Journal of the House

State of Indiana

114th General Assembly — First Regular Session

Thirty-fourth Meeting Day — **Thursday Afternoon** — **March 24, 2005**

The House convened at 1:30 p.m. with the Speaker in the Chair.

The invocation was Representative Peggy M. Welch.

The Pledge of Allegiance to the Flag was led by Representative P. Eric Turner.

The Speaker ordered the roll of the House to be called:

T. Adams ⏏	Klinker
Aguilera	Koch
Alderman	Kromkowski
Austin	Kuzman
Avery	L. Lawson
Ayres	Lehe
Bardon	Leonard
Bauer ⏏	J. Lutz
Becker	Mahern
Behning	Mays
Bischoff	McClain
Borders	Messer
Borror	Micon
Bottorff	Moses
Bright	Murphy
C. Brown	Neese
T. Brown	Noe ⏏
Buck	Orentlicher
Budak	Oxley
Buell	Pelath
Burton	Pflum
Cheney	Pierce
Cherry	Pond
Cochran	Porter
Crawford	Reske
Crooks	Richardson
Davis	Ripley
Day	Robertson
Denbo	Ruppel
Dickinson	Saunders
Dobis	J. Smith
Dodge	V. Smith
Duncan	Stevenson
Dvorak	Stilwell
Espich	Stutzman
Foley	Summers
Friend	Thomas
Frizzell	Thompson
Fry	Tincher
GiaQuinta	Torr
Goodin	Turner
Grubb	Ulmer
Gutwein	VanHaaften
E. Harris	Walorski
T. Harris	Welch
Heim	Whetstone
Hinkle	Wolkins
Hoffman	Woodruff
Hoy	Yount
Kersey	Mr. Speaker

Roll Call 270: 97 present; 3 excused. The Speaker announced a quorum in attendance. [*NOTE*: ⏏ *indicates those who were excused*.]

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has not concurred in House amendments to Engrossed Senate Bill 444 and the President Pro Tempore has appointed the following Senators a conference committee to meet and confer with a like committee of the House on said bill, and to report thereon:

Conferees: M. Young, Chair; and Skinner
Advisors: Bray and Broden

MARY C. MENDEL
Principal Secretary of the Senate

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Monday, March 28, 2005 at 1:30 p.m.

RICHARDSON

Motion prevailed.

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 29

Representatives Behning and Bosma introduced House Concurrent Resolution 29:

A CONCURRENT RESOLUTION recognizing the one year anniversary of the University of Phoenix, Indianapolis Campus.

Whereas, The University of Phoenix is proudly celebrating its first year anniversary in Indianapolis and has over 130 campuses nationwide including, a campus in Puerto Rico and a campus in Canada;

Whereas, Over 230,180 students are enrolled nationwide in the program which includes approximately 400 students at the Indianapolis campus;

Whereas, The University of Phoenix employs 105 faculty and administrative support staff locally;

Whereas, Bachelors, Masters, and Doctorate degrees can be obtained from the University in areas of study such as e-Business, Technology Management, Information Systems, Criminal Justice, Education, Counseling, and Nursing;

Whereas, The University of Phoenix is fully accredited by The Higher Learning Commission and is a member of the North Central Association;

Whereas, Customized training and onsite programs are offered at many large corporations as well as small classroom settings for more personalized learning;

Whereas, The University of Phoenix prides itself in offering programs in a fast-paced, interactive classroom format that provides a high quality education in the most expedient way possible for working adults; and

Whereas, The University of Phoenix is providing higher education opportunities to the community and continues to grow its student population and expand its local workforce in the city of Indianapolis: Therefore,

Be it resolved by the House of Representatives
of the General Assembly of the State of Indiana,
the Senate concurring:

SECTION 1. That the Indiana House of Representatives, the Senate concurring, recognizes the one year anniversary of the

University of Phoenix, Indianapolis Campus.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit copies of this resolution to Simon Lumley, Vice President for the University of Phoenix in Indiana.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Lubbers.

House Resolution 29

Representatives Borror and Alderman introduced House Resolution 29:

A HOUSE RESOLUTION honoring teacher LeaAnne Bernstein and her Canterbury Middle School class for winning the "We the People...Project Citizen" state competition.

Whereas, "We the People....Project Citizen" is an educational program for middle grade students that "promotes competent and responsible participation in local and state government;"

Whereas, The curriculum teaches students to identify a public policy problem in their community which they will research, evaluate possible solutions, and design an action plan to change existing policies. The program culminates in a simulated committee hearing in which the class presents a portfolio to a panel of civic-minded professionals;

Whereas, The following students from Canterbury Middle School created a compelling presentation entitled "Underage Drinking: Our Generation's Problem": Nicolas Butz, Emily Chura, Sarah Dusman, Zach Eggebrecht, Jordan Fisher, Sam Hockley, Chloe Hoffacker, David Hurley, Jiyeon Kim, Kate Pitsenberger, William Salon, P.J. Sauerteig, Sarah Schmidt, Victoria Sengstack, David Shank, Brittany Stapleton, Sarah Walbridge, Mariah Widmer, Michael Wiersema, and Thomas Wright;

Whereas, The Indiana House of Representatives hosted the state competition on May 14, 2004 in which this presentation received first place; and

Whereas, Their project was showcased at the National Conference of State Legislators meeting held in San Francisco, California in July 2004: Therefore,

Be it resolved by the House of Representatives
of the General Assembly of the State of Indiana:

SECTION 1. That the House of Representatives of the Indiana General Assembly congratulates LeaAnne Bernstein and her class at Canterbury Middle School on their victory in the "We the People…Project Citizen state competition and encourages LeaAnne Bernstein to continue to educate students about public policy issues and the characteristics good citizenship.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to LeaAnne Bernstein and the 20 students who participated in "We the People…Project Citizen."

The resolution was read a first time and adopted by voice vote.

House Resolution 30

Representative Richardson introduced House Resolution 30:

A HOUSE RESOLUTION honoring teacher Jill Baisinger and her Hamilton Southeastern High School government class on the occasion of their victory in the "We the People ... The Citizen and the Constitution" state competition.

Whereas, One of the goals of the "We the People ... The Citizen and the Constitution" competition is to "promote civic competence and responsibility among the nation's elementary and secondary students";

Whereas, Since the beginning of the "We the People ..." competition in 1987, more than 26 million students and 82,000 educators have participated, as well as members of Congress, businesses, professionals, and community organizations across the nation;

Whereas, The "We the People ..." competition is based on a classroom curriculum that complements the regular school curriculum by providing upper elementary, middle, and high school students with an innovative course of instruction on the history and principles of constitutional democracy in the United States;

Whereas, The "We the People ..." competition was designed to include a wide range of students with varying abilities;

Whereas, Jill Baisinger led her class to victory in the "We the People ..." state competition on December 9, 2004;

Whereas, Jill Baisinger and the following students from Hamilton Southeastern High School will represent Indiana at the national competition in Washington D.C. on April 29 – May 3: Ryan Arnold, Natasha Arora, Kelsey Buckingham, Ricardo Doriott, Eddie Gillham, Worthe S. Holt III, Carolyn Homer, Kyle Lymberopoulos, Ashley Martin, Michael Matern, Allison Nimtz, Alex Orlowski, Laura Peregrim, Jennifer Wardell, Brian White, and Marissa Wills; and

Whereas, Involvement with the "We the People ..." competition allows students to develop a greater understanding of democratic principles and values and promotes political tolerance, and teachers such as Jill Baisinger help to prepare the youth of Indiana for a future that will encourage their knowledge of and participation in our democratic system of government: Therefore,

Be it resolved by the House of Representatives
General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives congratulates Jill Baisinger and her Hamilton Southeastern High School class on their victory in the "We the People ... the Citizen and the Constitution" state competition and encourages Jill Baisinger to continue to instill in her students a commitment to democratic principles. Good luck to them as they compete in the national competition.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Jill Baisinger and the members of her Hamilton Southeastern High School class.

The resolution was read a first time and adopted by voice vote.

OTHER BUSINESS ON THE SPEAKER'S TABLE

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 53 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 53

The Speaker handed down Senate Concurrent Resolution 53, sponsored by Representatives Davis and T. Adams:

A CONCURRENT RESOLUTION congratulating the Muncie Burris High School girls' volleyball team for their outstanding accomplishment in the in the 2004-2005 Indiana High School Athletic Association, "IHSAA," Class 2A girls' volleyball championship.

Whereas, The team defeated Clinton Central High School, at Butler University in the state championship game at historic Hinkle Fieldhouse in Indianapolis on Saturday, November 6, 2004; 25-19, 25-7, 25-9;

Whereas, The Muncie Burris High School Volleyball Team had a record of 40 wins and 0 losses;

Whereas, This is the sixteenth state girls' volleyball championship for Muncie Burris High School;

Whereas, The team has won 30 or more matches for the 23rd consecutive year and with an overall record of 999 wins and 79 losses;

Whereas, Muncie Burris has won four National Championships and has been runner-up three times;

Whereas, Head Coach Steve Shondell has served as head coach since 1977;

Whereas, Team members Brittany Fullhart, Jill MacMillan and Kappy Lang received 2004 Class 2A All-State 1st team recognition;

Whereas, Team members Hana Ros, Alaina Gibson, Caitlyn Vann and Lauren Kaminsky received 2004 Class 2A All-State 2nd team recognition; and

Whereas, The Muncie Burris girls' volleyball team led by Head Coach Steve Shondell, Varsity Assistants Reece Peacock and Emily Sallee, Junior Varsity Coach Lenny Kaminsky, Athletic Director Ray Dawson, Principal Dr. Jay McGee, and includes team members Hannah Cheesman, Alaina Gibson, Molly Davis, CaitlynVann, Brittany Fullhart, Karin Caudill, Hana Ros, Christie Waters, Teresa Craig, Lauren Kaminsky, Jill MacMillan, Kappy Lang, Leslie White, Katie Evans, and Bonnie Kaminsky: Therefore,

Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:

SECTION 1. That the General Assembly of the State of Indiana honors the Muncie Burris High School girls' volleyball team for its accomplishment in winning the 2004-2005 IHSAA Class 2A girls' state volleyball championship and extend its congratulations to team members, coaches, and to the school.

SECTION 2. That the Secretary of the Senate shall transmit a copy of this resolution to each team member, Coach Steve Shondell, Varsity Assistants, Reece Peacock, Emily Sallee, J.V. Coach Lenny Kaminsky, Athletic Director Ray Dawson, and Principal Dr. Jay McGee.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

ENGROSSED SENATE BILLS ON SECOND READING

Engrossed Senate Bill 574

Representative Becker called down Engrossed Senate Bill 574 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 574–2)

Mr. Speaker: I move that Engrossed Senate Bill 574 be amended to read as follows:

Page 12, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 12 IC 6-9-35 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 35. Hendricks County Innkeeper's Tax

Sec. 1. (a) This chapter applies to a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000) that had adopted an innkeeper's tax under IC 6-9-18 before July 1, 2005.

(b) The:

(1) convention, visitor, and tourism promotion fund;

(2) convention and visitor commission;

(3) innkeeper's tax rate; and

(4) tax collection procedures;

established under IC 6-9-18 before July 1, 2005, remain in effect and govern the county's innkeeper's tax until amended under this chapter.

(c) A member of the convention and visitor commission established under IC 6-9-18 before July 1, 2005, shall serve a full term of office. If a vacancy occurs, the appointing authority shall appoint a qualified replacement as provided in this chapter. The appointing authority shall make other subsequent appointments to the commission as provided in this chapter.

Sec. 2. As used in this chapter:

(1) "executive" and "fiscal body" have the meanings set forth in IC 36-1-2; and

(2) "gross retail income" and "person" have the meanings set forth in IC 6-2.5-1.

Sec. 3. (a) The fiscal body of a county may levy a tax on every person engaged in the business of renting or furnishing, for periods of less than thirty (30) days, any room or rooms, lodgings, or accommodations in any:

(1) hotel;

(2) motel;

(3) boat motel;

(4) inn;

(5) college or university memorial union;

(6) college or university residence hall or dormitory; or

(7) tourist cabin;

located in the county.

(b) The tax does not apply to gross income received in a transaction in which:

(1) a student rents lodgings in a college or university residence hall while that student participates in a course of study for which the student receives college credit from a college or university located in the county; or

(2) a person rents a room, lodging, or accommodations for a period of thirty (30) days or more.

(c) The tax may not exceed the rate of seven percent (7%) on the gross retail income derived from lodging income only and is in addition to the state gross retail tax imposed under IC 6-2.5.

(d) The county fiscal body may adopt an ordinance to require that the tax be reported on forms approved by the county treasurer and that the tax shall be paid monthly to the county treasurer. If such an ordinance is adopted, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month the tax is collected. If such an ordinance is not adopted, the tax shall be imposed, paid, and collected in exactly the same manner as the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

(e) All of the provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration are applicable to the imposition and administration of the tax imposed under this section except to the extent those provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer. If the tax is paid to the department of state revenue, the return to be filed for the payment of the tax under this section may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax as the department of state revenue may, by rule, determine.

(f) If the tax is paid to the department of state revenue, the amounts received from the tax imposed under this section shall be paid monthly by the treasurer of state to the county treasurer upon warrants issued by the auditor of state.

Sec. 4. (a) The county treasurer shall establish a convention, visitor, and tourism promotion fund. The treasurer shall deposit in this fund all amounts the treasurer receives under that section.

(b) The county auditor shall issue a warrant directing the county treasurer to transfer money from the convention, visitor, and tourism promotion fund to the treasurer of the commission established under section 5 of this chapter if the commission submits a written request for the transfer.

(c) Subject to subsection (e), money in a convention, visitor, and tourism promotion fund, or money transferred from such a fund under subsection (b), may be expended:

(1) to promote and encourage conventions, visitors, and tourism within the county; and

(2) for the development of a county park system.

Expenditures under subdivision (1) may include, but are not limited to, expenditures for advertising, promotional activities, trade shows, special events, and recreation.

(d) If before July 1, 1997, the county issued a bond with a pledge of revenues from the tax imposed under IC 6-9-18-3, the county shall continue to expend money from the fund for that purpose until the bond is paid.

(e) Tax revenues attributable to a tax rate that exceeds five percent (5%) must be divided equally between the expenditures authorized under subsection (c)(1) and (c)(2).

Sec. 5. (a) The county executive shall create a commission to promote the development and growth of the convention, visitor, and tourism industry in the county. If two (2) or more adjoining counties desire to establish a joint commission, the counties shall

enter into an agreement under IC 36-1-7.

(b) The county executive shall determine the number of members, which must be an odd number, to be appointed to the commission. A simple majority of the members must be:

(1) engaged in a convention, visitor, or tourism business; or

(2) involved in or promoting conventions, visitors, or tourism.

If available and willing to serve, at least two (2) of the members must be engaged in the business of renting or furnishing rooms, lodging, or accommodations (as described in section 3 of this chapter). Not more than one (1) member may be affiliated with the same business entity. Not more than a simple majority of the members may be affiliated with the same political party. Each member must reside in the county. The county executive shall also determine who will make the appointments to the commission, except that the executive of the largest municipality in the county shall appoint a number of the members of the commission, which number shall be in the same ratio to the total size of the commission (rounded off to the nearest whole number) that the population of the largest municipality bears to the total population of the county.

(c) If a municipality other than the largest municipality in the county collects fifty percent (50%) or more of the tax revenue collected under this chapter during the three (3) month period following imposition of the tax, the executive of the municipality shall appoint the same number of members to the commission that the executive of the largest municipality in the county appoints under subsection (b).

(d) Except as provided in subsection (c), all terms of office of commission members begin on January 1. Initial appointments must be for staggered terms, with subsequent appointments for two (2) year terms. A member whose term expires may be reappointed to serve another term. If a vacancy occurs, the appointing authority shall appoint a qualified person to serve for the remainder of the term. If an initial appointment is not made by February 1 or a vacancy is not filled within thirty (30) days, the commission shall appoint a member by majority vote.

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

(f) Members of the commission may not receive a salary. However, commission members are entitled to reimbursement for necessary expenses incurred in the performance of their respective duties.

(g) Each commission member, before entering the member's duties, shall take an oath of office in the usual form, to be endorsed upon the member's certificate of appointment and promptly filed with the clerk of the circuit court of the county.

(h) The commission shall meet after January 1 each year for the purpose of organization. It shall elect one (1) of its members president, another vice president, another secretary, and another treasurer. The members elected to those offices shall perform the duties pertaining to the offices. The first officers chosen shall serve from the date of their election until their successors are elected and qualified. A majority of the commission constitutes a quorum, and the concurrence of a majority of the commission is necessary to authorize any action.

Sec. 6. (a) The commission may:

(1) accept and use gifts, grants, and contributions from any public or private source, under terms and conditions that the commission considers necessary and desirable;

(2) sue and be sued;

(3) enter into contracts and agreements;

(4) make rules necessary for the conduct of its business and the accomplishment of its purposes;

(5) receive and approve, alter, or reject requests and proposals for funding by corporations qualified under subdivision (6);

(6) after its approval of a proposal, transfer money, quarterly or less frequently, from the fund established under section 4(a) of this chapter, or from money transferred from that fund to the commission's treasurer under section 4(b) of this chapter, to any Indiana nonprofit corporation to promote and encourage conventions, visitors, or tourism in the county; and

(7) require financial or other reports from any corporation that receives funds under this chapter.

(b) All expenses of the commission shall be paid from the fund established under section 4(a) of this chapter or from money transferred from that fund to the commission's treasurer under section 4(b) of this chapter. The commission shall annually prepare a budget, taking into consideration the recommendations made by a corporation qualified under subsection (a)(6), and submit it to the county fiscal body for its review and approval. An expenditure may not be made under this chapter unless it is in accordance with an appropriation made by the county fiscal body in the manner provided by law.

Sec. 7. All money coming into possession of the commission shall be deposited, held, secured, invested, and paid in accordance with statutes relating to the handling of public funds. The handling and expenditure of money coming into possession of the commission is subject to audit and supervision by the state board of accounts.

Sec. 8. (a) A member of the commission who knowingly:

(1) approves the transfer of money to any person or corporation not qualified under law for that transfer; or

(2) approves a transfer for a purpose not permitted under law;

commits a Class D felony.

(b) A person who receives a transfer of money under this chapter and knowingly uses that money for any purpose not permitted under this chapter commits a Class D felony.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 574 as printed March 18, 2005.)

WHETSTONE

Motion prevailed.

HOUSE MOTION
(Amendment 574–1)

Mr. Speaker: I move that Engrossed Senate Bill 574 be amended to read as follows:

Page 12, line 38 after "**center**" insert "**with the unused balance transferred on January 1 of each year to the tourism capital improvement fund**".

AVERY

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 417

Representative Thomas called down Engrossed Senate Bill 417 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 417–1)

Mr. Speaker: I move that Engrossed Senate Bill 417 be amended to read as follows:

Page 2, line 29, delete "No land" and insert "**Any land sold is subject to existing utility easements.**".

Page 2, delete lines 30 through 31.

(Reference is to ESB 417 as printed March 22, 2005.)

T. HARRIS

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 397

Representative Foley called down Engrossed Senate Bill 397 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 335

Representative Espich called down Engrossed Senate Bill 335 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 335–4)

Mr. Speaker: I move that Engrossed Senate Bill 335 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 1-1-8.1-2 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE APRIL 1, 2005]: Sec. 2. In the event that the Congress of the United States or the Department of Transportation should permit any state which is divided by a time zone line to exempt ~~less than~~ a whole state from the observance of advanced or Daylight Savings Time, then in such event this chapter shall not apply to that portion of the State of Indiana that is in the Central Time Zone **or the Eastern Time Zone.**".

Page 20, after line 32, begin a new paragraph and insert:

"SECTION 23. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 335 as printed March 18, 2005.)

MAYS

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

Engrossed Senate Bill 327

Representative Espich called down Engrossed Senate Bill 327 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 327–1)

Mr. Speaker: I move that Engrossed Senate Bill 327 be amended to read as follows:

Page 10, line 36, after "verification" insert "**under 50 IAC 21-3-2**".

Page 11, line 24, after "verification" insert "**under 50 IAC 21-3-2**".

Page 34, line 33, after "includes" insert "**a combined**".

Page 34, line 33, delete "systems" and insert "**and county auditor system**".

Page 34, line 33, after "with" insert "**a**".

Page 34, line 34, delete "auditor systems and county".

Page 34, line 34, delete "systems;" and insert "**system;**".

Page 35, line 6, delete "and".

Page 35, between lines 7 and 8, begin a new line double block indented and insert:

"**(D) one (1) county treasurer; and**".

Page 42, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 33. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 6-1.1-12.1 apply throughout this SECTION.**

(b) With respect to an application filed to claim a deduction under IC 6-1.1-12.1-5.4 for new manufacturing equipment or new research and development equipment for an assessment date in 2003, if the department of local government finance has not issued notification before May 1, 2005, of its determination to approve, deny, or alter the amount of the deduction claimed, the amount of the deduction allowed under IC 6-1.1-12.1-5.4 is the amount of the deduction allowed in calculating the tax statement issued to the taxpayer under IC 6-1.1-22-8.

(c) Subject to subsection (f), if subsection (b) applies:

(1) the property owner; or

(2) the county auditor with whom the application was filed;

may appeal the amount of the deduction allowed in calculating the tax statement.

(d) With respect to an application filed to claim a deduction under IC 6-1.1-12.1-5.4 for:

(1) new manufacturing equipment or new research and development equipment for an assessment date in 2004; or

(2) new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment for an assessment date in 2005;

the amount of the deduction allowed under IC 6-1.1-12.1-5.4 is the amount of the deduction allowed in calculating the tax statement issued to the taxpayer under IC 6-1.1-22-8.

(e) Subject to subsection (f), if subsection (d) applies, the property owner may appeal the amount of the deduction allowed in calculating the tax statement by filing an appeal under IC 6-1.1-15-1, except that the request for a preliminary conference must be filed with the county auditor.

(f) An appeal initiated under subsection (c) or (e):

(1) for an assessment date in 2003 or 2004 must be filed with the Indiana board not later than the later of:

(A) June 14, 2005; or

(B) forty-five (45) days after the issuance of the tax statement;

(2) for an assessment date in 2005 must be filed with the Indiana board not later than forty-five (45) days after the issuance of the tax statement; and

(3) is conducted and determined in the same manner as appeals under IC 6-1.5-5.

(g) The county auditor shall:

(1) mail a notice to each property owner who has filed a deduction application subject to this SECTION advising the property owner of the provisions of this SECTION for approval and appeal of deductions; and

(2) mail the notice under subdivision (1):

(A) before May 1, 2005, to a property owner who has filed a deduction application for an assessment date in 2003 or 2004; and

(B) on or before the date that the tax statement is issued under IC 6-1.1-22-8 to a property owner who has filed a deduction application for an assessment date in 2005.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 327 as printed March 22, 2005.)

ESPICH

Motion prevailed.

HOUSE MOTION
(Amendment 327–2)

Mr. Speaker: I move that Engrossed Senate Bill 327 be amended to read as follows:

Page 8, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 7. IC 6-1.1-4-13.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.8. (a) As used in this section, "commission" refers to a county land valuation commission established under subsection (b).

(b) **Subject to subsection (l),** a county land valuation commission is established in each county for the purpose of determining the value of commercial, industrial, and residential land (including farm homesites) in the county.

(c) The county assessor is chairperson of the commission.

(d) The following are members of the commission:

(1) The county assessor. The county assessor shall cast a vote only to break a tie.

(2) Each township assessor, when the respective township land values for that township assessor's township are under consideration. A township assessor serving under this subdivision shall vote on all matters relating to the land values of that township assessor's township.

(3) One (1) township assessor from the county to be appointed by a majority vote of all the township assessors in the county.

