79-2009
35-43-4-2	Amended	8	07/01/2009	158-2009
35-43-5-1	Amended	13	07/01/2009	137-2009
35-43-5-3.5	Amended	14	07/01/2009	137-2009

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35-43-5-3.8	New	15	07/01/2009	137-2009
35-43-5-4.3	Amended	16	07/01/2009	137-2009
35-44-2-5	New	16	07/01/2009	110-2009
35-44-3-2	Amended	1	07/01/2009	159-2009
35-44-3-5	Amended	16	07/01/2009	116-2009
35-44-3-9	Amended	2	07/01/2009	128-2009
35-45-5-12	Amended	23	07/01/2009	108-2009
35-45-6-1	Amended	48	07/01/2009	143-2009
35-45-18-1	Amended	49	07/01/2009	160-2009
35-45-20	New	1	07/01/2009	49-2009
35-46-3-0.5	Amended	10	07/01/2009	111-2009
35-46-3-5	Amended	11	07/01/2009	111-2009
35-46-3-7	Amended	12	07/01/2009	111-2009
35-46-3-10	Amended	13	07/01/2009	111-2009
35-46-3-12	Amended	14	07/01/2009	111-2009
35-48-7-8.1	Amended	399	07/01/2009	182-2009(ss)
35-50-2-14	Amended	8	07/01/2009	125-2009
35-50-2-16	New	2	07/01/2009	40-2009

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36-1-2-4.7	New	21	07/01/2009	78-2009
36-1-6-2	Amended	5	07/01/2009	88-2009
36-1-6-4	Amended	6	07/01/2009	88-2009
36-1-6-11	New	22	07/01/2009	78-2009
36-1-8-9.2	New	31	07/01/2009	142-2009
36-1-12-1	Amended	3	07/01/2009	99-2009
36-1-12-1	Amended	4	07/01/2009	71-2009
36-1-12-4.9	New	24	07/01/2009	176-2009
36-1-12.5-1	Amended	4	07/01/2009	99-2009
36-1-12.5-1	Amended	5	07/01/2009	71-2009
36-1-12.5-5	Amended	5	07/01/2009	99-2009
36-1-12.5-5	Amended	6	07/01/2009	71-2009
36-1-12.5-7	Amended	7	07/01/2009	71-2009
36-1-12.5-7	Amended	6	07/01/2009	99-2009
36-1-14-1	Amended	32	07/01/2009	142-2009
36-2-4-8	Amended	23	07/01/2009	78-2009
36-2-6-3	Amended	7	07/01/2009	141-2009
36-2-6-4.5	Amended	8	07/01/2009	141-2009
36-2-8.5	New	33	07/01/2009	16-2009
36-2-11-2.5	New	1	07/01/2009	171-2009
36-2-12-2.5	New	2	07/01/2009	171-2009
36-2-13-18	New	2	07/01/2009	80-2009