(4) One (1) county resident who:

(A) holds a license under IC 25-34.1-3 as a salesperson or broker; and

(B) is appointed by:

(i) the board of commissioners (as defined in IC 36-3-3-10) for a county having a consolidated city; or

(ii) the county executive (as defined in IC 36-1-2-5) for a county not described in item (i).

(5) Four (4) individuals who:

(A) are appointed by the county executive (as defined in IC 36-1-2-5); and

(B) represent one (1) of the following four (4) kinds of land in the county:

(i) Agricultural.

(ii) Commercial.

(iii) Industrial.

(iv) Residential.

Each of the four (4) kinds of land in the county must be represented by one (1) individual appointed under this

subdivision.

(6) One (1) individual who:

(A) represents financial institutions in the county; and

(B) is appointed by:

(i) the board of commissioners (as defined in IC 36-3-3-10) for a county having a consolidated city; or

(ii) the county executive (as defined in IC 36-1-2-5) for a county not described in item (i).

(e) The term of each member of the commission begins November 1 of the year that precedes by two (2) years the year in which a general reassessment begins under IC 6-1.1-4-4, and ends January 1 of the year in which the general reassessment begins under IC 6-1.1-4-4. The appointing authority may fill a vacancy for the remainder of the vacated term.

(f) The commission shall determine the values of all classes of commercial, industrial, and residential land (including farm homesites) in the 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 begins, the commission determining the values of land shall submit the values, all data supporting the values, and all information required under rules of the department of local government finance relating to the determination of land values to the county property tax assessment board of appeals and the department of local government finance. Not later than January 1 of the year in which a general reassessment begins, 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 of the year preceding the year in which the general reassessment begins and before January 1 of the year in which the general reassessment under IC 6-1.1-4-4 begins.

(g) The county property tax assessment board of appeals shall review the values, data, and information submitted under subsection (f) 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 commission fails to submit land values under subsection (f) to the county property tax assessment board of appeals before January 1 of the year the general reassessment under IC 6-1.1-4-4 begins, the county property tax assessment board of appeals shall determine the values.

(h) The county property tax assessment board of appeals shall give notice to the county and township assessors of its decision on the values. The notice must be given before March 1 of the year the general reassessment under IC 6-1.1-4-4 begins. Not later than twenty (20) days after that notice, the county assessor or a township assessor in the county may request that the county property tax assessment board of appeals reconsider the values. The county property tax assessment board of appeals shall hold a hearing on the reconsideration in the county. The county property tax assessment board of appeals shall give notice of the hearing under IC 5-3-1.

(i) Not later than twenty (20) days after notice to the county and township assessor is given under subsection (h), a taxpayer may request that the county property tax assessment board of appeals reconsider the values. The county property tax assessment board of appeals may hold a hearing on the reconsideration in the county. The county property tax assessment board of appeals shall give notice of the hearing under IC 5-3-1.

(j) A taxpayer may appeal the value determined under this section as applied to the taxpayer's land as part of an appeal filed under IC 6-1.1-15 after the taxpayer has received a notice of assessment. If a taxpayer that files an appeal under IC 6-1.1-15 requests the values, data, or information received by the county property tax assessment board of appeals under subsection (f), the county property tax assessment board of appeals shall satisfy the request. The department of local government finance may modify the taxpayer's land value and the value of any other land in the township, the county where the taxpayer's land is located, or the adjacent county if the department of local government finance determines it is necessary to provide uniformity and equality.

(k) The county assessor shall notify all township assessors in the county of the values as determined by the commission and as modified by the county property tax assessment board of appeals or department of local government finance under this section. Township assessors shall use the values determined under this section.

(l) After notice to the county assessor and all township assessors in the county, a majority of the assessors authorized to vote under this subsection may vote to abolish the county land valuation commission established under subsection (b). Each township assessor and the county assessor has one (1) vote. The county assessor shall give written notice to:

(1) each member of the county land valuation commission; and

(2) each township assessor in the county;

of the abolishment of the commission under this subsection.".

Page 23, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 17. IC 6-1.1-5.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: 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.

~~(a)~~ **(b)** Before filing a conveyance document with the county auditor under IC 6-1.1-5-4, all the parties to the conveyance must 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.

~~(b)~~ **(c)** Except as provided in subsection ~~(c),~~ **(d),** the auditor shall forward each sales disclosure form to the county assessor. 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:

(1) before January 1, 2005, in an electronic format, if possible; and

(2) after December 31, 2004, 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.

~~(c)~~ **(d)** In a county containing a consolidated city, the auditor shall forward the sales disclosure form to the appropriate township assessor. The township assessor shall forward the sales disclosure form to the department of local government finance and the legislative services agency:

(1) before January 1, 2005, in an electronic format, if possible; and

(2) after December 31, 2004, 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 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)~~ **(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.

SECTION 18. IC 6-1.1-5.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) **Except as provided in subsection (c),** a person filing a sales disclosure form under this chapter shall pay a fee of five dollars ($5) to the county auditor.

(b) Eighty percent (80%) of the revenue collected under this section and section 12 of this chapter shall be deposited in the county sales disclosure fund established under section 4.5 of this chapter. Twenty percent (20%) of the revenue shall be transferred to the state treasurer for deposit in the state assessment training fund established under section 4.7 of this chapter.

(c) A seller or purchaser described in section 3(a) of this chapter is not required to pay the fee under subsection (a).".

Page 24, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 20. IC 6-1.1-5.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. 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 of the parcel (as defined in IC 6-1.1-1-8.5).
(2) Whether the entire parcel is being conveyed.
(3) The address of the property.
(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 any personal property included in the transfer.
(9) The name, ~~and~~ 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) 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) 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.".

Page 33, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 25. IC 6-1.1-28-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: 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. 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) and (e),** 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 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 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 assessor-appraiser. ~~However,~~ If the county assessor is a certified level two 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 assessor-appraiser. 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 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 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) The county assessor, county fiscal body, and board of county commissioners may agree to waive the requirement in subsection (a) that not more than three (3) of the five (5) 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 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).

(c) 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 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) members of the county property tax assessment board of appeals be residents of the county.

(d) Except as provided in subsection (e), the term of a member of the county property tax assessment board of appeals appointed under subsection (a):

(1) is one (1) year; and
(2) begins January 1.

(e) If:

(1) the term of a member of the county property tax assessment board of appeals appointed under subsection (a) 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.".

Page 42, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 38. [EFFECTIVE JULY 1, 2005] **(a) The term of a member of the county property tax assessment board of appeals as of the effective date of this act expires December 31, 2005.**

(b) This SECTION expires January 1, 2006.

SECTION 39. [EFFECTIVE JULY 1, 2005] **IC 6-1.1-5.5-3, IC 6-1.1-5.5-4, and IC 6-1.1-5.5-5, all as amended by this act, apply only to sales disclosure forms for conveyances after June 30, 2005.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 327 as printed March 22, 2005.)

SAUNDERS

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 304

Representative Alderman called down Engrossed Senate Bill 304 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 304–1)

Mr. Speaker: I move that Engrossed Senate Bill 304 be amended to read as follows:

Page 5, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 3. IC 20-12-74-0.5 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, "active duty" means full-time service in the national guard (as defined in IC 10-16-1-13) that exceeds thirty (30) consecutive days in a calendar year.**

SECTION 4. IC 20-12-74-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Money in the national guard tuition supplement program fund shall be used to provide annual tuition scholarships to scholarship applicants who qualify under this chapter in an amount that is equal to one (1) of the following amounts:

(1) If the scholarship applicant does not receive other financial assistance specifically designated for tuition and mandatory fees, the amount equal to a full tuition scholarship to attend the state educational institution.

(2) If the scholarship applicant receives other financial assistance specifically designated for tuition and mandatory fees, the amount:

(A) equal to the balance required to attend the state educational institution; and

(B) not to exceed the amount described in subdivision (1).

(b) Each tuition scholarship awarded under this chapter:

(1) may be renewed under this chapter for a total scholarship award that does not exceed the equivalent of eight (8) semesters; and

(2) that is renewable under this chapter is subject to other eligibility criteria as established by the commission, **except as provided in section 7.5 of this chapter.**

SECTION 5. IC 20-12-74-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. (a) This section applies to a member of the national guard for a calendar year in which the individual is serving on active duty on January 1.**

(b) Notwithstanding any other state law, the application deadline (as defined in 585 IAC 1-9-1) for the award or renewal of a tuition scholarship under this chapter is waived for a calendar year in which a person is serving on active duty on January 1.

(c) The application deadline for the award or renewal of a tuition scholarship under this chapter for a person described in subsection (b) is thirty (30) days before the first day of a semester or term of the state educational institution in which the person is enrolled.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 304 as printed March 22, 2005.)

AVERY

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 301

Representative Hinkle called down Engrossed Senate Bill 301 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 298

Representative Hinkle called down Engrossed Senate Bill 298 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 282

Representative Borror called down Engrossed Senate Bill 282 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 242

Representative Messer called down Engrossed Senate Bill 242 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 242–1)

Mr. Speaker: I move that Engrossed Senate Bill 242 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-16-1-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. (a) On each general, municipal, primary, and special election day (as defined in IC 3-5-1-2), all full service license branches must remain open from 6:00 a.m., local time, to 6:00 p.m., local time, solely for the purpose of issuing driver's licenses and state identification cards under IC 9-24.**

(b) The commission shall designate another day as a holiday for license branch personnel required to work on an election day holiday.

SECTION 2. IC 9-16-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The commission may develop a separate personnel system for employees of the commission who are assigned to be managers and employees of commission license branches. The system may establish the rights, privileges, powers, and duties of these employees, including a license branch pay scale and benefit package. If the commission does not develop and adopt a license branch personnel system, those employees are subject to the state personnel system under IC 4-15-1.8, **except as provided in IC 9-16-1-7.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 242 as printed March 22, 2005.)

STILWELL

Upon request of Representatives Stilwell and Dobis, the Speaker ordered the roll of the House to be called. Roll Call 271: yeas 92, nays 0. Motion prevailed.

HOUSE MOTION
(Amendment 242–2)

Mr. Speaker: I move that Engrossed Senate Bill 242 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-16-1-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. (a) On the day before each general, municipal, primary, and special election day (as defined in IC 3-5-1-2), all full service license branches must remain open from 8:30 a.m., local time, to 8:00 p.m., local time, solely for the purpose of issuing driver's licenses and state identification cards under IC 9-24.**

(b) The commission shall:

(1) designate another day as compensatory time off; or

(2) authorize overtime pay;

for license branch personnel required to work on the day before an election day.

SECTION 2. IC 9-16-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The commission may develop a separate personnel system for employees of the commission who are assigned to be managers and employees of commission license branches. The system may establish the rights, privileges, powers, and duties of these employees, including a license branch pay scale and benefit package. If the commission does not develop and adopt a license branch personnel system, those employees are subject to the state personnel system under IC 4-15-1.8, **except as provided in IC 9-16-1-7.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 242 as printed March 22, 2005.)

STILWELL

Upon request of Representatives Stilwell and Dobis, the Speaker ordered the roll of the House to be called. Roll Call 272: yeas 95, nays 2. Motion prevailed.

HOUSE MOTION
(Amendment 242–3)

Mr. Speaker: I move that Engrossed Senate Bill 242 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-16-1-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. On the Saturday following each general, municipal, primary, and special election day (as defined in IC 3-5-1-2), all full service license branches must remain open from 8:30 a.m., local time, to 5:30 p.m., local time. To the extent that these hours exceed the regular Saturday business hours of a license branch, the extra hours that a license branch must remain open are reserved solely for the purpose of issuing driver's**

licenses and state identification cards under IC 9-24.

SECTION 2. IC 9-16-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The commission may develop a separate personnel system for employees of the commission who are assigned to be managers and employees of commission license branches. The system may establish the rights, privileges, powers, and duties of these employees, including a license branch pay scale and benefit package. If the commission does not develop and adopt a license branch personnel system, those employees are subject to the state personnel system under IC 4-15-1.8, **except as provided in IC 9-16-1-7.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 242 as printed March 22, 2005.)

STILWELL

Upon request of Representatives Stilwell and Dobis, the Speaker ordered the roll of the House to be called. Roll Call 273: yeas 90, nays 4. Motion prevailed.

HOUSE MOTION
(Amendment 242–4)

Mr. Speaker: I move that Engrossed Senate Bill 242 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-8-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. Each circuit court clerk shall, not later than noon **on the second** Monday after the day the primary election is held, send to the election division by certified mail or hand delivery one (1) complete copy of all returns for presidential candidates. The clerk shall state the number of votes received by each candidate in each congressional district within the county.

SECTION 2. IC 3-8-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) This section applies to each political party that elects delegates to the party's state convention at a primary election.

(b) Each circuit court clerk, not later than noon **on the second** Monday after a primary election, shall furnish the election division with a complete list of all delegates elected at the primary election to the state convention of a political party. The list must include the address of each delegate and the United States congressional district in which each delegate resides.

SECTION 3. IC 3-8-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Each circuit court clerk, not later than noon on the ~~first~~ **second** Monday after a primary election conducted in a year in which a general election will be held, shall furnish the election division with a complete list of all:

(1) candidates nominated; and

(2) state convention delegates elected;

at the primary election.

(b) The list must include the address of each candidate and delegate and the United States congressional district in which each candidate and delegate resides.

SECTION 4. IC 3-10-1-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 33. (a) The county election board shall also make an additional duplicate showing the votes cast for each candidate required to file a declaration of candidacy with the election division under IC 3-8-2.

(b) The circuit court clerk shall, not later than noon on the **second** Monday following the primary election, send to the election division by certified mail or hand deliver to the election division one (1) complete copy of all returns for these candidates.

SECTION 5. IC 3-11.7-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) After the close of the polls, provisional ballots shall be counted as provided in this chapter.

(b) Notwithstanding IC 3-5-4-1.5 and any legal holiday observed under IC 1-1-9, all provisional ballots must be counted by not later than noon on the **second** Monday following the election.

SECTION 6. IC 3-12-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. Not later than noon **on the second** Monday after the county election board certifies the election results under section 9 of this chapter, the circuit court clerk shall furnish to the county chairman of each political party a copy of the statement.

SECTION 7. IC 3-12-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Whenever a candidate is elected to a local office that is commissioned by the governor under IC 4-3-1-5, the circuit court clerk shall prepare a statement under the clerk's seal specifying the number of votes received by each candidate for that office.

(b) The statement prepared under subsection (a) must also include the number of votes cast for and against the following:

(1) The ratification of a state constitutional amendment submitted to the electorate.

(2) The retention of a justice of the supreme court or a judge of the court of appeals or tax court.

(3) Each candidate who was declared elected by the county election board under IC 3-12-4-9.

(c) The clerk shall send or hand deliver the statement to the election division not later than noon on the **second** Monday following election day.

(d) The election division shall tabulate the votes received under this section. Not later than the ~~second~~ **third** Friday after the election, the secretary of state shall issue a certificate certifying the following:

(1) Each state constitutional amendment ratified or rejected.

(2) Each justice or judge retained or removed.

(e) The election division shall provide a copy of a certificate described by:

(1) subsection (d)(1) to the chief justice of the Indiana supreme court and the director of the office of code revision of the legislative services agency; and

(2) subsection (d)(2) to the chief justice of the state.

(f) The election division shall provide a copy of all statements received under this section to the office.

SECTION 8. IC 3-12-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Not later than noon on the **second** Monday following an election for governor and lieutenant governor, each circuit court clerk shall prepare a certified statement under the clerk's seal showing the number of votes each candidate received. The clerk shall transmit the statement to the election division. The election division shall deliver:

(1) the statement to the speaker of the house of representatives before the date described in subsection (b); and

(2) a copy of each statement to the office.

(b) The house of representatives and the senate shall meet in joint convention not later than the date specified in Article 5, Section 9 of the Constitution of the State of Indiana for the commencement of the term of the governor and the lieutenant governor to hear the canvass of votes cast for governor and lieutenant governor.

(c) The joint convention shall act to resolve any:

(1) tie vote, as required under Article 5, Section 5 of the Constitution of the State of Indiana; or

(2) contest under Article 5, Section 6 of the Constitution of the State of Indiana.

(d) The joint rules that governed the house of representatives and senate before the general election govern the joint convention until those rules are amended as provided in those rules.

(e) After resolving any tie or contest, the presiding officer of the joint convention shall certify to the convention that the individuals receiving the most votes according to the canvass have been elected governor and lieutenant governor.

SECTION 9. IC 3-12-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Not later than noon on the **second** Monday following an election, each circuit court clerk shall prepare a certified statement under the clerk's seal of the number of votes received by each candidate for:

(1) federal office;

(2) state office;

(3) legislative office; and

(4) a local office for which a declaration of candidacy must be filed with the election division under IC 3-8-2.

(b) The clerk shall send the statements by certified mail, return receipt requested, or hand deliver the statements to the election division.

(c) The election division shall provide a copy of each statement to

the office.

SECTION 10. IC 3-12-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) As soon as practical, but no later than noon on the **second** Monday following an election for a legislative office, each circuit court clerk shall:

(1) prepare a certified statement under the clerk's seal specifying the number of votes received in the county by each candidate for legislative office; and

(2) send the statement by certified mail, return receipt requested, or hand deliver the statement to the election division.

(b) The election division shall provide a copy of each statement to the office.

SECTION 11. IC 3-12-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A candidate who desires a recount of votes must file a verified petition no later than noon ~~seven (7)~~ **fourteen (14)** days after election day.

(b) A county chairman who is entitled to and desires a recount of votes must file a verified petition not later than noon ~~ten (10)~~ **seventeen (17)** days after election day.

(c) The petition must be filed in the circuit or superior court of each county in which is located a precinct in which the individual desires a recount.

SECTION 12. IC 3-12-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A candidate who desires to contest an election or a nomination under this chapter must file a verified petition with the circuit court clerk of the county that contains the greatest percentage of the population of the election district no later than noon ~~seven (7)~~ **fourteen (14)** days after election day.

(b) A county chairman who is entitled to and desires to contest an election or a nomination under this chapter must file a verified petition with the circuit court clerk of the county that contains the greatest percentage of the population of the election district not later than noon ~~ten (10)~~ **seventeen (17)** days after election day.

(c) A petition for a contest of an election in different municipalities, whether in the same court of the county or not, may not be consolidated.

SECTION 13. IC 3-12-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A candidate who desires:

(1) a recount of votes cast for a nomination or election subject to this chapter; or

(2) to contest a nomination subject to this chapter or the election of a state office other than governor or lieutenant governor;

must file a verified petition with the election division not later than noon ~~seven (7)~~ **fourteen (14)** days after election day.

(b) A state or county chairman who is entitled to and desires to file a petition for a recount or contest under this chapter must file a verified petition with the election division not later than noon ~~ten (10)~~ **seventeen (17)** days after election day.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 242 as printed March 22, 2005.)

STILWELL

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. After discussion, Representative Whetstone withdrew the point of order.

The question was on the motion of Representative Stilwell (242–4). Upon request of Representatives Stilwell and Dobis, the Speaker ordered the roll of the House to be called. Roll Call 274: yeas 82, nays 11. Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 231

Representative Behning called down Engrossed Senate Bill 231 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 231–1)

Mr. Speaker: I move that Engrossed Senate Bill 231 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning education and to make an appropriation.

Page 3, after line 34, begin a new paragraph and insert:

"SECTION 2. IC 20-10.1-6.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The school technology advancement account is established within the common school fund. ~~On July 1 of each year, there is appropriated to the account an amount of money equal to:~~

~~(1) five million dollars ($5,000,000); minus~~

~~(2) the amount of money in the account on June 30 of the same year.~~

(b) Advancements of money from the school technology advancement account may be made **before July 1, 2005,** to a school corporation to:

(1) purchase computer hardware and software used primarily for student instruction; and

(2) develop and implement innovative technology projects.

Advancements may not be made under this section after June 30, 2005.

(c) Money shall be advanced under this section in accordance with IC 21-1-5-5, IC 21-1-5-7, and IC 21-1-5-8.

SECTION 3. IC 21-1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) It is the duty of the general assembly under the Constitution of the State of Indiana to encourage by all suitable means moral, intellectual, scientific, and agricultural improvement and to provide, by law, for a general and uniform system of common schools, wherein tuition shall be without charge, and equally open to all.

(b) It is the intent of the general assembly that:

(1) the common school fund should be used to:

(A) assist school corporations and school townships in financing their school building construction ~~and educational technology~~ **programs (as defined in IC 21-1-5-3) under IC 21-1-5 and voluntary full day kindergarten programs and other early learning** programs **under IC 21-1-31;** and

(B) assist charter schools in financing their operations;

as authorized by law and under circumstances such that the principal of the fund remains inviolate;

(2) to the end described in subdivision (1), the common school fund may be used to make advances to:

(A) school corporations and school townships under IC 21-1-5 **and IC 21-1-31;** and

(B) charter schools under IC 20-5.5-7-3.5(f) and IC 20-5.5-7.5; and

(3) this chapter is in furtherance of the duties which are imposed exclusively upon the general assembly by the Constitution of the State of Indiana in connection with the maintenance of a general and uniform system of common schools and the investment and reinvestment of the common school fund and shall be liberally construed to carry out the purposes of the Constitution of the State of Indiana.

~~(c) In addition, the common school fund may be used to make advances under IC 21-1-5.1.~~

SECTION 4. IC 21-1-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This chapter applies to school corporations ~~organized and formed through reorganization under IC 20-4-1, IC 20-4-5, or IC 20-4-8~~ **(as defined in IC 20-5-1-3)** and school townships under IC 20-2-8. However, if a school corporation or school township sustains loss by fire, wind, cyclone, or other disaster, of all or a major portion of its school building or school buildings, ~~sections 4 and~~ **section** 9 of this chapter ~~do~~ **does** not apply.

SECTION 5. IC 21-1-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The Indiana state board of education is authorized to advance money to school corporations and school townships from the common school fund **before July 1, 2005,** to be used for school building construction and educational technology programs as provided in this chapter. **The maximum aggregate amount of advances that:**

(1) are made under this chapter after June 30, 2005, for school building construction programs; and

(2) are outstanding at any time;

may not exceed thirty million dollars ($30,000,000).

(b) The Indiana state board of education may not make advances from the common school fund under this chapter for

educational technology programs after June 30, 2005.

~~(b)~~ **(c)** As used in this chapter, "school building construction program" means the purchase, lease, or financing of land, the construction and equipping of school buildings, and the remodeling, repairing, or improving of school buildings by a school corporation or school township:

(1) that sustained loss by fire, wind, cyclone, or other disaster of all or a major portion of a school building or school buildings;

(2) whose assessed valuation per pupil ADA is within the lowest forty percent (40%) of the assessed valuation per pupil ADA when compared to all school corporation or school township assessed valuation per pupil ADA; or

(3) with an advance under this chapter outstanding on July 1, 1993, that bears interest at least seven and one-half percent (7.5%).

However, as used in this chapter, the term does not include facilities used or to be used primarily for interscholastic or extracurricular activities. **After June 30, 2005, the term does not include a school corporation or school township that is described in subdivision (2) or (3).**

~~(c)~~ **(d)** As used in this chapter, "educational technology program" means the purchase, lease, or financing of educational technology equipment, the operation of the educational technology equipment, and the training of teachers in the use of the educational technology equipment.

SECTION 6. IC 21-1-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) To qualify for an advance under this chapter, the school corporation or school township is required to establish a capital projects fund under IC 21-2-15. However, the Indiana state board of education, after consulting with the department of education and the budget agency, may waive or modify this requirement upon a showing of good cause by the school corporation or school township.

(b) No advance to a school corporation or a school township for any school building construction program may exceed the greater of:

(1) fifteen million dollars ($15,000,000); or

(2) the product of fifteen thousand dollars ($15,000) multiplied by the number of pupils accommodated as a result of the school construction building program. However, if a school corporation or school township has sustained loss by fire, wind, cyclone, or other disaster, this limitation may be waived by the Indiana state board of education after consulting with the department of education and the budget agency.

(c) Advances **made before July 1, 2005,** for educational technology programs are without limitation in amount other than the availability of funds in the common school fund for this purpose and the ability of the school corporation or school township desiring an advance to pay the advance in accordance with the terms of the advance. **This subsection expires July 1, 2005.**

SECTION 7. IC 21-1-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Money advanced to school corporations or school townships for school building construction programs may be advanced for periods not exceeding twenty-five (25) years, and the school corporations or school townships to which money is advanced shall be required to pay interest on the advance. For advances made before July 1, 1993, the Indiana state board of education may provide, either before an advance is made or before an advance is fully paid, that no payment of the advance may be prepaid by more than six (6) months. For advances made beginning July 1, 1993, for school building construction programs, the Indiana state board of education may provide that the advances are prepayable at any time. The state board of finance created by IC 4-9.1-1 shall periodically establish the rate or rates of interest payable on advances for school building construction programs as long as:

(1) the established interest rate or rates do not exceed seven and one-half percent (7.5%); and

(2) the interest rate or rates on advances made to school corporations or school townships with advances outstanding on July 1, 1993, bearing interest at seven and one-half percent (7.5%) or more shall not exceed four percent (4%).

(b) Money advanced **made before July 1, 2005,** to school corporations or school townships for educational technology programs may be for periods not exceeding five (5) years and the school corporations or school townships to which advances are made shall be required to pay interest on the advances. Advances **made before July 1, 2005,** for educational technology programs may be prepaid at any time. The state board of finance shall establish periodically the rate or rates of interest payable on advances for educational technology programs as long as the established interest rate or rates:

(1) are not less than one percent (1%); and

(2) do not exceed four percent (4%).

This subsection expires July 1, 2010.

(c) To assure timely payment of advances in accordance with their terms, the state is authorized in its sole discretion to withhold from funds due to school corporations and school townships to which advances are made amounts necessary to pay the advances and the interest on the advances in accordance with their respective terms. The terms of the advances shall be established by the Indiana state board of education after consulting with the department of education and upon the approval of the budget agency in advance of the time the respective advances are made. However, in the case of school corporations or school townships with advances outstanding on July 1, 1993, the withholding may be adjusted to conform with this chapter. To the extent available, funds shall first be withheld from the distribution of state school tuition support. However, if this distribution is not available or is inadequate, funds may be withheld from the distribution of other state funds to the school corporation or school township to which the advance is made.

SECTION 8. IC 21-1-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Priority of advances for school building construction programs shall be made to school corporations and school townships which have the least amount of adjusted assessed valuation per pupil in average daily attendance.

(b) Priority of advances **made before July 1, 2005,** for educational technology programs shall be on whatever basis the Indiana state board of education, after consulting with the department of education and the budget agency, periodically determines. **This subsection expires July 1, 2005.**

SECTION 9. IC 21-1-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. A school corporation or school township to which an advance is made for an educational technology program **before July 1, 2005,** may annually levy a tax in the capital projects fund or the debt service fund to produce an amount equal to the amount deducted in the current year from the distribution of state school tuition support to pay the advance, together with the interest on the advance. The amount received from the tax shall be transferred from the capital projects fund or the debt service fund, as applicable, to the general fund.

SECTION 10. IC 21-1-5.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. To assist a school corporation in providing the school corporation's educational program to a student placed in a facility or home as described in IC 20-8.1-6.1-5(a) or IC 20-8.1-6.1-5(b) and not later than October 1 of each school year **ending before July 1, 2005,** the Indiana state board of education may advance money from the common school fund to a school corporation in anticipation of the school corporation's receipt of transfer tuition for students described in IC 20-8.1-6.1-5(a) or IC 20-8.1-6.1-5(b) in an amount not to exceed the STEP TWO amount of the following formula:

STEP ONE: Estimate for the current school year the number of students described in IC 20-8.1-6.1-5(a) or IC 20-8.1-6.1-5(b) that are transferred to the school corporation.

STEP TWO: Multiply the STEP ONE amount by the school corporation's prior year per student transfer tuition amount.

The Indiana state board of education may not make an advance under this chapter after June 30, 2005.

SECTION 11. IC 21-1-31 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 31. Early Learning Trust Fund

Sec. 1. As used in this chapter, "advance" refers to an advance from the common school fund under section 25 of this chapter.

Sec. 2. As used in this chapter, "commission" refers to the early learning and school readiness commission established by section 9 of this chapter.

Sec. 3. As used in this chapter, "department" refers to the department of education.

Sec. 4. As used in this chapter, "parental education program" refers to a parental education program that qualifies as a parental education program under the rules adopted by the commission.

Sec. 5. As used in this chapter, "preschool program" refers to a preschool program that qualifies as a preschool program under the rules adopted by the commission.

Sec. 6. As used in this chapter, "reading and family literacy program" refers to a reading and family literacy program that qualifies as a reading and family literacy program under the rules adopted by the commission.

Sec. 7. As used in this chapter, "school" means any school maintained by a school corporation.

Sec. 8. As used in this chapter, "school corporation" has the meaning set forth in IC 21-3-1.6-1.1.

Sec. 9. The early learning and school readiness commission is established to carry out the purposes of this chapter.

Sec. 10. (a) The governor shall:

(1) determine the number and terms of office of; and

(2) appoint;

the members of the commission.

(b) The term of a member may not exceed four (4) years.

Sec. 11. (a) The governor shall designate a member of the commission to serve as chairperson.

(b) The commission may elect the other officers the commission considers necessary.

Sec. 12. A quorum of the commission must be present to conduct business. A quorum consists of a majority of the voting members appointed to the commission. The commission may not take an official action unless the official action has been approved by at least a majority of the voting members appointed to serve on the commission.

Sec. 13. (a) Each member of the commission 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.

(b) Each member of the commission 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 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.

Sec. 14. The department shall provide staff support to the commission.

Sec. 15. The commission, in consultation with the department, shall establish a program to make:

(1) advances from the common school fund to school corporations for full day kindergarten programs under section 25 of this chapter;

(2) grants from the early education trust fund to school corporations for full day kindergarten programs under section 30 of this chapter; and

(3) grants from the early learning trust fund to school corporations and other entities to establish one (1) or more pilot projects for any combination of:

(A) preschool programs;

(B) reading and family literacy programs; and

(C) parental education programs;

under section 32 of this chapter.

Sec. 16. The program must provide for an application procedure. An application for an advance or grant must:

(1) be on a form prescribed by the department;

(2) be signed by:

(A) the superintendent of the school corporation applying for the advance or grant; or

(B) if, for an application under section 32 of this chapter, the applicant is not a school corporation, the chief executive officer of the applicant; and

(3) include the following information:

(A) A detailed description of the proposed program or programs.

(B) Evidence supporting the applicant's need for the program or programs.

(C) Other pertinent information required by the commission, including evidence guaranteeing the applicant has developed a plan to evaluate the effect and results of the applicant's program or programs.

Sec. 17. The department shall present all applications for an advance or grant under this chapter to the commission for review and approval.

Sec. 18. The commission may approve an application only if the commission determines that the application complies with:

(1) the requirements set forth in this chapter; and

(2) the standards established in the rules adopted by the commission.

Sec. 19. The program must provide that the recipient of the advance or grant is required to enter into a written agreement with the department to:

(1) use the advance or grant only for the purposes specified in the agreement or an amendment to the agreement; and

(2) comply with the other terms established by the commission as a condition of receiving the advance or grant.

Sec. 20. The commission shall provide the budget agency with:

(1) a list of all approved applicants that includes the amount approved for distribution; and

(2) a copy of each approved application.

Sec. 21. An agreement for an advance must include a provision allowing the state to withhold funds due to a school corporation to reimburse the common school fund for an advance, including interest accrued on the advance, if repayment is not made in conformity with the terms of the agreement.

Sec. 22. An agreement for an advance or a grant for a voluntary full day kindergarten program must prohibit the imposition of a fee for students who participate in the program and qualify for a free or reduced lunch program.

Sec. 23. The department shall:

(1) provide for the distribution of the approved amount of an advance or a grant; and

(2) administer and enforce the agreement made with the recipient.

Sec. 24. (a) If the number of eligible students exceeds the amount of money available under this chapter for distribution in a state fiscal year, the commission shall provide for distributions to school corporations based on a ranking of schools. For purposes of subsections (b) and (c), schools shall be ranked in the following order:

(1) Schools for which a state full day kindergarten program grant or advance was received:

(A) under this chapter; or

(B) another law;

in the immediately preceding school year or calendar year, ranked from highest to lowest percentage of students eligible for free or reduced lunch enrolled in the school relative to all other qualified schools for which an application is made under this chapter.

(2) Schools that are not described in subdivision (1) and qualify as Title I schools under federal law, ranked from highest to lowest percentage of students eligible for free or reduced lunch enrolled in the school relative to other qualified schools for which an application is made under this chapter.

(3) Schools that are not described in subdivision (1) or (2), ranked from highest to lowest percentage of students eligible for free or reduced lunch enrolled in the school relative to other qualified schools for which an application is made under this chapter.

(b) Subject to the funding limitations in this subsection, the commission shall give first priority to making distributions for schools that received a state full day kindergarten grant or advance in the immediately preceding year. The amount that a school is eligible to receive under this subsection is equal to the amount determined under STEP THREE of the following formula:

STEP ONE: For each school, determine the lesser of the following:

(A) the number of students in the school who are enrolled in full day kindergarten in the current school year, as determined under the rules of the commission; or

(B) the number equal to the number of students in the school who were counted in the immediately preceding year for the purposes of distributing state grants or advances to the school corporation for full day kindergarten.

STEP TWO: Multiply the number determined under STEP ONE by one thousand five hundred dollars ($1,500).

STEP THREE: Determine the lesser of:

(A) the amount determined under STEP TWO: or

(B) the amount remaining under sections 26 and 31 of this chapter after making distributions for students in all qualified schools that have a higher priority ranking as determined under subsection (a).

(c) After making distributions under subsection (b), the commission shall make distributions for schools under this subsection. The amount that a school is eligible to receive under this subsection is equal to the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the number of students enrolled in the school's full-time kindergarten program in the current school year who were not counted in making a distribution under subsection (b), as determined under the rules adopted by the commission.

STEP TWO: Multiply the STEP ONE number by one thousand five hundred dollars ($1,500).

STEP THREE: Determine the lesser of:

(A) the amount determined under STEP TWO: or

(B) the amount remaining under sections 26 and 31 of this chapter after making distributions for students in all qualified schools that have a higher priority ranking as determined under subsection (a).

(d) For a state fiscal year beginning after June 30, 2005, and ending before July 1, 2008, the commission shall make distributions as grants until the amount available for grants in that year under section 31 of this chapter is exhausted. After the amount under section 31 of this chapter is exhausted, the commission shall make distributions as advances under section 25 of this chapter.

Sec. 25. The commission may, after June 30, 2005, and before July 1, 2007, make an advance to a school corporation from the common school fund for the purpose of establishing, continuing, or expanding voluntary kindergarten programs.

Sec. 26. The total of all advances made under section 25 of this chapter may not exceed the following:

(1) Fourteen million five hundred thousand dollars ($14,500,000) during the state fiscal year beginning July 1, 2005, and ending June 30, 2006.

(2) Eighteen million five hundred thousand dollars ($18,500,000) during the state fiscal year beginning July 1, 2006, and ending June 30, 2007.

Sec. 27. An advance to a school corporation under this section is not an obligation of the school corporation within the meaning of any constitutional limitation on or prohibition against indebtedness.

Sec. 28. (a) To ensure timely payment of an advance under this section according to the terms of the advance, the state may withhold from funds due to the school corporation to which the advance is made an amount necessary to pay the advance and the interest on the advance.

(b) If the state withholds funds under subsection (a), the state first shall withhold funds from the distribution of state tuition support to the school corporation to which the advance is made. If the tuition support distribution is unavailable or inadequate, the state may withhold funds from any other distribution of state funds to the school corporation.

(c) An agreement with the commission to collect and pay over amounts deducted from state tuition support for the benefit of another party is not a debt of the state within the meaning of any constitutional limitation on or prohibition against state indebtedness.

Sec. 29. (a) The early learning trust fund is established. The early learning trust fund shall be administered by the department.

(b) The treasurer of state shall invest money in the early learning trust fund not currently needed to meet the obligations of the early learning trust fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the early learning trust fund.

(c) Money in the early learning trust fund is annually appropriated to the purposes of the early learning trust fund.

(d) Money in the early learning trust fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 30. The commission may, after June 30, 2005, make a grant to a school corporation from the early learning trust fund for the purpose of establishing, continuing, or expanding voluntary kindergarten programs.

Sec. 31. The total of all grants made under section 30 of this chapter may not exceed the following:

(1) Forty million dollars ($40,000,000) during the state fiscal year beginning July 1, 2005, and ending June 30, 2006.

(2) Forty million dollars ($40,000,000) during the state fiscal year beginning July 1, 2006, and ending June 30, 2007.

Sec. 32. The commission may, after June 30, 2006, and before July 1, 2008, make a grant to a school corporation or another entity from the fund to implement pilot projects for any combination of the following:

(1) Preschool programs.

(2) Reading and family literacy programs.

(3) Parental education programs.

Sec. 33. The total of all grants made under section 32 of this chapter may not exceed the following:

(1) Eight million dollars ($8,000,000) during the state fiscal year beginning July 1, 2005, and ending June 30, 2006.

(2) Twelve million dollars ($12,000,000) during the state fiscal year beginning July 1, 2006, and ending June 30, 2007.

Sec. 34. The applications selected for grants under section 32 of this chapter must, to the extent possible, do the following:

(1) Represent a geographic balance throughout Indiana and include urban, suburban, and rural providers.

(2) Reward school corporations and other entities that propose programs that demonstrate the greatest potential for replication and implementation in Indiana.

Sec. 35. The commission may adopt rules under IC 4-22-2 to implement this chapter, including rules establishing standards that must be met by voluntary full day kindergarten programs, preschool programs, reading and family literacy programs, and parental education programs in order to be eligible for grants or advances under this chapter.

SECTION 12. [EFFECTIVE JULY 1, 2005] (a) The appropriation of eight million five hundred thousand dollars ($8,500,000) made to the department of education for total operating expense for full day kindergarten by HB 1001-2005, SECTION 9, for the state fiscal year beginning July 1, 2005, and ending June 30, 2006, is canceled.

(b) There is appropriated to the early learning trust fund from the state general fund eight million five hundred thousand dollars ($8,500,000) for use in carrying out the purposes of IC 21-1-31, as added by this act, during the state fiscal year beginning July 1, 2005, and ending June 30, 2006.

(c) The appropriation of eight million five hundred thousand

dollars ($8,500,000) made to the department of education for total operating expense for full day kindergarten by HB 1001-2005, SECTION 9, for the state fiscal year beginning July 1, 2006, and ending June 30, 2007, is canceled.

(d) There is appropriated to the early learning trust fund from the state general fund eight million five hundred thousand dollars ($8,500,000) for use in carrying out the purposes of IC 21-1-31, as added by this act, during the state fiscal year beginning July 1, 2006, and ending June 30, 2007.

(e) This SECTION expires July 1, 2007.

SECTION 13. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding IC 32-34-1-34, after June 30, 2005, and before July 1, 2006, the treasurer of state shall transfer twenty-five million dollars ($25,000,000) from the abandoned property fund to the early learning trust fund established by IC 21-1-31-29, as added by this act.**

(b) Notwithstanding IC 32-34-1-34, after June 30, 2006, and before July 1, 2007, the treasurer of state shall transfer twenty-five million dollars ($25,000,000) from the abandoned property fund to the early learning trust fund established by IC 21-1-31-29, as added by this act.

(c) Notwithstanding IC 32-34-1-34, after June 30, 2007, and before July 1, 2008, the treasurer of state shall transfer twenty-five million dollars ($25,000,000) from the abandoned property fund to the early learning trust fund established by IC 21-1-31-29, as added by this act.

(d) The treasurer of state shall make twenty-five hundredths (0.25) of the amount of a transfer required under subsection (a), (b), or (c) on a quarterly basis in the state fiscal year in which the transfer is required. If insufficient money is available in the abandoned property fund to make the required transfer, the treasurer of state shall make the required transfer as soon as practicable after money becomes available in the fund.

(e) This SECTION expires July 1, 2008.

SECTION 14. [EFFECTIVE UPON PASSAGE] **(a) The early learning and school readiness commission may adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to implement IC 21-1-31, as added by this act. A temporary rule adopted under this subsection expires on the earliest of the following:**

(1) The date that another temporary rule adopted under this subsection supersedes the prior temporary rule.

(2) The date that permanent rules adopted under IC 4-22-2 supersede the temporary rule.

(3) January 1, 2007.

(b) This SECTION expires January 1, 2007.

SECTION 15. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 231 as printed March 18, 2005.)

PORTER

Representative Whetstone rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into Engrossed Senate Bill 231 a bill pending before the House. The Speaker ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Porter's amendment (231–1) is House Bill 1770 or that it is a bill pending before this House under Rule 118.

Amendment 1 to Engrossed Senate Bill 231 provides a different funding mechanism to support full-day kindergarten. House Bill 1770 is no longer pending before the House.

PELATH
PORTER

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Turner.

The question was, Shall the ruling of the Chair be sustained? Roll Call 275: yeas 51, nays 45. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Speaker.

There being no further amendments, the bill was ordered engrossed.

Engrossed Senate Bill 227

Representative Buell called down Engrossed Senate Bill 227 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 218

Representative Whetstone called down Engrossed Senate Bill 218 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 218–15)

Mr. Speaker: I move that Engrossed Bill 218 be amended to read as follows:

Page 1, line 8, delete ";" and insert "**who is at least fifteen (15) years of age at the time of the accident;**".

Page 2, after line 7, begin a new paragraph and insert:

"**(e) If evidence that a plaintiff failed to comply with section 2 of this chapter is admitted in a civil action, the court may also admit evidence that the plaintiff or defendant was intoxicated (as defined in IC 9-13-2-86) at the time the accident occurred.**

SECTION 2. [EFFECTIVE JULY 1, 2005] **IC 9-19-10-7, as amended by this act, applies only to causes of action arising after June 30, 2005.**".

(Reference is to ESB 218 as printed March 18, 2005.)

WHETSTONE

Motion prevailed.

HOUSE MOTION
(Amendment 218–13)

Mr. Speaker: I move that Engrossed Senate Bill 218 be amended to read as follows:

Page 1, line 8, delete "person;" and insert "**person who is at least fifteen (15) years of age;**".

Page 1, line 14, strike "proving:" and insert "**proving by clear and convincing evidence:**".

Page 2, line 3, delete "proving:" and insert "**proving by clear and convincing evidence.**".

Page 2, after line 7, begin a new paragraph and insert:

"**(e) Damages described in subsection (b) may not be reduced by more than three percent (3%) for failing to comply with section 2 of this chapter.**

(f) If evidence that a plaintiff did not comply with section 2 of this chapter is admitted in a civil action, the court shall also admit the following evidence:

(1) The name of the defendant's liability insurance carrier.

(2) The amount of liability insurance carried by the defendant.

(3) Any evidence suggesting that prior to the collision from which the plaintiff's claim arises the defendant:

(A) had been drinking alcohol of any kind; or

(B) had ingested medication or drugs, or both, that affected the defendant's ability to operate a motor vehicle.

(g) If evidence that a plaintiff did not comply with section 2 of this chapter is admitted in a civil action, a defendant may not prevent the facts surrounding the occurrence of the collision from being presented to the jury by admitting liability for the collision.".

(Reference is to ESB 218 as printed March 18, 2005.)

PELATH

Upon request of Representatives Pelath and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 276: yeas 46, nays 46. Motion failed.

HOUSE MOTION
(Amendment 218–14)

Mr. Speaker: I move that Engrossed Senate Bill 218 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-13-2-123 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 123. (a) "Passenger motor vehicle" means, except as provided in subsection (b), a motor

vehicle designed for carrying passengers. The term includes a low speed vehicle but does not include a motorcycle, bus, or school bus.

(b) For purposes of IC 9-19-10:

(1) before July 1, 2005, the term includes buses, school buses, and private buses, and excludes trucks, tractors, and recreational vehicles; **and**

(2) after June 30, 2005, the term means buses, school buses, private buses, and any motor vehicle described in subsection (a).

SECTION 2. IC 9-19-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. **(a)** Each front seat occupant of a passenger motor vehicle that is equipped with a safety belt meeting the standards stated in the Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208) shall have a safety belt properly fastened about the occupant's body at all times when the vehicle is in forward motion.

(b) This subsection does not apply to an occupant of a motor vehicle who meets any of the following conditions:

(1) Any of the conditions in section 1 of this chapter.

(2) Is the occupant of a farm truck being used on a farm for agricultural pursuits.

(3) Is the occupant of a motor vehicle participating in a parade.

(4) Is the occupant of the living quarters area of a recreational vehicle.

(5) Is the occupant of the treatment area of an ambulance (as defined in IC 16-18-2-13) or another vehicle being used as an authorized emergency vehicle (as defined in IC 9-13-2-6).

(6) Is the occupant of the sleeping area of a tractor.

(7) Is the occupant of a motor vehicle that is not equipped with safety belts meeting the standards stated in the Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208).

Each occupant of a passenger motor vehicle shall have a safety belt properly fastened about the occupant's body at all times when the vehicle is in forward motion. In addition to complying with section 5 of this chapter, a person may not buy, sell, lease, trade, or transfer from or to Indiana residents at retail a passenger motor vehicle that is manufactured or assembled, commencing with the 1964 models, unless the automobile is equipped with safety belts that allow an occupant to comply with this subsection.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 218 as printed March 18, 2005.)

ORENTLICHER

Representative Foley rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

HOUSE MOTION
(Amendment 218–12)

Mr. Speaker: I move that Engrossed Senate Bill 218 be amended to read as follows:

Page 1, line 5, reset in roman "Except as provided in subsection".

Page 1, line 5, after "(c)" insert "**(e),**".

Page 1, line 5, delete "Evidence" and insert "evidence".

Page 2, after line 7, begin a new paragraph and insert:

"**(e) Subsection (b)(1) only applies if Indiana law requires every occupant of a passenger motor vehicle who is not:**

(1) prohibited for medical reasons from wearing a safety belt;

(2) a child required to be restrained by a child restraint system under IC 9-19-11;

(3) traveling in a commercial or a United States Postal Service vehicle that makes frequent stops for the purpose of pickup or delivery of goods or services;

(4) a rural carrier of the United States Postal Service and is operating a vehicle while serving a rural postal route;

(5) a newspaper motor route carrier or newspaper bundle hauler who stops to make deliveries from a vehicle; or

(6) a driver examiner designated and appointed under IC 9-14-2-3 and is conducting an examination of an applicant for a permit or license under IC 9-24-10;

to have a safety belt properly fastened about the occupant's body at all times when the vehicle is in forward motion.".

(Reference is to ESB 218 as printed March 18, 2005.)

WELCH

Representative Foley rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. After discussion, Representative Foley withdrew the point of order.

The question then was on the motion to Representative Welch (218–12. Upon request of Representatives Welch and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 277: yeas 24, nays 65. Motion failed.

HOUSE MOTION

Mr. Speaker: I move that Amendment 13 to Engrossed Senate Bill 218 be reconsidered pursuant to Rule 94.

PELATH

The Speaker ordered a division of the House and appointed Representatives Friend and Oxley to count the yeas and nays. Yeas 55. Motion prevailed.

HOUSE MOTION
(Amendment 218–13)

Mr. Speaker: I move that Engrossed Senate Bill 218 be amended to read as follows:

Page 1, line 8, delete "person;" and insert "**person who is at least fifteen (15) years of age;**".

Page 1, line 14, strike "proving:" and insert "**proving by clear and convincing evidence:**".

Page 2, line 3, delete "proving:" and insert "**proving by clear and convincing evidence.**".