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36-2-14-6.3	Amended	75	07/01/2009	131-2009
36-3-1-5.1	Amended	400	07/01/2009	182-2009(ss)
36-3-4-14	Amended	24	07/01/2009	78-2009
36-3-6-9	Amended	401	07/01/2009	182-2009(ss)
36-4-3-4	Amended	402	07/01/2009	182-2009(ss)
36-4-6-14	Amended	25	07/01/2009	78-2009
36-4-7-2	Amended	9	07/01/2009	141-2009
36-4-8-15.5	New	403	06/30/2009	182-2009(ss)
36-4-9-6	Amended	10	07/01/2009	141-2009
36-4-9-8	Amended	11	07/01/2009	141-2009
36-5-2-10	Amended	26	07/01/2009	78-2009
36-6-4-3	Amended	163	04/30/2009	1-2009
36-6-5-1	Amended	164	04/30/2009	1-2009
36-7-9-2	Amended	7	07/01/2009	88-2009
36-7-9-5	Amended	8	07/01/2009	88-2009
36-7-9-7	Amended	9	07/01/2009	88-2009
36-7-9-17	Amended	10	07/01/2009	88-2009
36-7-11.1-3	Amended	11	07/01/2009	88-2009
36-7-11.1-3.1	New	12	07/01/2009	88-2009
36-7-14-39	Amended	404	01/01/2010	182-2009(ss)
36-7-14-39	Amended	13	07/01/2009	88-2009
36-7-14-48	Amended	165	01/01/2009	1-2009
36-7-14.5-12.5	Amended	405	07/01/2009	182-2009(ss)
36-7-15.1-26	Amended	14	07/01/2009	88-2009
36-7-15.1-26	Amended	406	01/01/2010	182-2009(ss)
36-7-15.1-53	Amended	407	01/01/2010	182-2009(ss)
36-7-22-12	Amended	166	04/30/2009	1-2009
36-7-24-3	Amended	167	04/30/2009	1-2009
36-7-25-7	New	513	06/30/2009	182-2009(ss)
36-7-31-6	Amended	408	07/01/2009	182-2009(ss)
36-7-31-10	Amended	409	07/01/2009	182-2009(ss)
36-7-31-11	Amended	410	07/01/2009	182-2009(ss)
36-7-31-13	Amended	411	07/01/2009	182-2009(ss)
36-7-31-14	Amended	412	07/01/2009	182-2009(ss)
36-7-31-14.1	Amended	413	07/01/2009	182-2009(ss)
36-7-31-14.2	New	414	07/01/2009	182-2009(ss)
36-7-31-16	Amended	415	07/01/2009	182-2009(ss)
36-7-31-17	Amended	416	07/01/2009	182-2009(ss)
36-7-31-18	Amended	417	07/01/2009	182-2009(ss)
36-7-31-20	Amended	418	07/01/2009	182-2009(ss)
36-7-31-21	Amended	419	07/01/2009	182-2009(ss)
36-7-31-22	Amended	420	07/01/2009	182-2009(ss)
36-7-31.3-8	Amended	25	07/01/2009	176-2009

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36-7-31.3-8	Amended	510	07/01/2009	182-2009(ss)
36-7-31.3-10	Amended	511	07/01/2009	182-2009(ss)
36-7-31.3-10	Amended	26	07/01/2009	176-2009
36-7-35-8	Amended	168	01/01/2009	1-2009
36-7-36	New	15	07/01/2009	88-2009
36-7.5-1-11.3	New	421	07/01/2009	182-2009(ss)
36-7.5-2-2	Amended	422	07/01/2009	182-2009(ss)
36-7.5-2-3	Amended	423	07/01/2009	182-2009(ss)
36-7.5-3-2	Amended	424	07/01/2009	182-2009(ss)
36-7.5-4-1	Amended	425	06/30/2009	182-2009(ss)
36-7.5-4-2	Amended	426	07/01/2009	182-2009(ss)
36-7.6-4-13	Amended	169	07/01/2008	1-2009
36-8-4-4	Amended	1	07/01/2009	8-2009
36-8-4-4.5	New	2	07/01/2009	8-2009
36-8-6-5	Amended	427	07/01/2009	182-2009(ss)
36-8-6-5.5	New	428	07/01/2009	182-2009(ss)
36-8-7-9	Amended	429	07/01/2009	182-2009(ss)
36-8-7-9.5	New	430	07/01/2009	182-2009(ss)
36-8-7-14	Amended	431	07/01/2009	182-2009(ss)
36-8-7.5-8	Amended	432	07/01/2009	182-2009(ss)
36-8-7.5-10	Amended	433	07/01/2009	182-2009(ss)
36-8-7.5-10.5	New	434	07/01/2009	182-2009(ss)
36-8-8-8.3	New	1	07/01/2009	19-2009
36-8-8-12	Amended	1	07/01/2009	32-2009
36-8-8-12	Amended	1	07/01/2009	34-2009
36-8-8-12.5	Amended	5	07/01/2009	59-2009
36-8-8-13.5	Amended	2	07/01/2009	32-2009
36-8-8-13.5	Amended	2	07/01/2009	34-2009
36-8-8-23	New	3	07/01/2009	34-2009
36-8-8-23	New	3	07/01/2009	32-2009
36-8-8.5-17	Amended	170	04/30/2009	1-2009
36-8-10-12.5	New	2	07/01/2009	98-2009
36-8-10.5-7	Amended	3	07/01/2009	93-2009
36-8-10.5-7	Amended	17	01/01/2010	110-2009
36-8-10.5-7.5	New	18	01/01/2010	110-2009
36-8-12-2	Amended	11	07/01/2009	127-2009
36-8-12-2	Amended	2	07/01/2009	174-2009
36-8-12-6	Amended	3	07/01/2009	174-2009
36-8-12-7	Amended	4	07/01/2009	174-2009
36-8-12-8	Amended	5	07/01/2009	174-2009
36-8-12-10	Amended	6	07/01/2009	174-2009
36-8-12-10.5	Amended	2	07/01/2009	63-2009
36-8-12-10.7	Amended	3	07/01/2009	63-2009