Page 2, after line 7, begin a new paragraph and insert:

"**(e) Damages described in subsection (b) may not be reduced by more than three percent (3%) for failing to comply with section 2 of this chapter.**

(f) If evidence that a plaintiff did not comply with section 2 of this chapter is admitted in a civil action, the court shall also admit the following evidence:

(1) The name of the defendant's liability insurance carrier.

(2) The amount of liability insurance carried by the defendant.

(3) Any evidence suggesting that prior to the collision from which the plaintiff's claim arises the defendant:

(A) had been drinking alcohol of any kind; or

(B) had ingested medication or drugs, or both, that affected the defendant's ability to operate a motor vehicle.

(g) If evidence that a plaintiff did not comply with section 2 of this chapter is admitted in a civil action, a defendant may not prevent the facts surrounding the occurrence of the collision from being presented to the jury by admitting liability for the collision.".

(Reference is to ESB 218 as printed March 18, 2005.)

PELATH

Upon request of Representatives Pelath and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 278: yeas 44, nays 50. Motion failed.

Representative Becker was excused for the rest of the day.

HOUSE MOTION
(Amendment 218–11)

Mr. Speaker: I move that Engrossed Senate Bill 218 be amended to read as follows:

Page 1, line 4, after "IC 34-51-2" delete ".".

Page 1, line 4, reset in roman "and does not limit the liability of an insurer.".

Page 1, line 5, reset in roman "Except as provided in subsection (c),".

Page 1, line 5, delete "Evidence" and insert "evidence".

Page 1, line 5, delete ":".

Page 1, line 5, reset in roman "the".

Page 1, line 6, delete "(1)".
Page 1, run in lines 5 through 6.
Page 1, line 7, reset in roman "not".
Page 1, line 7, reset in roman "mitigate".
Page 1, line 7, delete "reduce".
Page 1, line 7, delete "for" and insert ".".
Page 1, delete line 8.
Page 1, line 9, delete "(2)".
Page 1, line 9, beginning with "(c)" begin a new paragraph.
Page 1, line 9, reset in roman "(c) Evidence of a".
Page 1, line 13, delete "(c)".
Page 1, line 13, reset in roman "such".
Page 1, line 13, delete "described in subsection (b)(1)".
Page 1, run in lines 12 through 13.
Page 1, line 14, delete ":".
Page 1, line 15, delete "(1)".
Page 1, line 15, delete "section 2 of".
Page 1, line 15, delete ";".
Page 1, line 15, reset in roman "and".
Page 1, run in lines 14 through 15.
Page 1, line 16, delete "(2)".
Page 1, line 16, delete "section 2 of".
Page 1, run in lines 15 through 16.
Page 1, line 17, delete ";" and insert ",".
Page 2, line 1, delete "(3)".
Run in page 1, line 17 through page 2, line 1.
Page 2, delete lines 2 through 7, begin a new paragraph and insert:
"SECTION 2. [EFFECTIVE JULY 1, 2005] **(a) As used in this SECTION, "committee" refers to the interim study committee on seat belt usage established by this SECTION.**

(b) There is established the interim study committee on seat belt usage. The committee shall study the usage of seat belts and:

(1) the effect that federal law and federal funds have on seat belt laws in Indiana;

(2) the fiscal impact of the use or non-use of seat belts in Indiana;

(3) the impact of the failure to use seat belts as a means of reducing fault under Indiana's comparative fault statutes;

(4) the calculation of damages in civil cases that involve seat belt liability; and

(5) the application of the failure to use seat belts by employees of a government unit and their exemption from Indiana's comparative fault law.

(c) The committee consists of the following six (6) members:

(1) 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.

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

(3) The president of the Indiana Trial Lawyers Association, or the president's designee.

(4) The president of the Indiana Defense Trial Counsel Institute, or the president's designee.

(d) The chairman of the legislative council, after consulting with the vice-chairman of the legislative council, shall appoint a legislative member of the committee to serve as chair of the committee. Whenever there is a new chairman of the legislative council, the new chairman of the legislative council, after consulting with the vice-chairman of the legislative council, may remove the chair of the committee and appoint another chair.

(e) If a legislative member of the committee ceases to be a member of the chamber from which the member was appointed, the member ceases to be a member of the committee.

(f) A legislative member of the committee may be removed at any time by the authority who appointed the legislative member.

(g) If a vacancy exists on the committee, the authority who appointed the former member whose position is vacant shall appoint an individual to fill the vacancy.

(h) The committee shall submit a final report of its study to the legislative council before November 1, 2006.

(i) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

(j) Except as otherwise specifically provided by this SECTION, the committee shall operate under the policies governing study committees adopted by the legislative council.

(k) This SECTION expires January 1, 2007.".

(Reference is to ESB 218 as printed March 18, 2005.)

VAN HAAFTEN

Upon request of Representatives VanHaaften and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 279: yeas 43, nays 50. Motion failed.

HOUSE MOTION
(Amendment 218–9)

Mr. Speaker: I move that Engrossed Senate Bill 218 be amended to read as follows:

Page 1, line 8, delete "person;" and insert "**person who is not a minor;**".

Page 1, line 14, after "proving" delete ":" and insert "**by clear and convincing evidence:**".

Page 2, after line 7, begin a new paragraph and insert:

"**(e) Damages described in subsection (b) may not be reduced by more than one percent (5%) for failing to comply with section 2 of this chapter.**

(f) To prove that compliance with this chapter would have reduced injuries and the extent of the reduction of any injuries, the defendant in an action described in subsection (b) must introduce testimony from:

(1) a physician;

(2) a biomechanical engineer; or

(3) an accident reconstruction expert.".

(Reference is to Engrossed Senate Bill 218 as printed March 18, 2005.)

ULMER

After discussion, Representative Ulmer withdrew the motion because of a drafting error.

HOUSE MOTION
(Amendment 218–16)

Mr. Speaker: I move that Engrossed Senate Bill 218 be amended to read as follows:

Page 1, line 8, delete "person;" and insert "**person who is at least sixteen (16) years of age;**".

Page 2, after line 7, begin a new paragraph and insert:

"**(e) Damages described in subsection (b) may not be reduced by more than five percent (5%) for failing to comply with section 2 of this chapter.**

(f) If evidence that a plaintiff did not comply with section 2 of this chapter is admitted in a civil action, the court shall also admit any evidence suggesting that either party was impaired preceding the collision.

(g) If evidence that a plaintiff did not comply with section 2 of this chapter is admitted in a civil action, a defendant may not prevent the facts surrounding the occurrence of the collision from being presented to the jury by admitting liability for the collision.".

(Reference is to ESB 218 as printed March 18, 2005.)

GRUBB

After discussion, Representative Grubb withdrew the motion.

Representative Ulmer resubmitted amendment 9, which he had earlier withdrew because of an error. He pledged to try to correct the error on third reading, if the motion were adopted.

HOUSE MOTION
(Amendment 218–9)

Mr. Speaker: I move that Engrossed Senate Bill 218 be amended to read as follows:

Page 1, line 8, delete "person;" and insert "**person who is not a minor;**".

Page 1, line 14, after "proving" delete ":" and insert "**by clear and convincing evidence:**".

Page 2, after line 7, begin a new paragraph and insert:

"**(e) Damages described in subsection (b) may not be reduced**

by more than one percent (5%) for failing to comply with section 2 of this chapter.

(f) To prove that compliance with this chapter would have reduced injuries and the extent of the reduction of any injuries, the defendant in an action described in subsection (b) must introduce testimony from:

(1) a physician;

(2) a biomechanical engineer; or

(3) an accident reconstruction expert.".

(Reference is to Engrossed Senate Bill 218 as printed March 18, 2005.)

ULMER

Upon request of Representatives Ulmer and Oxley, the Speaker ordered the roll of the House to be called. Roll Call 280: yeas 44, nays 48. Motion failed. The bill was ordered engrossed.

Engrossed Senate Bill 213

Representative Friend called down Engrossed Senate Bill 213 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 213–4)

Mr. Speaker: I move that Engrossed Bill 213 be amended to read as follows:

Page 3, delete lines 9 through 21, begin a new paragraph and insert:

"**(d) If a purchaser affirms that a cargo trailer or recreational vehicle will be registered in a state or country that does not impose a sales, use, or similar tax on the transaction, the amount of the exemption for the cargo trailer or recreational vehicle under this section is equal to the state gross retail tax that would be imposed on the transaction if the cargo trailer or recreational vehicle were registered in Indiana. If a purchaser affirms that a cargo trailer or recreational vehicle will be registered in a state or country that does impose a sales, use, or similar tax on the transaction, the amount of the exemption for the cargo trailer or recreational vehicle under this section is equal to the sales, use, or similar tax that would have been imposed on the transaction under the laws of the state or country in which the purchaser affirms the cargo trailer or recreational vehicle will be registered. The amount of the exemption under this section may not exceed the amount of the state gross retail tax that would be imposed on the transaction if the cargo trailer or recreational vehicle were registered in Indiana.**".

(Reference is to ESB 213 as printed March 18, 2005.)

WALORSKI

Motion prevailed.

HOUSE MOTION
(Amendment 213–2)

Mr. Speaker: I move that Engrossed Senate Bill 213 be amended to read as follows:

Page 3, line 35, delete "Within .

Page 3, delete lines 36 through 39.

(Reference is to Engrossed Senate Bill 213 as printed March 18, 2005.)

FRIEND

Motion prevailed.

HOUSE MOTION
(Amendment 213–1)

Mr. Speaker: I move that Engrossed Senate Bill 213 be amended to read as follows:

Page 4, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 5. IC 6-3-1-34 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 34. (a) "Investment limited partnership" means an entity that is treated as a partnership for federal income tax purposes that meets the following requirements:**

(1) At least ninety percent (90%) of the value of the partnership's total assets consists of qualifying investment securities, deposits at banks or other financial institutions, and office space and equipment reasonably necessary to carry out the activities of a limited investment partnership.

(2) At least ninety percent (90%) of the partnership's gross income consists of dividends and gains from the sale or exchange of qualifying investment securities.

(3) Except as provided in subsection (b), the partnership is not a dealer in qualifying investment securities.

(b) An investment limited partnership may be a dealer in commodities.

SECTION 6. IC 6-3-1-35 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 35. (a) As used in section 34 of this chapter, "qualifying investment securities" refers to any of the following:**

(1) Common stock, including preferred or debt securities convertible into common stock, and preferred stock.

(2) Bonds, debentures, and other debt securities.

(3) Foreign and domestic currency deposits secured by federal, state, or local governmental agencies.

(4) Mortgage or asset-backed securities secured by federal, state, or local governmental agencies.

(5) Repurchase agreements and loan participations.

(6) Foreign currency exchange contracts and forward and futures contracts on foreign currencies.

(7) Stock and bond index securities and futures contracts and other similar financial securities and futures contracts on those securities.

(8) Options for the purchase or sale of any of the securities, currencies, contracts, or financial instruments described in subdivisions (1) through (7).

(9) Regulated futures contracts.

(10) Except as provided in subsection (b), commodities (not described in Section 1221(a)(1) of the Internal Revenue Code) or futures, forwards, and options with respect to the commodities.

(11) Derivatives.

(12) A partnership interest in another limited investment partnership.

(b) A physical commodity is not a qualifying investment security if an investment limited partnership acquires title to the commodity in the investment limited partnership's capacity as a dealer of the commodity.

SECTION 7. IC 6-3-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: 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.

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. **For purposes of this article, income received by a nonresident limited partner after December 31, 2005, from an**

investment limited partnership is not adjusted gross income derived from sources within Indiana, regardless of whether the investment limited partnership's commercial domicile is in 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, then 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 a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three (3). However, after a period of two (2) consecutive quarters of income growth and one (1) additional quarter (regardless of any income growth), the fraction shall be computed as follows:

(1) For all taxable years that begin within the first calendar year immediately following the period, the numerator of the fraction is the sum of the property factor plus the payroll factor plus one hundred thirty-three percent (133%) of the sales factor, and the denominator of the fraction is three and thirty-three hundredths (3.33).

(2) For all taxable years that begin within the second calendar year following the period, the numerator of the fraction is the property factor plus the payroll factor plus one hundred sixty-seven percent (167%) of the sales factor, and the denominator of the fraction is three and sixty-seven hundredths (3.67).

(3) For all taxable years beginning on or after January 1 of the third calendar year following the period, the numerator of the fraction is the property factor plus the payroll factor plus two hundred percent (200%) of the sales factor, and the denominator of the fraction is four (4).

For purposes of this subsection, income growth occurs when the state's nonfarm personal income for a calendar quarter increases in comparison with the state's nonfarm personal income for the immediately preceding quarter at an annualized compound rate of five percent (5%) or more, as determined by the budget agency based on current dollar figures provided by the Bureau of Economic Analysis of the United States Department of Commerce or its successor agency. The annualized compound rate shall be computed in accordance with the formula $(1+N)^4-1$, where N equals the percentage change in the state's current dollar nonfarm personal income from one (1) quarter to the next. As soon as possible after two (2) consecutive quarters of income growth, the budget agency shall advise the department of the growth.

(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. Sales of tangible personal property are in this state if:

(1) the property is delivered or shipped to a purchaser, other than the United States government, within this state, regardless of the f.o.b. point or other conditions of the sale; 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) **Subject to subsection (a),** 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) **Subject to subsection (a),** 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) the exclusion of any one (1) or more of the factors;

(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.

(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.".

Page 5, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 10. [EFFECTIVE JANUARY 1, 2006] **(a) IC 6-3-2-2, as amended by this act, applies only to taxable years beginning after December 31, 2005.**

(b) IC 6-3-1-34 and IC 6-3-1-35, both as added by this act, apply only to taxable years beginning after December 31, 2005.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 213 as printed March 18, 2005.)

MESSER

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 149

Representative Torr called down Engrossed Senate Bill 149 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 149–1)

Mr. Speaker: I move that Engrossed Senate Bill 149 be amended to read as follows:

Page 5, line 30, delete "a" and insert "a:".

Page 5, line 31, delete "the fund;" and insert "member of **the fund or retired member of the fund;**".

Page 5, line 32, after "(ii)" insert "**member of**".

Page 6, line 5, delete "(b)," and insert "**(b)(1) or (b)(2),**".

Page 6, line 7, delete "fund." and insert "fund **under subsection (b)(3)(A)(i).**".

(Reference is to ESB 149 as printed March 18, 2005.)

AYRES

Motion prevailed.

HOUSE MOTION
(Amendment 149–2)

Mr. Speaker: I move that Engrossed Senate Bill 149 be amended to read as follows:

Page 5, line 22, delete "six (6) trustees." and insert "**five (5) voting trustees and one nonvoting trustee.**"

Page 5, line 40, delete "voting" and insert "**nonvoting**".

Page 6, line 35, delete "six (6)".

Page 6, line 36, strike "persons." and insert "**five (5) voting members and one (1) nonvoting member.**".

Page 6, line 42, delete "voting" and insert "**nonvoting**".

(Reference is to ESB 149 as printed March 18, 2005.)

STILWELL

Motion failed. The bill was ordered engrossed.

Engrossed Senate Bill 89

Representative Cherry called down Engrossed Senate Bill 89 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 89–3)

Mr. Speaker: I move that Engrossed Senate Bill 89 be amended to read as follows:

Page 7, line 10, delete "A" and insert "**Except as provided in IC 9-21-21-7(b),** a".

Page 16, line 32, delete "intrastate".

Page 16, line 33, delete "in the conduct of a" and insert "**intrastate**".

Page 16, line 34, delete "commercial enterprise or".

Page 16, line 34, delete "farm products" and insert "**seasonal, perishable fruit or vegetables to the first point of processing**".

Page 16, line 35, delete "after the commodities have entered the

channels of commerce".

Page 17, line 22, delete "A" and insert "**Except as provided in subsection (b), a**".

Page 17, line 33, delete "A police officer described in subsection (a) who discovers a" and insert "**A vehicle being operated in violation of section 3 of this chapter that is carrying perishable fruits or vegetables or livestock may not be impounded, and the operator may proceed to the point of destination after having been stopped by a police officer under subsection (a).**".

Page 17, delete lines 34 through 37.

Page 21, line 24, delete "intrastate" .

Page 21, line 24, delete "in"and insert "**intrastate**".

Page 21, line 25, delete "the conduct of a commercial enterprise or".

Page 21, line 26, delete "farm products after the commodities have entered the channels" and insert "**seasonal, perishable fruit or vegetables to the first point of processing**".

Page 21, line 27, delete "of commerce".

Page 25, delete lines 34 through 41.

Page 27, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 45. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 9-21-21-4, as added by this act, the bureau of motor vehicles shall carry out the duties imposed upon it under IC 9-21-21-4, as added by this act, under interim written guidelines approved by the commissioner of the bureau of motor vehicles.**

(b) This SECTION expires the earlier of the following:

(1) The date rules are adopted under IC 9-21-21-4.

(2) December 31, 2006.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 89 as printed March 18, 2005.)

CHERRY

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 79

Representative Duncan called down Engrossed Senate Bill 79 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 79–1)

Mr. Speaker: I move that Engrossed Senate Bill 79 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-2.1-24-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) 49 CFR Parts 382 through 387, 390 through 393, and 395 through 398 is incorporated into Indiana law by reference, and, except as provided in subsections (d), (e), (f), and (g), must be complied with by an interstate and intrastate motor carrier of persons or property throughout Indiana. Intrastate motor carriers subject to compliance reviews under 49 CFR 385 shall be selected according to criteria determined by the superintendent which must include but is not limited to factors such as previous history of violations found in roadside compliance checks and other recorded violations. However, the provisions of 49 CFR 395 that regulate the hours of service of drivers, including requirements for the maintenance of logs, do not apply to a driver of a truck that is registered by the bureau of motor vehicles and used as a farm truck under IC 9-18, or a vehicle operated in intrastate construction or construction related service, or the restoration of public utility services interrupted by an emergency. Except as provided in subsection (i), intrastate motor carriers not operating under authority issued by the United States Department of Transportation shall comply with the requirements of 49 CFR 390.21(b)(3) by registering with the department of state revenue as an intrastate motor carrier and displaying the certification number issued by the department of state revenue preceded by the letters "IN". Except as provided in subsection (i), all other requirements of 49 CFR 390.21 apply equally to interstate and intrastate motor carriers.

(b) 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177 through 178, and 180, is incorporated into Indiana law by reference, and every:

(1) private carrier;

(2) common carrier;

(3) contract carrier;

(4) motor carrier of property, intrastate;

(5) hazardous material shipper; and

(6) carrier otherwise exempt under section 3 of this chapter;

must comply with the federal regulations incorporated under this subsection, whether engaged in interstate or intrastate commerce.

(c) Notwithstanding subsection (b), nonspecification bulk and nonbulk packaging, including cargo tank motor vehicles, may be used only if all the following conditions exist:

(1) The maximum capacity of the vehicle is less than three thousand five hundred (3,500) gallons.

(2) The shipment of goods is limited to intrastate commerce.

(3) The vehicle is used only for the purpose of transporting fuel oil, kerosene, diesel fuel, gasoline, gasohol, or any combination of these substances.

All additional federal standards for the safe transportation of hazardous materials apply until July 1, 2000. After June 30, 2000, the maintenance, inspection, and marking requirements of 49 CFR 173.8 and Part 180 are applicable. In accordance with federal hazardous materials regulations, new or additional nonspecification cargo tank motor vehicles may not be placed in service under this subsection after June 30, 1998.

(d) For the purpose of enforcing this section, only:

(1) a state police officer or state police motor carrier inspector who:

(A) has successfully completed a course of instruction approved by the Federal Highway Administration; and

(B) maintains an acceptable competency level as established by the state police department; or

(2) an employee of a law enforcement agency who:

(A) before January 1, 1991, has successfully completed a course of instruction approved by the Federal Highway Administration; and

(B) maintains an acceptable competency level as established by the state police department;

on the enforcement of 49 CFR, may, upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of any carrier, including a carrier exempt under section 3 of this chapter.

(e) A person hired before September 1, 1985, who operates a motor vehicle intrastate incidentally to the person's normal employment duties and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a)) is exempt from 49 CFR 391 as incorporated by this section.

(f) Notwithstanding any provision of 49 CFR 391 to the contrary, a person at least eighteen (18) years of age and less than twenty-one (21) years of age may be employed as a driver to operate a commercial motor vehicle intrastate. However, a person employed under this subsection is not exempt from any other provision of 49 CFR 391.

(g) Notwithstanding subsection **(a) or** (b), the following provisions of 49 CFR do not apply to private carriers of property operated only in intrastate commerce or any carriers of property operated only in intrastate commerce ~~while employed in construction or construction related service~~ **whether or not the carrier vehicle is of a class that requires commercial driver's license**:

(1) Subpart 391.41(b)(3) as it applies to physical qualifications of a driver who has ~~applied for or holds a commercial driver's license (as defined in IC 9-13-2-29),~~ **been** diagnosed as an insulin dependent diabetic, if the driver has applied for and been granted an intrastate medical waiver by the bureau of motor vehicles **pursuant to this subsection. The same standards and the following procedures shall apply for this waiver whether or not the driver is required to hold a commercial driver's license. An application for the waiver shall be submitted by the driver and** completed and signed by a certified endocrinologist or the driver's treating physician attesting that the driver:

(A) is **not** otherwise physically ~~qualified~~ **disqualified** under Subpart 391.41 to operate a motor vehicle**, whether or not any additional disqualifying condition results from the**

diabetic condition, and is not likely to suffer any diminution in driving ability due to the driver's diabetic condition;
(B) is free of severe hypoglycemia or hypoglycemia unawareness and has had less than one (1) documented, symptomatic hypoglycemic reaction per month;
(C) has demonstrated the ability and willingness to properly monitor and manage the driver's diabetic condition;
(D) has agreed to and, to the endocrinologist's or treating physician's knowledge, has carried a source of rapidly absorbable glucose at all times while driving a motor vehicle, has self monitored blood glucose levels one (1) hour before driving and at least once every four (4) hours while driving or on duty before driving using a portable glucose monitoring device equipped with a computerized memory; and
(E) has submitted the blood glucose logs from the monitoring device to the endocrinologist or treating physician at the time of the annual medical examination.
A copy of the blood glucose logs shall be filed along with the annual statement from the endocrinologist or treating physician with the bureau of motor vehicles for review by the driver licensing medical advisory board established under IC 9-14-4. A copy of the annual statement shall also be provided to the driver's employer for retention in the driver's qualification file, and a copy shall be retained and held by the driver while driving for presentation to an authorized federal, state, or local law enforcement official. **Notwithstanding the requirements of this clause, the endocrinologist, the treating physician, the advisory board of the bureau of motor vehicles, or the bureau of motor vehicles may, where medical indications warrant, establish a short period for the medical examinations required under this clause.**
(2) Subpart 396.9 as it applies to inspection of vehicles carrying or loaded with a perishable product. However, this exemption does not prohibit a law enforcement officer from stopping these vehicles for an obvious violation that poses an imminent threat of an accident or incident. The exemption is not intended to include refrigerated vehicles loaded with perishables when the refrigeration unit is working.
(3) Subpart 396.11 as it applies to driver vehicle inspection reports.
(4) Subpart 396.13 as it applies to driver inspection.

(h) For purposes of 49 CFR 395.1(l), "planting and harvesting season" refers to the period between January 1 and December 31 of each year. The intrastate commerce exception set forth in 49 CFR 395.1(l), as it applies to the transportation of agricultural commodities and farm supplies, is restricted to single vehicles and cargo tank motor vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

(i) The requirements of 49 CFR 390.21 do not apply to an intrastate carrier or a guest operator not engaged in interstate commerce and operating a motor vehicle as a farm vehicle in connection with agricultural pursuits usual and normal to the user's farming operation or for personal purposes unless the vehicle is operated either part time or incidentally in the conduct of a commercial enterprise.

(j) The superintendent of state police may adopt rules under IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by reference under this section.

Renumber all SECTIONS consecutively.

(Reference is to Engrossed Senate Bill 79 as printed March 22, 2005.)

WOLKINS

Motion prevailed. The bill was ordered engrossed.

Representatives Kromkowski and Ulmer were excused for the rest of the day.

Engrossed Senate Bill 56

Representative Ruppel called down Engrossed Senate Bill 56 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 56–3)

Mr. Speaker: I move that Engrossed Senate Bill 56 be amended to read as follows:

Page 11, line 9, after "under" insert "**IC 22-14-2-7(c)(7) and**".

Page 11, line 37, after "as the" insert "**vice**".

Page 26, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 31. IC 22-12-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 15, 2005]: Sec. 3. "Building law" means any ~~fire safety law,~~ equipment law or other law governing any of the following:
(1) Fabrication of an industrialized building system or mobile structure for installation, assembly, or use at another site.
(2) Construction, addition, or alteration of any part of a Class 1 or Class 2 structure at the site where the structure will be used.
(3) Assembly of an industrialized building system or mobile structure that is covered by neither subdivision (1) nor (2).".

Page 27, line 5, delete "Engineering." and insert "**As a professionally licensed engineer.**".

Page 27, line 10, delete "Architecture." and insert "**As a professionally licensed architect.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 56 as printed March 16, 2005.)

RUPPEL

Motion prevailed.

HOUSE MOTION
(Amendment 56–1)

Mr. Speaker: I move that Engrossed Senate Bill 56 be amended to read as follows:

Page 26, line 23, reset in roman "nineteen (19)".

Page 26, line 23, delete "eleven (11)".

Page 26, line 24, delete "nine (9)" and insert "**seventeen (17)**".

(Reference is to ESB 56 as printed March 16, 2005.)

TINCHER

Upon request of Representatives Tincher and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 281: yeas 44, nays 48. Motion failed. The bill was ordered engrossed.

Engrossed Senate Bill 590

Representative Budak called down Engrossed Senate Bill 590 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 433

Representative Behning called down Engrossed Senate Bill 433 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred Engrossed Senate Bill 14, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 12, line 29, delete "." and insert "**, if required by law.**".

Page 17, line 18, delete "." and insert "**, if required by law.**".

(Reference is to SB 14 as printed January 26, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 2.

THOMAS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred Engrossed Senate Bill 15, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 10, delete "not".

Page 2, between lines 18 and 19, begin a new paragraph and insert:
"**(d) A person may not provide an individual with an application for an absentee ballot with the following information already printed or otherwise set forth on the application when provided to the individual:**".
Page 2, line 19, delete "(6)" and insert "**(1)**".
Page 2, line 22, delete "(7)" and insert "**(2)**".
Page 2, line 24, delete "(8)" and insert "**(3)**".
Page 2, line 26, delete "(9)" and insert "**(4)**".
Page 2, line 34, delete "(d)" and insert "**(e)**".
Page 2, line 35, delete "(c)," and insert "**(d),**".
Page 2, line 37, delete "(e)" and insert "**(f)**".
Page 2, line 37, after "completing" insert "**any information described in subsection (d) on**".
Page 2, line 38, after "state" insert "**under the penalties for perjury**".
Page 3, line 1, delete "and location at which".
Page 3, line 10, delete "(f)" and insert "**(g) This subsection does not apply to an employee of the United States Postal Service or a bonded courier company acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company.**".
Page 3, line 19, delete "(g)" and insert "**(h) This subsection does not apply to an employee of the United States Postal Service or a bonded courier company acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company.**".
Page 3, line 19, after "application" insert "**, other than the person's own absentee ballot application,**".
Page 3, line 19, delete "received from".
Page 3, line 20, delete "an individual under subsection (f)".
Page 3, line 26 through 30.
Page 3, line 31, delete "(3)" and insert "**(2)**".
Page 3, line 34, delete "(4)" and insert "**(3)**".
Page 3, line 38, delete "(5)" and insert "**(4)**".
Page 3, line 40, delete "(6)" and insert "**(5)**".
Page 3, line 41, delete "(h)" and insert "**(i)**".
Page 3, line 42, after "affidavit" insert "**.**".
Page 3, line 42, delete "and provide the person signing the".
Page 4, delete lines 1 through 2.
Page 5, delete lines 19 through 24.
Page 5, line 40 after "determination." insert "**If the application is submitted by a voter wanting to cast an absentee ballot under IC 3-11-10-26, the voter shall be permitted to cast an absentee ballot, and the voter's absentee ballot shall be treated as a provisional ballot.**".
Page 11, line 31, after "open" insert "**.**".
Page 11, line 31, delete "and requests that the".
Page 11, delete lines 32 through 33.
Page 16, delete lines 9 through 27.
Page 24, delete lines 15 through 42.
Page 25, delete lines 1 through 14.
Renumber all SECTIONS consecutively.
(Reference is to SB 15 as reprinted February 8, 2005.)
and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

THOMAS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred Engrossed Senate Bill 43, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 9, nays 0.

RIPLEY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Engrossed Senate Bill 49, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:
Delete the title and insert the following:
A BILL FOR AN ACT to amend the Indiana Code concerning computer issues.
Page 1, between the enacting clause and line 1, begin a new paragraph and insert:
"SECTION 1. IC 4-6-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:
Chapter 6.5. State Agency Computer System Security Breaches
Sec. 1. (a) As used in this chapter, "breach of the security of the system" means the unauthorized acquisition of computerized data from a computerized data system that compromises the security, confidentiality, or integrity of personal information maintained by a state agency.
(b) The term does not include a good faith acquisition of personal information by an employee or agent of a state agency for agency purposes if the personal information is not used for or subject to further unauthorized disclosure.
Sec. 2. (a) As used in this chapter, "personal information" means:
(1) an individual's unencrypted:
(A) first name or first initial; and
(B) last name; and
(2) at least one (1) of the following:
(A) The individual's unencrypted Social Security number.
(B) The individual's unencrypted driver's license number or identification card number issued under IC 9-24.
(C) The individual's unencrypted:
(i) account number; or
(ii) credit or debit card number;
combined with a required security code, access code, or password that would allow access to the individual's financial account.
(b) The term does not include publicly available information that is lawfully made available to the public from federal, state, or local government records.
Sec. 3. (a) A state agency that owns or licenses a computerized data system that includes personal information shall disclose any breach of the security of the system after the discovery of the breach to any resident of the state whose personal information was, or is reasonably believed to have been, acquired by an unauthorized person.
(b) Subject to section 5 of this chapter, a disclosure made under subsection (a) must be made as soon as possible after the breach is discovered consistent with any measures taken by the state agency that are necessary to:
(1) determine the scope of the breach; and
(2) restore the reasonable integrity of the data system.
Sec. 4. Subject to section 5 of this chapter, a state agency that maintains a computerized data system that includes personal information that the agency does not own shall notify the owner or licensee of the information of any breach of the security of the system immediately following the discovery of the breach if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.
Sec. 5. The notification required under sections 3 and 4 of this chapter:
(1) may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation; and
(2) shall be made as soon as possible after the law enforcement agency determines that the notification will not compromise the investigation.
Sec. 6. (a) For purposes of sections 3 and 4 of this chapter, notice may be provided by any of the following methods:
(1) Written notice.
(2) Electronic notice if the notice provided is consistent with provisions concerning electronic records and signatures set forth in 15 U.S.C. 7001 et seq.
(3) Another form of notice if the state agency demonstrates

that providing notice under subdivisions (1) and (2) would cost more than two hundred fifty thousand dollars ($250,000) or require more than five hundred thousand (500,000) persons to be notified or if the agency does not have sufficient contact information. Notice provided under this subdivision must include all the following:

(A) Electronic mail notice, if the agency has an electronic mail address for a person that must be notified.

(B) If the agency maintains an Internet web site, conspicuous posting of the notice on the agency's web site.

(C) Notification to major statewide news media.

(b) Notwithstanding subdivision (a), a state agency that maintains its own notification procedures:

(1) as part of an information security policy for the treatment of personal information; and

(2) that are otherwise consistent with the notification requirements of this chapter;

are considered to be in compliance with this chapter if the agency provides notice required under this chapter in accordance with the agency policy.

SECTION 2. IC 23-15-10 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 10. Computer System Security Breaches

Sec. 1. (a) As used in this chapter, "breach of the security of the system" means the unauthorized acquisition of computerized data from a computerized data system that compromises the security, confidentiality, or integrity of personal information maintained by a business entity.

(b) The term does not include a good faith acquisition of personal information by an employee or agent of a business entity for business entity purposes if the personal information is not used for or subject to further unauthorized disclosure.

Sec. 2. As used in this chapter, "business entity" means a person that conducts business in Indiana.

Sec. 3. (a) As used in this chapter, "personal information" means:

(1) an individual's unencrypted:

(A) first name or first initial; and

(B) last name; and

(2) at least one (1) of the following:

(A) The individual's unencrypted Social Security number.

(B) The individual's unencrypted driver's license number or identification card number issued under IC 9-24.

(C) The individual's unencrypted:

(i) account number; or

(ii) credit or debit card number;

combined with a required security code, access code, or password that would allow access to the individual's financial account.

(b) The term does not include publicly available information that is lawfully made available to the public from federal, state, or local government records.

Sec. 4. (a) A business entity that owns or licenses a computerized data system that includes personal information shall disclose any breach of the security of the system after the discovery of the breach to any resident of the state whose personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(b) Subject to section 6 of this chapter, a disclosure made under subsection (a) must be made as soon as possible after the breach is discovered consistent with any measures taken by the business entity that are necessary to:

(1) determine the scope of the breach; and

(2) restore the reasonable integrity of the data system.

Sec. 5. Subject to section 6 of this chapter, a business entity that maintains a computerized data system that includes personal information that the business entity does not own shall notify the owner or licensee of the information of any breach of the security of the system immediately following the discovery of the breach if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

Sec. 6. The notification required under sections 4 and 5 of this chapter:

(1) may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation; and

(2) shall be made as soon as possible after the law enforcement agency determines that the notification will not compromise the investigation.

Sec. 7. (a) For purposes of sections 4 and 5 of this chapter, notice may be provided by any of the following methods:

(1) Written notice.

(2) Electronic notice if the notice provided is consistent with provisions concerning electronic records and signatures set forth in 15 U.S.C. 7001 et seq.

(3) Another form of notice if the business entity demonstrates that providing notice under subdivisions (1) and (2) would cost more than two hundred fifty thousand dollars ($250,000) or require more than five hundred thousand (500,000) persons to be notified or if the business entity does not have sufficient contact information. Notice provided under this subdivision must include all the following:

(A) Electronic mail notice, if the business entity has an electronic mail address for a person that must be notified.

(B) If the business entity maintains an Internet web site, conspicuous posting of the notice on the business entity's web site.

(C) Notification to major statewide news media.

(b) Notwithstanding subdivision (a), a business entity that maintains its own notification procedures:

(1) as part of an information security policy for the treatment of personal information; and

(2) that are otherwise consistent with the notification requirements of this chapter;

are considered to be in compliance with this chapter if the business entity provides notice required under this chapter in accordance with the business entity policy.

Sec. 8. (a) A person that is injured as the result of a violation of this chapter may bring a civil action:

(1) for injunctive relief against; or

(2) to recover compensatory damages from;

the person that violated this chapter.

(b) An action brought under this section must be commenced not later than two (2) years after the date of the alleged violation.

(c) The remedies provided in this section are not intended to be the exclusive remedies available to a person.

SECTION 3. IC 24-4.8 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

ARTICLE 4.8. PROHIBITED SPYWARE

Chapter 1. Definitions

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

Sec. 2. "Advertisement" means a communication that has the primary purpose of promoting a commercial product or service.

Sec. 3. (a) "Computer software" means a sequence of instructions written in any programming language that is executed on a computer.

(b) The term does not include computer software that is a web page or a data component of a web page that is not executable independently of the web page.

Sec. 4. "Damage" means a significant impairment to the integrity or availability of data, computer software, a system, or information.

Sec. 5. "Execute" means to perform a function or carry out an instruction of computer software.

Sec. 6. "Intentionally deceptive means" means any of the following:

(1) A materially false statement that a person knows to be false.

(2) A statement or description made by a person who omits or misrepresents material information with the intent to deceive an owner or operator of a computer.

(3) The failure to provide notice to an owner or operator of

a computer regarding the installation or execution of computer software with the intent to deceive the owner or operator.

Sec. 7. "Internet" has the meaning set forth in IC 5-22-2-13.5.

Sec. 8. (a) "Owner or operator" means the person who owns or leases a computer, or a person who uses a computer with the authorization of the person who owns or leases the computer.

(b) The term does not include a manufacturer, distributor, wholesaler, retail merchant, or any other person who owns or leases a computer before the first retail sale of the computer.

Sec. 9. "Person" means an individual, a partnership, a corporation, a limited liability company, or another organization.

Sec. 10. "Personally identifying information" means the following information that refers to a person who is an owner or operator of a computer:

(1) Identifying information (as defined in IC 35-43-5-1).

(2) An electronic mail address.

(3) Any of the following information in a form that personally identifies an owner or operator of a computer:

(A) An account balance.

(B) An overdraft history.

(C) A payment history.

Sec. 11. (a) Except as provided in subsection (b), "transmit" means to transfer, send, or otherwise make available computer software or a computer software component through a network, the Internet, a wireless transmission, or any other medium, including a disk or data storage device.

(b) "Transmit" does not include an action by a person who provides:

(1) the Internet connection, telephone connection, or other means of connection for an owner or operator, including a compact disc or DVD on which computer software to establish or maintain a connection is made available;

(2) the storage or hosting of computer software or an Internet web page through which the computer software was made available; or

(3) an information location tool, including a directory, an index, a reference, a pointer, or a hypertext link, through which the owner or operator of the computer located the software;

unless the person receives a direct economic benefit from the execution of the computer software.

Chapter 2. Prohibited Conduct

Sec. 1. This chapter does not apply to a person who monitors or interacts with an owner or operator's Internet connection, Internet service, network connection, or computer if the person is a telecommunications carrier, cable operator, computer hardware or software provider, or other computer service provider who monitors or interacts with an owner or operator's Internet connection, Internet service, network connection, or computer for one (1) or more of the following purposes:

(1) Network security.

(2) Computer security.

(3) Diagnosis.

(4) Technical support.

(5) Maintenance.

(6) Repair.

(7) Authorized updates of software or system firmware.

(8) Authorized remote system management.

(9) Detection or prevention of the unauthorized, illegal, or fraudulent use of a network, service, or computer software, including scanning for and removing computer software that facilitates a violation of this chapter.

Sec. 2. A person who is not the owner or operator of the computer may not knowingly or intentionally:

(1) transmit computer software to the computer; and

(2) by means of the computer software transmitted under subdivision (1), do any of the following:

(A) Use intentionally deceptive means to modify computer settings that control:

(i) the page that appears when an owner or operator opens an Internet browser or similar computer software used to access and navigate the Internet;

(ii) the Internet service provider, search engine, or web proxy that an owner or operator uses to access or search the Internet; or

(iii) the owner or operator's list of bookmarks used to access web pages.

(B) Use intentionally deceptive means to collect personally identifiable information:

(i) through the use of computer software that records a keystroke made by an owner or operator and transfers that information from the computer to another person; or

(ii) in a manner that correlates the personally identifiable information with data respecting all or substantially all of the web sites visited by the owner or operator of the computer, not including a web site operated by the person collecting the personally identifiable information.

(C) Extract from the hard drive of an owner or operator's computer:

(i) a credit card number, debit card number, bank account number, or any password or access code associated with these numbers;

(ii) a Social Security number, tax identification number, driver's license number, passport number, or any other government issued identification number; or

(iii) the account balance or overdraft history of a person in a form that identifies the person.

(D) Use intentionally deceptive means to prevent reasonable efforts by an owner or operator to block or disable the installation or execution of computer software.

(E) Knowingly or intentionally misrepresent that computer software will be uninstalled or disabled by an owner or operator's action.

(F) Use intentionally deceptive means to remove, disable, or otherwise make inoperative security, antispyware, or antivirus computer software installed on the computer.

(G) Take control of another person's computer with the intent to cause damage to the computer or cause the owner or operator to incur a financial charge for a service that the owner or operator has not authorized by:

(i) accessing or using the computer's modem or Internet service; or

(ii) without the authorization of the owner or operator, opening multiple, sequential, standalone advertisements in the owner or operator's Internet browser that a reasonable computer user cannot close without turning off the computer or closing the browser.

(H) Modify:

(i) computer settings that protect information about a person with the intent of obtaining personally identifiable information without the permission of the owner or operator; or

(ii) security settings with the intent to cause damage to a computer.

(I) Prevent reasonable efforts by an owner or operator to block or disable the installation or execution of computer software by:

(i) presenting an owner or operator with an option to decline installation of computer software knowing that the computer software will be installed even if the owner or operator attempts to decline installation; or

(ii) falsely representing that computer software has been disabled.

Sec. 3. A person who is not the owner or operator may not knowingly or intentionally do any of the following:

(1) Induce the owner or operator to install computer software on the owner or operator's computer by knowingly or intentionally misrepresenting the extent to which installing the computer software is necessary for:

(A) computer security;

(B) computer privacy; or

(C) opening, viewing, or playing a particular type of content.

(2) Use intentionally deceptive means to execute or cause the execution of computer software with the intent to cause the owner or operator to use the computer software in a manner that violates subdivision (1).

Chapter 3. Relief and Damages

Sec. 1. In addition to any other remedy provided by law, a provider of computer software, the owner of a web site, or the owner of a trademark who is adversely affected by reason of the violation may bring a civil action against a person who violates IC 24-4.8-2:

(1) to enjoin further violations of IC 24-4.8-2; and

(2) to recover the greater of:

(A) actual damages; or

(B) one hundred thousand dollars ($100,000);

for each violation of IC 24-4.8-2.

Sec. 2. For purposes of section 1 of this chapter, conduct that violates more than one (1) subdivision, clause, or item of IC 24-4.8-2 constitutes a separate violation for each separate subdivision, clause, or item violated. However, a single action or course of conduct that causes repeated violations of a single subdivision, clause, or item of IC 24-4.8-2 constitutes one (1) violation.".

Renumber all SECTIONS consecutively.

(Reference is to SB 49 as printed January 14, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

ULMER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred Engrossed Senate Bill 60, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

HOFFMAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred Engrossed Senate Bill 64, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 23.

Page 3, line 24, delete "7. IC 4-23-7.1-1 IS AMENDED TO READ AS" and insert "1. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "committee" refers to the library and heritage study committee established under subsection (b).**

(b) The library and heritage study committee is established.

(c) The committee shall study and evaluate the creation of a department of the state library and heritage, which may include the study and evaluation of the administration and oversight of the following:".

Page 3, delete lines 25 through 41, begin a new line block indented and insert:

"**(1) The state library.**".

Page 3, line 42, delete "(8) "State archives" means the" and insert "**(2) The**".

Page 4, delete lines 2 through 5, begin a new line block indented and insert:

"**(3) Historic preservation and archeology.**

(4) The historical marker program.

(5) The governor's portraits collection.

(6) Any other heritage-related function of the government that could logically be incorporated into the department.

(d) The committee shall examine the executive oversight of the proposed department of the state library and heritage, specifically considering whether the department should be overseen by the lieutenant governor.

(e) The study committee shall obtain input from the following:

(1) The department of natural resources.

(2) The budget agency.

(3) The state library.

(4) The commission on public records.

(5) The Indiana department of administration.

(6) The historical bureau.

(7) Any other agency that has a heritage-related function.

(f) The committee shall operate under the policies governing study committees adopted by the legislative council.

(g) 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.".

Page 4, delete lines 6 through 42.

Delete pages 5 through 20.

Page 21, delete lines 1 through 35.

Page 21, line 36, delete "(b)" and insert "**(h)**".

Page 21, line 36, delete "July" and insert "**January**".

Page 21, after line 36, begin a new paragraph and insert:

"SECTION 2. [EFFECTIVE JULY 1, 2005] **(a) As used in this SECTION, "department" refers to the Indiana department of administration established under IC 4-13-1.**

(b) The department shall study and evaluate the feasibility of constructing a state house museum, visitor's center, and gift shop within the state house.

(c) The department shall study the feasibility, from a design, architectural, and engineering perspective, of renovating the first floor of the state house beneath the rotunda to accommodate a museum, visitor's center, and gift shop.

(d) The department shall submit a final report of the results of its study to the legislative council before October 1, 2005. The report must be in an electronic format under IC 5-14-6.

(e) This SECTION expires January 1, 2006.

SECTION 3. [EFFECTIVE JULY 1, 2005] **(a) As used in this SECTION, "committee" refers to the state house museum committee established by subsection (b).**

(b) The state house museum committee is established.

(c) The committee shall study and evaluate the creation of a state house museum, visitor's center, and gift shop within the state house.

(d) The committee shall do the following:

(1) Recommend which state agency or agencies should be responsible for the museum, the visitor's center, and the gift shop.

(2) Evaluate the amount of space needed for the state house museum, visitor's center, and gift shop.

(3) Evaluate and recommend the types of memorabilia and displays to be included as part of the collection of the state house museum.

(4) Evaluate and recommend the amenities and services of the visitor's center.

(5) Recommend legislation, if necessary, to implement the creation of the museum, visitor's center, and gift shop.

(6) Consider and make recommendations concerning any other issues determined by the committee that are relevant to the creation of a state museum, visitor's center, and gift shop.

(e) The committee consists of eight (8) 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.

(f) The committee shall submit a report to the legislative council before November 1, 2005. The report must be in an electronic format under IC 5-14-6.

(g) The legislative services agency shall provide staff support

to the committee.

(h) The affirmative votes of a majority of the members appointed to the committee are required for the committee to take action on any measure, including the final report.

(i) 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 the legislative services agency.

(j) This SECTION expires January 1, 2006.

SECTION 4. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to SB 64 as printed February 25, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

BUCK, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 66, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 3. IC 12-15-15-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.5. (a) Payment for physician services provided in the emergency department of a hospital licensed under IC 16-21 must be at a rate of one hundred percent (100%) of rates payable under the Medicaid fee structure.

(b) The payment under subsection (a) must be calculated using the same methodology used for all other physicians participating in the Medicaid program.

(c) For services rendered and documented in an individual's medical record, physicians must be reimbursed for federally required medical screening exams that are necessary to determine the presence of an emergency using the appropriate Current Procedural Terminology (CPT) codes 99281, 99282, or 99283 described in the Current Procedural Terminology Manual published annually by the American Medical Association, without authorization by the enrollee's primary medical provider.

(d) Payment for all other physician services provided in an emergency department of a hospital to enrollees in the Medicaid primary care case management program must be at a rate of one hundred percent (100%) of the Medicaid fee structure rates, provided the service is authorized, prospectively or retrospectively, by the enrollee's primary medical provider.

~~(e) This section does not apply to a person enrolled in the Medicaid risk based managed care program.~~

SECTION 4. IC 12-16-2.5-6.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: **Sec. 6.3. For purposes of this article, the following definitions apply to the hospital care for the indigent program:**

(1) "Assistance" means the satisfaction of a person's financial obligation for hospital items or services, physician services, or transportation services provided to the person under IC 12-16-7.5-1.2.

(2) "Claim" means a statement filed with the division by a hospital, physician, or transportation provider that identifies the health care items or services the hospital, physician, or transportation provider provided to a person for whom an application under IC 12-16-4.5 has been filed with the division.

(3) "Eligible" or "eligibility", when used in regard to a person for whom an application under IC 12-16-4.5 has been filed with the division, means the extent to which:

(A) the person, for purposes of the application, satisfies the income and resource standards established under IC 12-16-3.5; and

(B) the person's medical condition, for purposes of the application, satisfies one (1) or more of the medical conditions identified in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3).