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36-8-12-10.9	Amended	4	07/01/2009	63-2009
36-8-12-13	Amended	12	07/01/2009	127-2009
36-8-12-13	Amended	435	07/01/2009	182-2009(ss)
36-8-12-16	Amended	436	07/01/2009	182-2009(ss)
36-8-12.2-5	Amended	13	07/01/2009	127-2009
36-8-12.2-6	Amended	437	07/01/2009	182-2009(ss)
36-8-12.2-7	Amended	438	07/01/2009	182-2009(ss)
36-8-13-3	Amended	439	06/30/2009	182-2009(ss)
36-8-15-19	Amended	440	07/01/2009	182-2009(ss)
36-8-19-6.5	New	441	07/01/2009	182-2009(ss)
36-8-19-7.5	New	442	07/01/2009	182-2009(ss)
36-8-19-8	Amended	443	01/01/2009	182-2009(ss)
36-8-21.5-12	Amended	171	04/30/2009	1-2009
36-8-21.5-13	Amended	172	04/30/2009	1-2009
36-8-21.5-14	Amended	173	04/30/2009	1-2009
36-9-1-2	Amended	8	05/13/2009	168-2009
36-9-1-8	Amended	9	05/13/2009	168-2009
36-9-2-1	Amended	444	01/01/2010	182-2009(ss)
36-9-3-2	Amended	445	01/01/2011	182-2009(ss)
36-9-3-5	Amended	446	01/01/2010	182-2009(ss)
36-9-3-6	Amended	447	01/01/2010	182-2009(ss)
36-9-3-7	Amended	448	01/01/2010	182-2009(ss)
36-9-3-9	Amended	449	01/01/2010	182-2009(ss)
36-9-3-10	Amended	450	01/01/2010	182-2009(ss)
36-9-3-12.5	Repealed	469	01/01/2010	182-2009(ss)
36-9-3-31	Repealed	469	01/01/2010	182-2009(ss)
36-9-4-1	Amended	451	01/01/2010	182-2009(ss)
36-9-4-29.4	Amended	452	06/30/2009	182-2009(ss)
36-9-4-29.5	Repealed	468	06/30/2009	182-2009(ss)
36-9-4-29.6	Repealed	468	06/30/2009	182-2009(ss)
36-9-16-2	Amended	3	07/01/2009	8-2009
36-9-16-3	Amended	4	07/01/2009	8-2009
36-9-25-11	Amended	10	05/13/2009	168-2009
36-9-25-42	New	11	05/13/2009	168-2009
36-9-41-1	Amended	16	07/01/2009	88-2009
36-9-41-1.5	New	17	07/01/2009	88-2009
36-9-41-3	Amended	18	07/01/2009	88-2009
36-9-41-4	Amended	453	07/01/2009	182-2009(ss)
36-10-8-4	Amended	27	07/01/2009	176-2009
36-10-8-6	Amended	28	07/01/2009	176-2009
36-10-8-16	Amended	29	07/01/2009	176-2009
36-10-8-21	New	30	07/01/2009	176-2009
36-10-9-4	Amended	454	07/01/2009	182-2009(ss)

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36-10-9-8	Amended	455	07/01/2009	182-2009(ss)
36-10-9-8.1	New	456	07/01/2009	182-2009(ss)
36-10-9-9	Amended	457	07/01/2009	182-2009(ss)
36-10-9-12	Amended	458	07/01/2009	182-2009(ss)
36-10-9-15	Amended	459	07/01/2009	182-2009(ss)
36-12-2-25	Amended	1	07/01/2009	91-2009
36-12-8.5	New	2	05/06/2009	91-2009

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prepared by
OFFICE OF CODE REVISION
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