SECTION 5. IC 12-16-2.5-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.5. (a) Notwithstanding IC 12-16-4.5, IC 12-16-5.5, and IC 12-16-6.5, except for the functions provided for under IC 12-16-4.5-3, IC 12-16-4.5-4, IC 12-16-6.5-3, IC 12-16-6.5-4, and IC 12-16-6.5-7, the division may enter into a written agreement with a hospital licensed under IC 16-21 for the hospital's performance of one (1) or more of the functions of the division or a county office under IC 12-16-4.5, IC 12-16-5.5, and IC 12-16-6.5. Under an agreement between the division and a hospital:**

(1) if the hospital is authorized to determine:

(A) if a person meets the income and resource requirements established under IC 12-16-3.5;

(B) if the person's medical condition satisfies one (1) or more of the medical conditions identified in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(C) if the health care items or services received by the person were necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3), or were a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3);

the determinations must be limited to persons receiving care at the hospital;

(2) the agreement must state whether the hospital is authorized to make determination regarding physician services or transportation services provided to a person;

(3) the agreement must state the extent to which the functions performed by the hospital include the provision of the notices required under IC 12-16-5.5 and IC 12-16-6.5;

(4) the agreement may not limit the hearing and appeal process available to persons, physicians, transportation providers, or other hospitals under IC 12-16-6.5;

(5) the agreement must state how determinations made by the hospital will be communicated to the division for purposes of the attributions and calculations under IC 12-15-15-9, IC 12-15-15-9.5, IC 12-16-7.5, and IC 12-16-14; and

(6) the agreement must state how the accuracy of the hospital's determinations will be reviewed.

(b) A hospital, its employees, and its agents are immune from civil or criminal liability arising from their good faith implementation and administration of the agreement between the division and the hospital under this section.

SECTION 6. IC 12-16-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 1. (a) An Indiana resident who meets the income and resource standards established by the division under section 3 of this chapter is eligible for assistance to ~~pay for any part of the cost of~~ **satisfy the resident's financial obligation for** care provided **to the resident** in a hospital in Indiana that was necessitated after the onset of a medical condition that was manifested by symptoms of sufficient severity that the absence of immediate medical attention would probably result in any of the following:

(1) Placing the individual's life in jeopardy.

(2) Serious impairment to bodily functions.

(3) Serious dysfunction of a bodily organ or part.

(b) A qualified resident is also eligible for assistance to ~~pay~~ **satisfy the resident's financial obligation** for the ~~part of the cost of~~ care that is a direct consequence of the medical condition that necessitated the emergency care.

SECTION 7. IC 12-16-3.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 2. (a) An individual who is not an Indiana resident is eligible for assistance to ~~pay~~ **satisfy the resident's financial obligation** for the ~~part of the cost of~~ care provided **to the individual** in a hospital in Indiana that was necessitated after the onset of a medical condition that was manifested by symptoms of sufficient severity that the

absence of immediate medical attention would probably result in any of the following:

(1) Placing the individual's life in jeopardy.

(2) Serious impairment to bodily functions.

(3) Serious dysfunction of any bodily organ or part.

(b) An individual is eligible for assistance under subsection (a) only if the following qualifications exist:

(1) The individual meets the income and resource standards established by the division under section 3 of this chapter.

(2) The onset of the medical condition that necessitated medical attention occurred in Indiana.

SECTION 8. IC 12-16-3.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The division shall adopt rules under IC 4-22-2 to establish income and resource eligibility standards for patients whose care is to be paid under the hospital care for the indigent program.

(b) To the extent possible **and subject to this article,** rules adopted under this section must meet the following conditions:

(1) Be consistent with IC 12-15-21-2 and IC 12-15-21-3.

(2) Be adjusted at least one (1) time every two (2) years.

(c) The income and eligibility standards established under this section do not include any spend down provisions available under IC 12-15-21-2 or IC 12-15-21-3.

(d) In addition to the conditions imposed under subsection (b), rules adopted under this section must exclude a Holocaust victim's settlement payment received by an eligible individual from the income and eligibility standards for patients whose care is to be paid for under the hospital care for the indigent program.

SECTION 9. IC 12-16-4.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) To receive ~~payment from the division for the care provided to an~~ **assistance under the hospital care for the** indigent ~~person,~~ **program under this article,** a hospital, **the person, or the person's representative** must file an application regarding the person with the division.

(b) Upon receipt of an application under subsection (a), the division shall determine whether the person is a resident of Indiana and, if so, the person's county of residence. If the person is a resident of Indiana, the division shall provide a copy of the application to the county office of the person's county of residence. If the person is not a resident of Indiana, the division shall provide a copy of the application to the county office of the county where the onset of the medical condition that necessitated the care occurred. If the division cannot determine whether the person is a resident of Indiana or, if the person is a resident of Indiana, the person's county of residence, the division shall provide a copy of the application to the county office of the county where the onset of the medical condition that necessitated the care occurred.

(c) A county office that receives a request from the division shall cooperate with the division in determining whether a person is a resident of Indiana and, if the person is a resident of Indiana, the person's county of residence.".

Page 3, line 14, strike "admitted to, or otherwise".

Page 3, line 15, strike "provided care by,".

Page 3, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 11. IC 12-16-4.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **Subject to this article,** the division shall adopt rules under IC 4-22-2 prescribing the following:

(1) The form of an application.

(2) The establishment of procedures for applications.

(3) The time for submitting and processing claims.

SECTION 12. IC 12-16-4.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A person may file an application directly with the division if the application is filed not more than ~~thirty (30)~~ **forty-five (45)** days after the person ~~was admitted to, or provided care by,~~ **has been released or discharged from** the hospital.

(b) Reimbursement for the costs incurred in providing care to an eligible person may only be made to the providers of the care.

SECTION 13. IC 12-16-4.5-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.5. A claim for hospital items or services, physician services, or transportation services must be filed with the division not more than forty-five (45) days after the person who received the care has been released or discharged from the hospital. For good cause as determined by the division, this forty-five (45) day limit may be extended or waived for a claim.**

SECTION 14. IC 12-16-5.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a)** The division shall, upon receipt of an application of or for a person who was admitted to, or who was otherwise provided care by, a hospital, promptly investigate to determine the person's eligibility under the hospital care for the indigent program. **The division shall consider the following information obtained by the hospital regarding the person:**

(1) Income.

(2) Resources.

(3) Place of residence.

(4) Medical condition.

(5) Hospital care.

(6) Physician care.

(7) Transportation to and from the hospital.

The division may rely on the hospital's information in determining the person's eligibility under the program.

(b) The division may choose not to interview the person if, based on the information provided to the division, the division determines that it appears that the person is eligible for the program. If the division determines that an interview of the person is necessary, the division shall allow the interview to occur by telephone with the person or the person's representative if the person is not able to participate in the interview.

(c) The county office located in:

(1) the county where the person is a resident; or

(2) the county where the onset of the medical condition that necessitated the care occurred if the person's Indiana residency or Indiana county of residence cannot be determined;

shall cooperate with the division in determining the person's eligibility under the program.

SECTION 15. IC 12-16-5.5-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.2. (a) The division shall, upon receipt of a claim pertaining to a person:**

(1) who was admitted to, or who was otherwise provided care by, a hospital; and

(2) whose medical condition satisfies one (1) or more of the medical conditions identified in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3);

promptly review the claim to determine if the health care items or services identified in the claim were necessitated by the person's medical condition or, if applicable, if the items or services were a direct consequence of the person's medical condition.

(b) In conducting the review of a claim referenced in subsection (a), the division shall calculate the amount of the claim. For purposes of this section, IC 12-15-15-9, IC 12-15-15-9.5, IC 12-16-6.5, and IC 12-16-7.5, the amount of a claim shall be calculated by applying the office's applicable Medicaid fee-for-service reimbursement rate to each of the items and services identified in the claim that are determined:

(1) to have been necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(2) to be a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3).

SECTION 16. IC 12-16-5.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Subject to subsection (b), if the division is unable after prompt and diligent efforts to verify information contained in the application that is reasonably necessary to determine eligibility, the division may deny assistance under the hospital care for the indigent program. **The pending expiration of the period specified in IC 12-16-6.5-1.5 is not a valid reason for denying assistance under the hospital care**

for the indigent program.

(b) Before denying assistance under the hospital care for the indigent program, the division must provide the person and the hospital written notice of:

(1) the specific information or verification needed to determine eligibility; ~~and~~

~~(2) the date on which the application will be denied if the information or verification is not provided within ten (10) days after the date of the notice.~~

(2) the specific efforts undertaken to obtain the information or verification; and

(3) the statute or rule requiring the information or verification identified under subdivision (1).

(c) The division must provide the hospital at least ten (10) days beyond the deadline established under IC 12-16-6.5-1.5 to provide the division with information concerning the person's eligibility. If the division does not make a determination of the person's eligibility within ten (10) days after receiving the information under this subsection, the person is eligible for the hospital care for the indigent care program.

SECTION 17. IC 12-16-5.5-3.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.2. (a) Subject to subsection (b), if the division is unable to determine that a health care item or service identified in a claim:**

(1) was necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(2) was a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3);

the division may deny assistance to the person under the hospital care for the indigent program for that item or service. The pending expiration of the period specified in IC 12-16-6.5-1.7 is not a valid reason for determining that an item or a service was not necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3), or was not a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3).

(b) Before denying assistance under the hospital care for the indigent program for an item or a service described in subsection (a), the division must provide the provider of the item or service written notice of:

(1) the specific item or service in question; and

(2) an explanation of the basis for the division's inability to determine that the health care item or service was:

(A) necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(B) a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3);

including, if applicable, an explanation of the basis for a conclusion by the division that the item or service, in fact, was not necessitated by, or, as applicable, not a direct consequence of, one (1) or more of such medical conditions.

The division must grant the provider of the item or service time to provide the division with information or materials bearing on whether the item or service was necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3), or a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3), but time granted by the division may not be less than ten (10) days beyond the deadline established under IC 12-16-6.5-1.7. If the division does not make its determination regarding the item or service within ten (10) days after receiving information or materials provided for in this section, the item or service is considered to have been necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3), or a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3).

SECTION 18. IC 12-16-6.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. If the division determines that a person is not eligible for ~~payment of~~ **assistance for** medical care, hospital care, or transportation services, an affected person, physician, hospital, or transportation provider may appeal to the division not later than ninety (90) days after the mailing of notice of that determination to the affected person, physician, hospital, or transportation provider ~~at~~ **to** the last known address of the person, physician, hospital, or transportation provider.

SECTION 19. IC 12-16-6.5-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.2. (a) If the division determines that an item or service identified in a claim:**

(1) was not necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(2) was not a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3);

the affected person, physician, hospital, and transportation provider may appeal to the division not later than ninety (90) days after the mailing of the notice of that determination to the affected person, physician, hospital, or transportation provider to the last known address of the person, physician, hospital, or transportation provider.

(b) If the division determines that an item or service identified in a claim:

(1) was necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(2) was a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3);

but the affected physician, hospital, or transportation provider disagrees with the amount of the claim calculated by the division under IC 12-16-5.5-1.2(b), the affected physician, hospital, or transportation provider may appeal the calculation to the division not later than ninety (90) days after the mailing of the notice of that calculation to the affected physician, hospital, or transportation provider to the last known address of the physician, hospital, or transportation provider.

SECTION 20. IC 12-16-6.5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. Subject to IC 12-16-5.5-3(c), if the division fails to complete an investigation and determination of a person's financial and medical eligibility for the hospital care for the indigent program not later than forty-five (45) days after receipt of the application filed under IC 12-16-4.5, the person is considered to be eligible for assistance under the program.**

SECTION 21. IC 12-16-6.5-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.7. Subject to IC 12-16-5.5-3.2(b), if the division fails to complete an investigation and determination of one (1) or more health care items or services identified in a claim within forty-five (45) days after receipt of the claim filed under IC 12-16-4.5, the item or service is considered to have been:**

(1) necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(2) a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3).

SECTION 22. IC 12-16-6.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) **If the division receives an application that was filed on behalf of a person under IC 12-16-4.5,** the division shall determine:

(1) the eligibility of the person for ~~payment of the cost of medical or hospital care~~ **assistance** under the hospital care for the indigent program; **and**

(2) if the health care items or services provided to the person and identified in a claim filed with the division under IC 12-16-4.5 were:

(A) necessitated by at least one (1) medical condition listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(B) the direct consequence of at least one (1) of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3).

(b) If:

(1) the person is found eligible ~~the division shall pay the reasonable cost of the care covered under IC 12-16-3.5-1 or IC 12-16-3.5-2 to the physicians furnishing the covered medical care and the transportation providers furnishing the covered transportation services, subject to the limitations in IC 12-16-7.5.~~ **for assistance; and**

(2) at least one (1) of the items or services identified in the claim is determined:

(A) to have been necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(B) to be a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3);

the person must receive assistance for those items and services.

~~(c) If the person is found eligible, the payment for the hospital services and items covered under IC 12-16-3.5-1 or IC 12-16-3.5-2 shall be calculated using the office's applicable Medicaid fee-for-service reimbursement principles. Payment to the hospital shall be made:~~

~~(1) under IC 12-15-15-9; and~~

~~(2) if the hospital is eligible, under IC 12-15-15-9.5.~~

SECTION 23. IC 12-16-6.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. A person, **hospital, physician, or transportation provider** aggrieved by a determination **of an appeal taken** under ~~section 5(a)~~ **section 1 or 1.2** of this chapter may appeal the determination under IC 4-21.5.".

Page 3, delete lines 18 through 26, begin a new paragraph and insert:

"SECTION 24. IC 12-16-7.5-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: **Sec. 1.2. (a) A person determined to be eligible under the hospital care for the indigent program is not financially obligated for hospital items or services, physician services, or transportation services provided to the person during the person's eligibility under the program, if the items or services were:**

(1) identified in a claim filed with the division under IC 12-16-4.5; and

(2) determined:

(A) to have been necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(B) to be a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3).

(b) Based on a hospital's items or services identified in a claim under subsection (a), the hospital must receive a payment from the office calculated and made under IC 12-15-15-9 and IC 12-15-15-9.5.

(c) Based on a physician's services identified in a claim under subsection (a), the physician must receive a payment from the division calculated and made under section 5 of this chapter.

(d) Based on the transportation services identified in a claim under in subsection (a), the transportation provider must receive a payment from the division calculated and made under section 5 of this chapter.".

Page 3, line 31, delete "care;" and insert "**services;**".

Page 4, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 26. IC 12-16-7.5-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: **Sec. 2.7. (a) Except as provided in subsection (f), this section applies to state fiscal years beginning after June 30, 2004.**

(b) For purposes of this chapter, IC 12-15-15-9, IC 12-15-15-9.5, and IC 12-16-14 the following definitions apply:

(1) "Amount" refers to a payable claim in an amount calculated under STEP THREE of the following formula:

STEP ONE: Identify the items and services comprising a payable claim.

STEP TWO: Using the applicable Medicaid fee for service reimbursement rates, calculate the reimbursement amounts for each of the items and services identified in STEP ONE.

STEP THREE: Calculate the sum of the amounts identified in STEP TWO.

(2) "Payable claim" means a claim for hospital items or services, physician care, or transportation services:

(A) provided to a person under the hospital care for the indigent program under this article during the person's eligibility under the program;

(B) identified in a claim filed with the division; and

(C) determined to:

(i) have been necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(ii) to be a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3).

(c) Payable claims shall be segregated by state fiscal year.

(d) The division shall calculate the amount of a payable claim at the time referenced in IC 12-16-5.5-1.2.

(e) A physician, hospital, or transportation provider that submits a payable claim to the division is considered to have submitted the payable claim during the state fiscal year during which the division determined, initially or upon appeal, the amount of a payable claim.

(f) Hospital items or services, physician care, or transportation services provided between July 1, 2003, and June 30, 2004, are governed by section 2.5 of this chapter.

SECTION 27. IC 12-16-7.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. All providers receiving payment under **section 1.2 of** this chapter agree to accept, as payment in full, the ~~amount paid for the hospital care for the indigent program~~ **payment identified in section 1.2 of this chapter** for ~~those claims submitted for payment under the program, with the exception of authorized deductibles, co-insurance, co-payment, or similar cost-sharing charges.~~ **health care items or services identified in payable claims submitted to the division.**

SECTION 28. IC 12-16-12.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The division is responsible for the emergency medical care given in a hospital to an individual who qualifies for assistance under this chapter, subject to ~~the limitations in~~ IC 12-16-7.5.

SECTION 29. IC 12-16-12.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) If a hospital owned by the health and hospital corporation is:

(1) unable to care for a patient; or

(2) unable to treat a patient at the time a transfer is requested by the hospital initiating treatment;

the hospital may continue to treat the patient until the patient's discharge.

(b) Subject to ~~the limitations in~~ IC 12-16-7.5, the division shall ~~pay the costs of~~ **be responsible for** care.

SECTION 30. IC 12-16-12.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The ~~division is not responsible~~ **hospital care** for **the indigent program under this article does not apply to** the following:

(1) ~~The payment of~~ Nonemergency ~~medical costs,~~ **care,** except as provided under ~~the hospital care for the indigent program.~~ **this article.**

(2) ~~The payment of medical costs accrued~~ **Care provided** at a hospital owned or operated by a health and hospital corporation, except for ~~hospital~~ care provided under this chapter to a person not residing in Marion County.

SECTION 31. IC 12-16-14-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3. (a) For purposes of this section, **the following definitions apply:**

(1) "Amount" ~~"payable claim"~~ has the meaning set forth in ~~IC 12-16-7.5-2.5(b)(1).~~ **IC 12-16-7.5-2.7(b)(1).**

(2) "Payable claim" has the meaning set forth in IC 12-16-7.5-2.7(b)(2).

(b) For taxes first due and payable in 2003, each county shall impose a hospital care for the indigent property tax levy equal to the product of:

(1) the county's hospital care for the indigent property tax levy for taxes first due and payable in 2002; multiplied by

(2) the county's assessed value growth quotient determined under IC 6-1.1-18.5-2 for taxes first due and payable in 2003.

(c) For taxes first due and payable in 2004, 2005, ~~and~~ 2006, **2007, and 2008,** each county shall impose a hospital care for the indigent property tax levy equal to the product of:

(1) the county's hospital care for the indigent property tax levy for taxes first due and payable in the preceding year; multiplied by

(2) the assessed value growth quotient determined in the last STEP of the following STEPS:

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth) of the county's total assessed value of all taxable property in the particular calendar year, divided by the county's total assessed value of all taxable property in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

(d) Except as provided in subsection (e):

(1) for taxes first due and payable in ~~2007,~~ **2009,** each county shall impose a hospital care for the indigent property tax levy equal to the average **of the** annual amount of payable claims attributed to the county under IC 12-16-7.5-4.5 during the state fiscal years beginning:

~~(A) July 1, 2003,~~

~~(B) July 1, 2004, and~~

~~(C)~~ **(A)** July 1, 2005; ~~and~~

(B) July 1, 2006; and

(C) July 1, 2007; and

(2) for all subsequent annual levies under this section, the average annual amount of payable claims attributed to the county under IC 12-16-7.5-4.5 during the three (3) most recently completed state fiscal years.

(e) A county may not impose an annual levy under subsection (d) in an amount greater than the product of:

(1) The greater of:

(A) the county's hospital care for the indigent property tax levy for taxes first due and payable in ~~2006,~~ **2008;** or

(B) the amount of the county's maximum hospital care for the indigent property tax levy determined under this subsection for taxes first due and payable in the immediately preceding year; multiplied by

(2) the assessed value growth quotient determined in the last STEP of the following STEPS:

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth) of the county's total assessed value of all taxable property in the particular calendar year, divided by the county's total assessed value of all taxable property in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

(f) For purposes of this section, a payable claim is attributed to the state fiscal year during which the division determined, under IC 12-16-5.5-1.2(b) or upon appeal, the amount of the payable claim.

SECTION 32. IC 29-2-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Except where the context clearly indicates a different meaning, the terms used in this chapter shall be construed as follows:

(a) "Bank or storage facility" means a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or parts thereof.

(b) "Decedent" means a deceased individual and includes a stillborn infant or fetus.

(c) "Donor" means an individual who makes a gift of all or part of ~~his~~ **the decedent's** body.

(d) "Hospital" means a hospital licensed, accredited, or approved under the laws of any state. **The term** includes a hospital operated by the United States government, a state, or a subdivision thereof, although not required to be licensed under state laws.

(e) "Part" means organs, tissues, eyes, bones, arteries, blood, other fluids, and any other portions of a human body.

(f) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(g) "Physician" or "surgeon" means a physician or surgeon licensed or authorized to practice under the laws of any state.

(h) "Procurement organization" means an organization qualified to recover anatomical gifts from donors.

~~(h)~~ **(i)** "State" includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

SECTION 33. IC 29-2-16-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

(1) any hospital, surgeon, or physician for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; ~~or~~

(2) any accredited medical or dental school, college or university for education, research, advancement of medical or dental science, or therapy; ~~or~~

(3) any ~~bank~~ **procurement organization** or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(4) any specified individual for therapy or transplantation needed

by ~~him.~~ **the individual.**

SECTION 34. IC 29-2-16-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. (a) A coroner ~~may release and permit~~ **shall attempt to facilitate permission for** the removal of ~~a part from a body~~ **organs, tissues, or eyes** within the coroner's custody, for transplantation, ~~or~~ therapy, ~~only,~~ **or research by providing information to or seeking information from the procurement organization that would assist the procurement organization in the evaluation of the viability for transplantation of any organ, tissue, or eye** if all of the following occur:

(1) The coroner receives a request ~~for a part~~ from a hospital, physician, surgeon, or procurement organization.

(2) The coroner makes a reasonable effort, taking into account the useful life of a part, to locate and examine the decedent's medical records and inform individuals listed in section 2(b) of this chapter of their option to make or object to making a gift under this chapter.

(3) The decision to allow the removal of organs, tissues, or eyes is based on a medical decision made by the pathologist

or forensic pathologist. If the pathologist or forensic pathologist considers withholding one (1) or more organs or tissues of a potential donor, the pathologist or forensic pathologist:

(A) shall be present during the removal of the organs or tissues;

(B) may request a biopsy of the removed organs; and

(C) after viewing the removed organs or tissues and determining that removal may interfere with the death investigation, may prohibit removal and shall provide a written explanation to the procurement organization.

If it is determined that prior removal will interfere with the death investigation, the procurement organization may remove the tissues and eyes after the autopsy.

~~(3)~~ **(4)** The coroner does not know of a refusal or contrary indication by the decedent or an objection by an individual having priority to act as listed in section 2(b) of this chapter.

~~(4)~~ **(5)**The removal will be by:

(A) a physician licensed under IC 25-22.5; or

(B) in the case of removal of an eye or part of an eye, by an individual described in section 4(e) of this chapter; and under IC 36-2-14-19.

~~(5)~~ **(6)** The removal will not interfere with any autopsy or investigation.

~~(6)~~ **(7)** The removal will be in accordance with accepted medical standards.

~~(7)~~ **(8)** Cosmetic restoration will be done, if appropriate.

(9) If the pathologist or forensic pathologist is required to be present to examine the decedent before or during the removal of the parts, the procurement organization shall reimburse the pathologist or forensic pathologist for actual costs, but the amount may not exceed one thousand dollars ($1,000). The county is not responsible for any costs incurred by the pathologist, forensic pathologist, or procurement organization under this subdivision.

(10) If requested by the coroner, pathologist, or forensic pathologist, the procurement organization shall provide a surgeon's report detailing the condition of the organs and the relationship of the organs to the cause of death, if any.

(b) If the body is not within the custody of the coroner, the ~~medical examiner~~ **pathologist or forensic pathologist** may release and permit the removal of any part from a body ~~in the medical examiner's custody~~ for transplantation or therapy if the requirements of subsection (a) are met.

(c) A person under this section who releases or permits the removal of a part shall maintain a permanent record of the name of the decedent, the individual making the request, the date and purpose of the request, the body part requested, and the person to whom it was released.

SECTION 35. IC 29-2-16-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 6.5. (a) Except for a gift made by a donor to a specific donee, a procurement organization that holds an agreement with a hospital to perform anatomical gift donation services for the hospital under 42 U.S.C. 1329b-8 and 42 CFR Part 482 is considered to be the donee of all gifts from patients who have died in the hospital.**

(b) An investigation by a coroner or a medical examiner does not change the rights of a procurement organization to act as the donee.

SECTION 36. IC 34-30-2-45.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 45.2. IC 12-16-2.5-6.5 (Concerning administering agreements between the hospital and the division of family and children under the hospital care for the indigent program).**".

Page 4, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 38. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 12-16-2.5-3; IC 12-16-6.5-2; IC 12-16-7.5-1; IC 12-16-11.5-1; IC 12-16-11.5-2.".

Renumber all SECTIONS consecutively.

(Reference is to SB 66 as reprinted March 1, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 0.

BECKER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred Engrossed Senate Bill 75, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 17, strike "four (4)".

Page 2, line 1, strike "hours" and insert "**one (1) hour**".

Page 2, line 2, strike "concerning:" and insert "**in each of the following:**".

Page 2, line 22, delete "sixty-eight (68)" and insert "**seventy (70)**".

Page 2, line 23, delete "." and insert "**and has been a licensed insurance producer for at least twenty (20) years.**".

(Reference is to SB 75 as printed February 1, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 1.

RIPLEY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Engrossed Senate Bill 96, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective date in SECTIONS 1 through 17 with "[EFFECTIVE UPON PASSAGE]".

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 34.

Page 2, between lines 37 and 38, begin a new paragraph and insert:

"**"Advisory sentence" means the nonbinding guideline sentence defined in IC 35-50-2-1.3.**".

Page 2, strike line 41.

Page 2, line 42, strike "without consideration of mitigating".

Page 2, line 42, delete "circumstances,".

Page 2, line 42, strike "aggravating".

Page 3, line 1, delete "circumstances," and insert "~~circumstances.~~".

Page 3, line 1, delete "or a prior conviction.".

Page 3, line 7, strike "presumptive" and insert "**advisory**".

Page 3, line 13, delete "Determination of".

Page 3, delete lines 14 through 18.

Page 3, line 19, delete "Sec. 2." and insert "**Sec. 1.**".

Page 4, delete lines 15 through 42.

Page 5, delete lines 1 through 7.

Page 5, line 10, strike "shall" and insert "**may**".

Page 5, line 10, delete ":".

Page 5, line 11, delete "(1)".

Page 5, line 11, delete "found by the jury (in a case" and insert "**.**".

Page 5, run in lines 10 through 11.

Page 5, delete lines 12 through 16.

Page 7, line 35, after "matters" insert "**aggravating circumstances or**".

Page 7, between lines 36 and 37, begin a new paragraph and insert:

"**(d) A court may impose any sentence that is:**

(1) authorized by statute; and

(2) permissible under the Constitution of the State of Indiana;

regardless of the presence or absence of aggravating circumstances or mitigating circumstances.".

Page 8, delete lines 25 through 37.

Page 9, line 22, after ";" insert "**and**".

Page 9, line 24, delete "and".

Page 9, delete line 25.

Page 9, line 32, strike "presumptive" and insert "**advisory**".

Page 10, line 3, strike "a court" and insert "**the factfinder**".

Page 10, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 5. IC 35-50-2-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: **Sec. 1.3. (a) For purposes of sections 3 through 7 of this chapter, "advisory sentence" means a guideline sentence that the court may voluntarily consider as the midpoint between the maximum sentence and the minimum sentence.**

(b) Except as provided in subsection (c), a court is not required to use an advisory sentence.

(c) In imposing:

(1) consecutive sentences in accordance with IC 35-50-1-2;

(2) an additional fixed term to an habitual offender under section 8 of this chapter; or

(3) an additional fixed term to a repeat sexual offender under section 14 of this chapter;

a court is required to use the appropriate advisory sentence in imposing a consecutive sentence or an additional fixed term. However, the court is not required to use the advisory sentence in imposing the sentence for the underlying offense.".

Page 10, line 10, strike "fifty-five (55)".

Page 10, strike line 11.

Page 10, line 12, strike "circumstances or".

Page 10, line 12, delete "a prior conviction, and".

Page 10, line 12, strike "not more than ten (10) years".

Page 10, line 13, strike "subtracted for mitigating circumstances." and insert "**between forty-five (45) and sixty-five (65) years, with the advisory sentence being fifty-five (55) years.**".

Page 10, line 27, strike "thirty".

Page 10, strike line 28.

Page 10, line 29, strike "circumstances or".

Page 10, line 29, delete "a prior conviction, and".

Page 10, line 29, strike "not more than ten (10) years".

Page 10, line 30, strike "subtracted for mitigating circumstances." and insert "**between twenty (20) and fifty (50) years, with the advisory sentence being thirty (30) years.**".

Page 10, line 34, strike "ten".

Page 10, strike line 35.

Page 10, line 36, strike "circumstances or".

Page 10, line 36, delete "a prior conviction, and".

Page 10, line 36, strike "not more than four (4) years".

Page 10, line 37, strike "subtracted for mitigating circumstances." and insert "**between six (6) and twenty (20) years, with the advisory sentence being ten (10) years.**".

Page 10, line 41, strike "four".

Page 10, strike line 42.

Page 11, line 1, strike "circumstances or".

Page 11, line 1, delete "a prior conviction, and".

Page 11, line 1, strike "not more than two (2) years".

Page 11, line 2, strike "subtracted for mitigating circumstances." and insert "**between two (2) and eight (8) years, with the advisory sentence being four (4) years.**".

Page 11, line 13, strike "one".

Page 11, strike line 14.

Page 11, line 15, strike "years added for aggravating circumstances or".

Page 11, line 15, delete "a prior conviction, and".

Page 11, line 16, strike "not more than one (1) year subtracted for mitigating circumstances." and insert "**between six (6) months and three (3) years, with the advisory sentence being one and one-half (1 1/2) years.**".

Page 11, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 11. IC 35-50-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Except as otherwise provided in this section, the state may seek to have a person sentenced as a habitual offender for any felony by alleging, on a page separate from the rest of the charging instrument, that the person has accumulated two (2) prior unrelated felony convictions.

(b) The state may not seek to have a person sentenced as a habitual offender for a felony offense under this section if:

(1) the offense is a misdemeanor that is enhanced to a felony in the same proceeding as the habitual offender proceeding solely because the person had a prior unrelated conviction;

(2) the offense is an offense under IC 9-30-10-16 or IC 9-30-10-17; or

(3) all of the following apply:

(A) The offense is an offense under IC 16-42-19 or IC 35-48-4.

(B) The offense is not listed in section 2(b)(4) of this chapter.

(C) The total number of unrelated convictions that the person has for:

(i) dealing in or selling a legend drug under IC 16-42-19-27;

(ii) dealing in cocaine or a narcotic drug (IC 35-48-4-1);

(iii) dealing in a schedule I, II, III controlled substance (IC 35-48-4-2);

(iv) dealing in a schedule IV controlled substance (IC 35-48-4-3; and

(v) dealing in a schedule V controlled substance (IC 35-48-4-4);

does not exceed one (1).

(c) A person has accumulated two (2) prior unrelated felony convictions for purposes of this section only if:

(1) the second prior unrelated felony conviction was committed after sentencing for the first prior unrelated felony conviction; and

(2) the offense for which the state seeks to have the person sentenced as a habitual offender was committed after sentencing for the second prior unrelated felony conviction.

(d) A conviction does not count for purposes of this section as a prior unrelated felony conviction if:

(1) the conviction has been set aside;

(2) the conviction is one for which the person has been pardoned; or

(3) all of the following apply:

(A) The offense is an offense under IC 16-42-19 or IC 35-48-4.

(B) The offense is not listed in section 2(b)(4) of this chapter.

(C) The total number of unrelated convictions that the person has for:

(i) dealing in or selling a legend drug under IC 16-42-19-27;

(ii) dealing in cocaine or a narcotic drug (IC 35-48-4-1);

(iii) dealing in a schedule I, II, III controlled substance (IC 35-48-4-2);

(iv) dealing in a schedule IV controlled substance (IC 35-48-4-3; and

(v) dealing in a schedule V controlled substance (IC 35-48-4-4);

does not exceed one (1).

(e) The requirements in subsection (b) do not apply to a prior unrelated felony conviction that is used to support a sentence as a habitual offender. A prior unrelated felony conviction may be used under this section to support a sentence as a habitual offender even if the sentence for the prior unrelated offense was enhanced for any reason, including an enhancement because the person had been convicted of another offense. However, a prior unrelated felony conviction under IC 9-30-10-16, IC 9-30-10-17, IC 9-12-3-1 (repealed), or IC 9-12-3-2 (repealed) may not be used to support a sentence as a habitual offender.

(f) If the person was convicted of the felony in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing under IC 35-38-1-3.

(g) A person is a habitual 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 two (2) prior unrelated felony convictions.

(h) The court shall sentence a person found to be a habitual offender to an additional fixed term that is not less than the ~~presumptive~~ **advisory** sentence for the underlying offense nor more than three (3) times the ~~presumptive~~ **advisory** sentence for the underlying offense. However, the additional sentence may not exceed thirty (30) years.".

Page 13, line 11, delete "," and insert "**and**".

Page 13, line 12, delete ", and the existence of a prior unrelated

conviction".

Page 15, line 35, strike "presumptive" and insert "**advisory**".

Page 15, after line 37, begin a new paragraph and insert:

"SECTION 16. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to SB 96 as printed February 25, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

ULMER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred Engrossed Senate Bill 111, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

ALDERMAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Engrossed Senate Bill 117, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

ULMER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred Engrossed Senate Bill 140, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-32-6-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.5. "Bona fide business organization" means a local organization that is not for pecuniary profit and is exempt from federal income taxation under Section 501(c)(6) of the Internal Revenue Code.**".

Page 1, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 3. IC 4-32-6-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) "Qualified organization" means:

(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) has been continuously in existence in Indiana for at least five (5) years or is affiliated with a parent organization that has been in existence in Indiana for at least five (5) years; or

(2) a bona fide political organization operating in Indiana that produces exempt function income (as defined in Section 527 of the Internal Revenue Code).

(b) For the purpose of IC 4-32-9-3, 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 the purpose of IC 4-32-9-9.5, a "qualified organization" includes a bona fide business organization.

SECTION 4. IC 4-32-6-20.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 20.2. "Qualified personal property" means personal property leased by a qualified organization that is:**

(1) designed to be used on a body of water; and

(2) used to conduct a raffle associated with the qualified organization's allowable event in the following manner:

(A) Each item of the personal property is marked with a number corresponding to the number of a chance purchased in a raffle.

(B) The winner of the raffle is determined by the number of the item of personal property that crosses a designated finish line on the body of water first.".

Page 2, between lines 7 and 8, begin a new paragraph and insert:

"**(c) The department may not adopt a rule under IC 4-22-2 to limit the rent that may be charged to a qualified organization to lease qualified personal property.**

SECTION 6. IC 4-32-9-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9.5. (a) The commissioner may issue an annual door prize 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 department under IC 4-32-11.

(b) Each officer of a qualified organization that signs an application for an annual door prize license under this section must live in the county where the proposed door prize events will be held.

(c) The application for an annual door prize license must contain the following:

(1) The name of the qualified organization.

(2) The location where the door prize events will be held.

(3) The names of the operator and officers of the qualified organization.

(d) A license issued under this section:

(1) may authorize the qualified organization to conduct door prize events on more than one (1) occasion during a period of one (1) year;

(2) must state the locations of the permitted door prize 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 department and upon the licensee's payment of a fee set by the department.

(e) The commissioner may reject an application for an annual door prize license if, after a public hearing, the commissioner determines that the applicant:

(1) has violated a local ordinance; or

(2) has engaged in fraud, deceit, or misrepresentation.".

Page 2, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 8. IC 4-32-9-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) Except as provided in subsection (d), if facilities are leased for an allowable event, the rent may not:

(1) be based in whole or in part on the revenue generated from the event; or

(2) exceed two hundred dollars ($200) per day.

(b) A facility 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.

(d) If a qualified organization conducts an allowable event in conjunction with or at the same facility where the qualified organization or its affiliate is having a convention or other meeting of its membership, facility rent for the allowable event may exceed two hundred dollars ($200) per day. A qualified organization may conduct only one (1) allowable event under this subsection in a calendar year.

(e) If qualified 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. However, the department may not limit the amount of the rent charged to the qualified organization for the qualified personal property.

SECTION 9. IC 4-32-9-37 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 37. A person that leases qualified personal property to a qualified organization is not considered to be an operator or a worker for the allowable event in which the qualified personal property will be used.**

SECTION 10. IC 4-32-9-38 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 38. The department may not deny a qualified organization's application for a license under this article on the basis of the amount of rent charged to the qualified organization to lease qualified personal property.**

SECTION 11. IC 4-32-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The license fee that is charged to a qualified organization that renews the license must be based on the total gross revenue of the qualified organization from allowable events and related activities in the preceding year or, if the qualified organization held a license under IC 4-32-9-6, ~~through~~ **IC 4-32-9-7, IC 4-32-9-8, IC 4-32-9-9, or** IC 4-32-9-10, the fee must be based on the total gross revenue of the qualified organization from the preceding event and related activities, according to the following schedule:

Class	Gross Revenues		Fee
	At Least	But Less Than	
A	$ 0	$ 15,000	$ 25
B	$ 15,000	$ 25,000	$ 75
C	$ 25,000	$ 50,000	$ 200
D	$ 50,000	$ 75,000	$ 350
E	$ 75,000	$ 100,000	$ 600
F	$ 100,000	$ 150,000	$ 900
G	$ 150,000	$ 200,000	$ 1,200
H	$ 200,000	$ 250,000	$ 1,500
I	$ 250,000	$ 300,000	$ 1,800
J	$ 300,000	$ 400,000	$ 2,500
K	$ 400,000	$ 500,000	$ 3,250
L	$ 500,000	$ 750,000	$ 5,000
M	$ 750,000	$ 1,000,000	$ 6,750
N	$ 1,000,000	$ 1,250,000	$ 8,500
O	$ 1,250,000	$ 1,500,000	$ 10,000
P	$ 1,500,000	$ 1,750,000	$ 12,000
Q	$ 1,750,000	$ 2,000,000	$ 14,000
R	$ 2,000,000	$ 2,250,000	$ 16,250
S	$ 2,250,000	$ 2,500,000	$ 18,500
T	$ 2,500,000	$ 3,000,000	$ 22,500
U	$ 3,000,000		$ 25,000".

Page 2, line 23, delete "45 IAC 18-3-7 and" and insert "**45 IAC 18-3-2(f), IC 45 IAC 18-3-7, and**".

Page 2, line 25, delete "sections" and insert "**provisions**".

Renumber all SECTIONS consecutively.

(Reference is to SB 140 as printed February 2, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

ALDERMAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred Engrossed Senate Bill 196, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 22, delete "may" and insert "**shall**".

Page 2, line 24, delete "chapter that may include the following:" and insert "**chapter. The rules shall include a limited criminal history check, and financial information to the extent allowed by law. The commission shall request that the state police department:**

(1) perform a limited criminal history check on an applicant; and

(2) request the release of an applicant's criminal history information from the Federal Bureau of Investigation's National Crime Information Center.

The applicant shall pay any fees required for the criminal history check.".

Page 2, delete lines 25 through 32.

(Reference is to SB 196 as printed January 12, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

ALDERMAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Engrossed Senate Bill 169, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-23-5.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter:

(1) "board" means the Indiana recycling and energy development board created by this chapter;

(2) "department" means the department of commerce; ~~and~~

(3) "director" refers to the director of the office of energy policy of the department; **and**

(4) "waste tire" means:

(A) a whole tire that:

(i) is not suitable for the tire's original purpose; and

(ii) has a volume of not more than four (4) cubic feet; or

(B) one (1) or more tires that:

(i) have been shredded, ground, or otherwise altered; and

(ii) have a combined weight of not more than twenty-five (25) pounds or total volume of not more than one and one-quarter (1.25) cubic feet.

SECTION 2. IC 4-23-5.5-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 17. (a) The waste tire assistance fund is established. The purpose of the fund is to promote and assist waste tire collection, reuse, and recycling throughout Indiana. The fund shall be administered by the board.**

(b) Sources of money for the fund consist of the following:

(1) Fees collected under IC 13-20-13-7.

(2) Repayment proceeds of loans made from the fund.

(3) Gifts and donations.

(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 shall use money in the fund to do the following:

(1) Make forgivable loans to assist persons that derive a beneficial use from waste tires. When the board makes a loan to a person under this subdivision, the loan must require the board to subtract fifteen cents ($0.15) from the amount of the loan for each waste tire used by the person. The board shall establish loan:

(A) amounts;

(B) terms; and

(C) interest rates.

(2) Reimburse:

(A) solid waste management districts established under IC 13-21-3-1; or

(B) municipal corporations;

that conduct waste tire collection days. The board shall establish criteria for reimbursing solid waste management districts or municipal corporations under this subdivision.

(3) Provide incentive payments and reimbursements for waste tire processors and waste tire end users that use waste tires that originate in Indiana for a beneficial purpose. The board shall establish criteria for paying or reimbursing persons under this subdivision. Payments and reimbursements under this subdivision may not:

(A) exceed twenty dollars ($20) per ton of waste tires used by a waste tire processor or waste tire end user; and

(B) be made to a person for:
(i) disposing of waste tires at a landfill; or
(ii) using waste tires as a daily cover for a landfill.
(e) A:
(1) person that wants a loan from the fund under subsection (d)(1);
(2) solid waste management district or municipal corporation that wants to be reimbursed from the fund under subsection (d)(2); or
(3) person that wants an incentive payment or reimbursement from the fund under subsection (d)(3);
must file an application with the board on a form prescribed by the board.

SECTION 3. IC 6-1.1-45 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 45. Brownfield Tax Reduction or Waiver

Sec. 1. As used in this chapter:
(1) "board" refers to the county property tax assessment board of appeals;
(2) "brownfield" has the meaning set forth in IC 13-11-2-19.3;
(3) "contaminant" has the meaning set forth in IC 13-11-2-42;
(4) "delinquent tax liability" means:
(A) delinquent property taxes;
(B) delinquent special assessments;
(C) interest;
(D) penalties; and
(E) costs;
assessed against a brownfield and entered on the tax duplicate that a person seeks to have waived or reduced by filing a petition under section 2 of this chapter;
(5) "department" refers to the department of local government finance, unless the specific reference is to the department of environmental management; and
(6) "fiscal body" refers to the fiscal body of:
(A) the city if the brownfield is located in a city;
(B) the town if the brownfield is located in a town; or
(C) the county if the brownfield is not located in a city or town.

Sec. 2. A person that owns or desires to own a brownfield may file a petition with the county auditor seeking a reduction or waiver of the delinquent tax liability. The petition must:
(1) be on a form:
(A) prescribed by the state board of accounts; and
(B) approved by the department;
(2) state:
(A) the amount of the delinquent tax liability; and
(B) when the delinquent tax liability arose;
(3) describe:
(A) the manner in which; and
(B) when;
the petitioner acquired or proposes to acquire the brownfield;
(4) describe the conditions existing on the brownfield that have prevented the sale or the transfer of title to the county;
(5) describe the plan of the petitioner for:
(A) addressing any contaminants on the brownfield; and
(B) the intended use of the brownfield;
(6) include the date by which the plan referred to in subdivision (5) will be completed;
(7) include a statement from the department of environmental management that the property is a brownfield;
(8) state whether the petitioner:
(A) has had an ownership interest in an entity that contributed; or
(B) has contributed;
to the contaminant or contaminants on the brownfield;
(9) state whether any part of the delinquent tax liability can reasonably be collected from a person other than the petitioner;
(10) state that the petitioner seeks:
(A) a waiver of the delinquent tax liability; or
(B) a reduction of the delinquent tax liability in a specified amount; and
(11) be accompanied by a fee in an amount established by the county auditor for:
(A) completing a title search; and
(B) processing the petition.

Sec. 3. On receipt of a petition under section 2 of this chapter, the county auditor shall determine whether the petition is complete. If the petition is not complete, the county auditor shall return the petition to the petitioner and describe the defects in the petition. The petitioner may correct the defects and file the completed petition with the county auditor. On receipt of a complete petition, the county auditor shall forward a copy of the complete petition to:
(1) the assessor of the township in which the brownfield is located;
(2) the owner, if different from the petitioner;
(3) all persons that have, as of the date of the filing of the petition, a substantial property interest of public record in the brownfield;
(4) the board;
(5) the fiscal body;
(6) the department of environmental management; and
(7) the department.

Sec. 4. On receipt of a complete petition as provided under sections 2 and 3 of this chapter, the board shall at its earliest opportunity conduct a public hearing on the petition. The board shall give notice of the date, time, and place fixed for the hearing:
(1) by mail to:
(A) the petitioner;
(B) the owner, if different from the petitioner;
(C) all persons that have, as of the date of the filing of the petition, a substantial interest of public record in the brownfield; and
(D) the assessor of the township in which the brownfield is located; and
(2) under IC 5-3-1.

Sec. 5. (a) Subject to section 8(g) of this chapter, the board may recommend that the department grant the petition or that the department approve a reduction of the delinquent tax liability in an amount less than the amount sought by the petitioner if the board determines that:
(1) the brownfield was acquired or is proposed to be acquired as a result of:
(A) sale or abandonment in a bankruptcy proceeding;
(B) foreclosure or a sheriff's sale;
(C) receivership; or
(D) purchase from a political subdivision;
(2) the plan referred to in section 2(5) of this chapter is in the best interest of the community;
(3) the waiver or reduction of the delinquent tax liability:
(A) is in the public interest; and
(B) will facilitate development or use of the brownfield;
(4) the petitioner:
(A) has not had an ownership interest in an entity that contributed; and
(B) has not contributed;
to the contaminant or contaminants on the brownfield;
(5) the department of environmental management has determined that the property is a brownfield;
(6) if the petitioner is the owner of the brownfield, the delinquent tax liability sought to be waived or reduced arose before the petitioner's acquisition of the brownfield; and
(7) no part of the delinquent tax liability can reasonably be collected from a person other than the owner of the brownfield.
(b) After the hearing and completion of any additional investigation of the brownfield or of the petitioner that the board considers necessary, the board shall:
(1) give notice, by mail, to the parties listed in section 4(1) of this chapter of the board's recommendation that:
(A) the fiscal body deny the petition; or

(B) the department:
(i) deny the petition;
(ii) waive the delinquent tax liability, subject to section 8(g) of this chapter; or
(iii) reduce the delinquent tax liability by a specified amount, subject to section 8(g) of this chapter; and
(2) forward to the department and the fiscal body a copy of:
(A) the board's recommendation; and
(B) the documents submitted to or collected by the board at the public hearing or during the course of the board's investigation of the brownfield or of the petitioner.

Sec. 6. (a) The fiscal body shall at a regularly scheduled meeting:
(1) review the petition and all other materials submitted by the board under section 5 of this chapter; and
(2) determine whether to:
(A) deny the petition;
(B) recommend that the department waive the delinquent tax liability, subject to section 8(g) of this chapter; or
(C) recommend that the department reduce the delinquent tax liability by a specified amount, subject to section 8(g) of this chapter.
The fiscal body may recommend a reduction of the delinquent tax liability in an amount that differs from the amount of reduction recommended by the board.

(b) The fiscal body shall:
(1) publish notice under IC 5-3-1 of its consideration of the petition under this section; and
(2) forward to the department written notice of its action under this section.

Sec. 7. (a) On receipt by the department of a recommendation by the fiscal body to waive or reduce the delinquent tax liability, the department shall:
(1) review:
(A) the petition and all other materials submitted by the board; and
(B) the notice received from the fiscal body; and
(2) subject to subsection (b), determine whether to:
(A) deny the petition;
(B) waive the delinquent tax liability, subject to section 8(g) of this chapter; or
(C) reduce the delinquent tax liability by a specified amount, subject to section 8(g) of this chapter.
The department may reduce the delinquent tax liability in an amount that differs from the amount of reduction recommended by the board or the fiscal body.

(b) The department's determination to waive or reduce the delinquent tax liability under subsection (a) is subject to the limitation in section 8(f)(2) of this chapter.

Sec. 8. (a) The department shall give notice of its determination under section 7 of this chapter and the right to seek an appeal of the determination by mail to:
(1) the petitioner;
(2) the owner, if different from the petitioner;
(3) all persons that have, as of the date of the filing of the petition under section 2 of this chapter, a substantial property interest of public record in the brownfield;
(4) the assessor of the township in which the brownfield is located;
(5) the board;
(6) the fiscal body; and
(7) the county auditor.

(b) A person aggrieved by a determination of the department under section 7 of this chapter may obtain an additional review by the department and a public hearing by filing a petition for review with the county auditor of the county in which the brownfield is located not more than thirty (30) days after the department gives notice of the determination under subsection (a). The county auditor shall transmit the petition for review to the department not more than ten (10) days after the petition is filed.

(c) On receipt by the department of a petition for review, the department shall set a date, time, and place for a hearing. At least ten (10) days before the date fixed for the hearing, the department shall give notice by mail of the date, time, and place fixed for the hearing to:
(1) the person that filed the appeal;
(2) the petitioner;
(3) the owner, if different from the petitioner;
(4) all persons that have, as of the date the petition is filed, a substantial interest of public record in the brownfield;
(5) the assessor of the township in which the brownfield is located;
(6) the board;
(7) the fiscal body; and
(8) the county auditor.

(d) After the hearing, the department shall give the parties listed in subsection (c) notice by mail of the final determination of the department. The department's final determination under this subsection is subject to the limitations in subsections (f)(2) and (g).

(e) The petitioner under section 2 of this chapter shall provide to the county auditor reasonable proof of ownership of the brownfield:
(1) if a petition is not filed under subsection (b), at least thirty (30) days but not more than one hundred twenty (120) days after notice is given under subsection (a); or
(2) after notice is given under subsection (d) but not more than ninety (90) days after notice is given under subsection (d).

(f) The county auditor:
(1) shall, subject to subsection (g), reduce or remove the delinquent tax liability on the tax duplicate in the amount stated in:
(A) if a petition is not filed under subsection (b), the determination of the department under section 7 of this chapter; or
(B) the final determination of the department under this section;
not more than thirty (30) days after receipt of the proof of ownership required in subsection (e); and
(2) may not reduce or remove any delinquent tax liability on the tax duplicate if the petitioner under section 2 of this chapter fails to provide proof of ownership as required in subsection (e).

(g) A reduction or removal of delinquent tax liability under subsection (f) applies until the county auditor makes a determination under this subsection. After the date referred to in section 2(6) of this chapter, the county auditor shall determine whether the petitioner successfully completed the plan described in section 2(5) of this chapter by that date. If the county auditor determines that the petitioner completed the plan by that date, the reduction or removal of delinquent tax liability under subsection (f) becomes permanent. If the county auditor determines that the petitioner did not complete the plan by that date, the county auditor shall restore to the tax duplicate the delinquent taxes reduced or removed under subsection (f), along with interest in the amount that would have applied if the delinquent taxes had not been reduced or removed.

Sec. 9. As provided in IC 6-1.5-5-1, a petitioner under section 2 of this chapter may initiate an appeal of the department's final determination under section 8 of this chapter by filing a petition with the county assessor not more than forty-five (45) days after the department gives the petitioner notice of the final determination.

SECTION 4. IC 6-1.5-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The Indiana board shall conduct impartial review of all appeals of final determinations of the department of local government finance made under the following:
(1) IC 6-1.1-8.
(2) IC 6-1.1-14-11.
(3) IC 6-1.1-16.
(4) IC 6-1.1-26-2.
(5) IC 6-1.1-45-8.

(b) Each notice of final determination issued by the department of local government finance under a statute listed in subsection (a) must give the taxpayer notice of:

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

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

(c) Except as provided in subsection (e), in order to obtain a review by the Indiana board under this section, the taxpayer must file a petition for review with the appropriate county assessor not later than forty-five (45) days after the notice of the department of local government finance's action is given to the taxpayer.

(d) The county assessor shall transmit a petition for review under subsection (c) to the Indiana board not later than ten (10) days after the petition is filed.

(e) In order to obtain a review by the Indiana board of an appeal of a final determination of the department of local government finance under IC 6-1.1-8-30, the public utility company must follow the procedures in IC 6-1.1-8-30.

SECTION 5. IC 6-3.1-23-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 4. As used in this chapter, "state tax liability" means a taxpayer's total tax liability ~~incurred under:~~

~~(1) IC 6-2.5 (the state gross retail and use tax);~~

~~(2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);~~

~~(3) IC 6-5.5 (the financial institutions tax); and~~

~~(4) IC 27-1-18-2 (the insurance premiums tax);~~

for a listed tax (as defined in IC 6-8.1-1-1), 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.

SECTION 6. IC 6-3.1-23-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 5. (a) A taxpayer is entitled to a credit equal to the amount determined under section 6 of this chapter against the taxpayer's state tax liability for a taxable year if the following requirements are satisfied:

(1) The taxpayer does the following:

(A) Makes a qualified investment in that taxable year.

~~(B) Makes a good faith attempt to recover the costs of the environmental damages from the liable parties.~~

~~(C)~~ **(B)** Submits ~~a plan to the legislative body that:~~ **the following to the Indiana development finance authority:**

(i) ~~describes~~ **A description of** the taxpayer's proposed redevelopment of the property.

(ii) ~~indicates~~ The sources and amounts of money to be used for the remediation and proposed redevelopment of the property. ~~and~~

(iii) ~~estimates~~ **An estimate of** the value of the remediation and proposed redevelopment.

(iv) A description documenting any good faith attempts to recover the costs of the environmental damages from liable parties.

(v) Proof of appropriate zoning for the intended reuse.

(vi) A letter supporting the proposed project and redevelopment from the legislative body.

(vii) The documentation described in subsection (b).

~~(D) Certifies to the legislative body that the taxpayer:~~

~~(i) has never had an ownership interest in an entity that contributed; and~~

~~(ii) has not contributed;~~

~~to contamination (as defined in IC 13-11-2-43) that is the subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management and the Indiana development finance authority.~~

~~(2) The legislative body, after holding a public hearing of which notice was given under IC 5-3-1, adopts a resolution:~~

~~(A) determining that:~~

~~(i) the estimate of the value of the remediation and proposed redevelopment included in the plan under subdivision (1)(C)(iii) is reasonable for projects of that nature; and~~

~~(ii) the plan submitted under subdivision (1)(C) is in the best interest of the community;~~

~~(B) determining that the taxpayer:~~

~~(i) has never had an ownership interest in an entity that contributed; and~~

~~(ii) has not contributed;~~

~~to contamination (as defined in IC 13-11-2-43) that is the subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management and the Indiana development finance authority; and~~

~~(C) approving the credit.~~

~~(3)~~ **(2)** The department determines under section 15 of this chapter that the taxpayer's return claiming the credit is filed with the department before the maximum amount of credits allowed under this chapter is met.

~~(b) In determining whether the redevelopment is in the best interest of the community, the legislative body must consider, among other things, whether the proposed development promotes:~~

~~(1) the development of housing;~~

~~(2) the development of green space;~~

~~(3) the development of high technology businesses; or~~

~~(4) the creation or retention of high paying jobs.~~

(b) The documentation referred to in subsection (a)(1)(B)(vii) consists of information reflecting that the taxpayer:

(1) has never had an ownership interest in an entity that caused or contributed to; and

(2) has not caused or contributed to;

the release or threatened release of a hazardous substance, a contaminant, petroleum, or a petroleum product that is the subject of the remediation.

(c) The Indiana development finance authority shall:

(1) determine whether the taxpayer meets the requirements of subsection (a)(1); and

(2) if the taxpayer meets the requirements of subsection (a)(1), certify to the taxpayer that the taxpayer is eligible for the credit allowed under this chapter.

SECTION 7. IC 6-3.1-23-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 6. The amount of the credit allowed under this chapter **with respect to each brownfield site** is equal to the lesser of:

(1) ~~one~~ **two** hundred thousand dollars ~~($100,000);~~ **($200,000);** or

(2) **the sum of:**

(A) ~~ten~~ **one hundred** percent ~~(10%)~~ **(100%)** multiplied by the **first one hundred thousand dollars ($100,000) of** qualified investment made by the taxpayer during the taxable year; **plus**

(B) fifty percent (50%) multiplied by the amount of the qualified investment made by the taxpayer during the taxable year that exceeds one hundred thousand dollars ($100,000).

SECTION 8. IC 6-3.1-23-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 12. (a) To be entitled to a credit under this chapter, a taxpayer must request the department of environmental management and the Indiana development finance authority to determine if costs incurred in a voluntary remediation involving a brownfield are qualified investments.

(b) The request under subsection (a) must be made before the costs are incurred.

(c) Upon receipt of a request under subsection (a), the department of environmental management and the Indiana development finance authority shall:

(1) examine the costs; ~~under the standards adopted by the department of environmental management;~~ and

(2) certify any costs that the department and the authority determine to be a qualified investment.

(d) Upon completion of a voluntary remediation for which costs have been certified as a qualified investment under subsection (c), the taxpayer:

(1) shall notify the department of environmental management; and

(2) shall request from the department of environmental management:

(A) with respect to voluntary remediation conducted under IC 13-25-5, the certificate of completion issued by the commissioner under IC 13-25-5-16 for the voluntary

remediation work plan under which the costs certified under subsection (c)(2) were incurred; or

(B) with respect to voluntary remediation not conducted under IC 13-25-5, a certification of the costs incurred for the voluntary remediation that are consistent with the costs certified under subsection (c)(2).

SECTION 9. IC 6-3.1-23-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 13. (a) To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department of state revenue.

(b) The taxpayer shall submit the following to the department of state revenue:

(1) The certification of the qualified investment by the department of environmental management and the Indiana development finance authority under section 12(c) of this chapter.

(2) Either:

(A) an official copy of the certification referred to in section 12(d)(2)(A) of this chapter; or

(B) the certification issued by the department of environmental management in response to a request under section 12(d)(2)(B) of this chapter.

(3) Proof of payment of the certified qualified investment.

~~(4) A copy of the legislative body's resolution adopted under section 5(a)(2) of this chapter.~~

(4) The certification received by the taxpayer under section 5(c) of this chapter.

(5) Information that the department determines is necessary for the calculation of the credit provided by this chapter.

SECTION 10. IC 6-3.1-23-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 15. (a) The amount of tax credits allowed under this chapter may not exceed ~~one~~ **two** million dollars ~~($1,000,000)~~ **($2,000,000)** in a state fiscal year unless the Indiana development finance authority determines under subsection (e) that money is available for additional tax credits in a particular state fiscal year. However, if the maximum amount of tax credits allowed under this subsection exceeds the amount available in the subaccount of the environmental remediation revolving loan fund (IC 13-19-5), the maximum amount of tax credits allowed under this subsection is reduced to the amount available.

(b) The department shall record the time of filing of each return claiming a credit under section 13 of this chapter and shall, except as provided in subsection (c), grant the credit to the taxpayer, if the taxpayer otherwise qualifies for a tax credit under this chapter, in the chronological order in which the return is filed in the state fiscal year.

(c) If the total credits approved under this section equal the maximum amount allowable in a state fiscal year, a return claiming the credit filed later in that same fiscal year may not be approved. However, if an applicant for whom a credit has been approved fails to file the information required by section 13 of this chapter, an amount equal to the credit previously allowed or set aside for the applicant may be allowed to the next eligible applicant or applicants until the total amount has been allowed. In addition, the department may, if the applicant so requests, approve a credit application, in whole or in part, with respect to the next succeeding state fiscal year.

(d) The department of state revenue shall report the total credits granted under this chapter for each state fiscal year to the Indiana development finance authority. The Indiana development finance authority shall transfer to the state general fund an amount equal to the total credits granted from the subaccount of the environmental remediation revolving loan fund (IC 13-19-5).

(e) At the end of each state fiscal year, the Indiana development finance authority may determine whether money is available in the ~~subaccount of the~~ environmental remediation revolving loan fund (IC 13-19-5) to provide tax credits in excess of the amount set forth in subsection (a) in the subsequent state fiscal year.

(f) Before ~~December 31~~ **June 30** of each year, the Indiana development finance authority may assess the demand for tax credits under this chapter and determine whether the need for other brownfield activities is greater than the need for tax credits. If the Indiana development finance authority determines that the need for other brownfield activities is greater than the need for tax credits, the authority may set aside up to three-fourths (3/4) of the amount of allowable tax credits for the subsequent state fiscal year and use it for other brownfield projects.

(g) Except as provided in subsection (h), the Indiana development finance authority may use money set aside under subsection (f) for any permissible purpose.

(h) Money specifically appropriated for tax credits may not be set aside for another use.

SECTION 11. IC 6-3.1-23-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 16. A tax credit may not be allowed under this chapter for a taxable year that begins after December 31, ~~2005.~~ **2007.** However, this section does not affect the ability of a taxpayer to carry forward the excess of a tax credit claimed for a taxable year that begins before January 1, ~~2006,~~ **2008,** under section 11 of this chapter.".

Page 1, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 13. IC 13-11-2-74.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 74.5. (a) "Exempt isolated wetland", for purposes of IC 13-18 and environmental management laws, means an isolated wetland that:

(1) is a voluntarily created wetland unless:

(A) the wetland is approved by the department for compensatory mitigation purposes in accordance with a permit issued under Section 404 of the Clean Water Act or IC 13-18-22;

(B) the wetland is reclassified as a state regulated wetland under ~~IC 13-18-22-6(c),~~ **IC 13-18-22-6(e);** or

(C) the owner of the wetland declares, by a written instrument:

(i) recorded in the office of the recorder of the county or counties in which the wetland is located; and

(ii) filed with the department;

that the wetland is to be considered in all respects to be a state regulated wetland;

(2) exists as an incidental feature in or on:

(A) a residential lawn;

(B) a lawn or landscaped area of a commercial or governmental complex;

(C) agricultural land;

(D) a roadside ditch;

(E) an irrigation ditch; or

(F) a manmade drainage control structure;

(3) is a fringe wetland associated with a private pond;

(4) is, or is associated with, a manmade body of surface water of any size created by:

(A) excavating;

(B) diking; or

(C) excavating and diking;

dry land to collect and retain water for or incidental to agricultural, commercial, industrial, or aesthetic purposes;

(5) subject to subsection (c), is a Class I wetland with an area, as delineated, of one-half (1/2) acre or less;

(6) subject to subsection (d), is a Class II wetland with an area, as delineated, of one-fourth (1/4) acre or less;

(7) is located on land:

(A) subject to regulation under ~~the~~ United States Department of Agriculture wetland conservation ~~rules, also known as~~ **programs, including** Swampbuster **and the Wetlands Reserve Program,** because of voluntary enrollment in a federal farm program; and

(B) used for agricultural or ~~associated~~ **other** purposes allowed under the ~~rules~~ **programs** referred to in clause (A); or

(8) is constructed for reduction or control of pollution.

(b) For purposes of subsection (a)(2), an isolated wetland exists as an incidental feature:

(1) if:

(A) the owner or operator of the property or facility described in subsection (a)(2) does not intend the isolated wetland to be a wetland;

(B) the isolated wetland is not essential to the function or use of the property or facility; and

(C) the isolated wetland arises spontaneously as a result of damp soil conditions incidental to the function or use of the property or facility; and

(2) if the isolated wetland satisfies any other factors or criteria established in rules that are:

(A) adopted by the water pollution control board; and

(B) not inconsistent with the factors and criteria described in subdivision (1).

(c) The total acreage of Class I wetlands on a tract to which the exemption described in subsection (a)(5) may apply is limited to the larger of:

(1) the acreage of the largest individual isolated wetland on the tract that qualifies for the exemption described in subsection (a)(5); and

(2) fifty percent (50%) of the cumulative acreage of all individual isolated wetlands on the tract that would qualify for the exemption described in subsection (a)(5) but for the limitation of this subsection.

(d) The total acreage of Class II wetlands on a tract to which the exemption described in subsection (a)(6) may apply is limited to the larger of:

(1) the acreage of the largest individual isolated wetland on the tract that qualifies for the exemption described in subsection (a)(6); and

(2) thirty-three and one-third percent (33 1/3%) of the cumulative acreage of all individual isolated wetlands on the tract that would qualify for the exemption described in subsection (a)(6) but for the limitation of this subsection.

(e) An isolated wetland described in subsection (a)(5) or (a)(6) does not include an isolated wetland on a tract that contains more than one (1) of the same class of wetland until the owner of the tract notifies the department that the owner has selected the isolated wetland to be an exempt isolated wetland under subsection (a)(5) or (a)(6) consistent with the applicable limitations described in subsections (c) and (d).

SECTION 14. IC 13-11-2-150 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 150. (a) "Owner", for purposes of IC 13-23 (except as provided in ~~subsection~~ **subsections** (b) **and (c))** means:

(1) for an underground storage tank that:

(A) was:

~~(A)~~ **(i)** in use on November 8, 1984; or

~~(B)~~ **(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

~~(2) for an underground storage tank that~~ **(B)** is:

~~(A)~~ **(i)** in use before November 8, 1984; but

~~(B)~~ **(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) 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

(H) 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) 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;

(8) transfer from another political subdivision or unit of federal or state government; or

(9) 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 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.

SECTION 15. IC 13-11-2-151 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: 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; ~~or~~

(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) 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

(H) ~~a similar~~ **any other** means **to conduct remedial actions on a brownfield;**

to a **political subdivision or** unit of **federal or** state ~~or local~~ 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 ~~or local~~ government that acquired ownership or control ~~involuntarily~~ **of the facility** through:

(1) bankruptcy;

(2) foreclosure;

~~(2)~~ **(3)** tax delinquency, **including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;**

~~(3)~~ **(4)** abandonment; ~~or~~

(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;

~~(4)~~ **(7)** other circumstances in which the **political subdivision or unit of federal or state** government ~~unit~~ involuntarily acquired title because of the **political subdivision's or** unit's function as sovereign;

(8) transfer from another political subdivision or unit of federal or state government; or

(9) any other means to conduct remedial actions on a brownfield.

(c) The term includes a **political subdivision or** unit of federal **or** state ~~or local~~ government that causes or contributes to the release or threatened release of a substance, **in which case** the **political subdivision or** unit of federal **or** state ~~or local~~ 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.

SECTION 16. IC 13-11-2-245 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 245. (a) "Vehicle", for purposes of IC 13-17-5, refers to a vehicle required to be registered with the bureau of motor vehicles and required to have brakes. The term does not include the following:

(1) Farm tractors.

(2) Implements of husbandry.

(3) Farm tractors used in transportation.

(4) Mobile homes (house trailers).

(5) Trailers weighing not more than three thousand (3,000) pounds.

(6) Antique motor vehicles.

(b) "Vehicle", for purposes of IC 13-18-12, means a device used to transport a tank.

(c) "Vehicle", for purposes of IC 13-20-4, refers to a municipal waste collection and transportation vehicle.

(d) "Vehicle", for purposes of IC 13-20-13-7, means a motor vehicle, **a farm tractor (as defined in IC 9-13-2-56(a) or IC 9-13-2-56(b)), an implement of husbandry (as defined in IC 9-13-2-77), a semitrailer (as defined in IC 9-13-2-164(a) or IC 9-13-2-164(b)),** and types of equipment, machinery, implements, or other devices used in transportation, manufacturing, agriculture, construction, or mining. The term does not include ~~the following:~~

~~(1)~~ a lawn and garden tractor that is propelled by a motor of not more than twenty (20) horsepower.

~~(2) A semitrailer.~~

(e) "Vehicle", for purposes of IC 13-20-14, has the meaning set forth in IC 9-13-2-196.".

Page 1, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 18. IC 13-18-22-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Except as otherwise specified in ~~subsection~~ **subsections** (b) **and (c),** compensatory mitigation shall be provided in accordance with the following table:

Wetland Class	Replacement Class	On-site Ratio	Off-site Ratio
Class I	Class II or III	1 to 1	1 to 1
Class I	Class I	1.5 to 1	1.5 to 1
Class II	Class II or III	1.5 to 1	2 to 1
		Nonforested	Nonforested
		2 to 1	2.5 to 1
		Forested	Forested
Class III	Class III	2 to 1	2.5 to 1
		Nonforested	Nonforested
		2.5 to 1	3 to 1
		Forested	Forested

(b) The compensatory mitigation ratio shall be lowered to one to one (1:1) if the compensatory mitigation is completed before the initiation of the wetland activity.

(c) A wetland that is created or restored as a water of the United States may be used, as an alternative to the creation or restoration of an isolated wetland, as compensatory mitigation for purposes of this section. The replacement class of a wetland that is a water of the United States shall be determined by applying the characteristics of a Class I, Class II, or Class III wetland, as appropriate, to the replacement wetland as if it were an isolated wetland.

~~(c)~~ **(d)** The off-site location of compensatory mitigation must be within:

(1) the same eight (8) digit U.S. Geological Service hydrologic unit code; or

(2) the same county;

as the isolated wetlands subject to the authorized wetland activity.

~~(d)~~ **(e)** Exempt isolated wetlands may be used to provide compensatory mitigation for wetlands activities in state regulated wetlands. An exempt isolated wetland that is used to provide compensatory mitigation becomes a state regulated wetland.

SECTION 19. IC 13-20-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) A fee of twenty-five cents ($0.25) is imposed on the sale of the following:

(1) Each new tire that is sold at retail.

(2) Each new tire mounted on a new vehicle sold at retail.

(b) The person that sells the new tire or vehicle at retail to the ultimate consumer of the tire or vehicle shall collect the fee imposed by this section.

(c) A person that collects a fee under subsection (b):

(1) shall pay the fees collected under subsection (b):

(A) to the department of state revenue; and

(B) at the same time and in the same manner that the person pays the state gross retail tax collected by the person to the department of state revenue;

(2) shall indicate on the return:

(A) prescribed by the department of state revenue; and

(B) used for the payment of state gross retail taxes;

that the person is also paying fees collected under subsection (b); and

(3) is entitled to deduct and retain one percent (1%) of the fees required to be paid to the department of state revenue under this subsection.

(d) The department of state revenue shall deposit fees collected under this section **as follows:**

(1) Eighty percent (80%) of the fees collected under this section shall be deposited in the waste tire assistance fund established by IC 4-23-5.5-17.

(2) Twenty percent (20%) of the fees collected under this section shall be deposited in the waste tire management fund established by this chapter.

SECTION 20. IC 13-23-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The sources of money for the fund are as follows:

(1) Grants made by the United States Environmental Protection Agency to the state under cooperative agreements under Section 9003(h)(7) of the federal Solid Waste Disposal Act (42 U.S.C. 6991b(h)(7)).

(2) Costs recovered by the state under IC 13-23-13-8 in connection with any corrective action undertaken under IC 13-23-13-2 with respect to a release of petroleum.

(3) Costs recovered by the state in connection with the enforcement of this article with respect to any release of petroleum.

(4) Appropriations made by the general assembly, gifts, and donations intended for deposit in the fund.

(5) Penalties imposed under IC 13-23-14 and fifty percent (50%) of penalties imposed under IC 13-23-12 against owners and operators of underground petroleum storage tanks.

~~(6) Revenue from the underground petroleum storage tank registration fee deposited in the fund under IC 13-23-12-4.~~

SECTION 21. IC 13-23-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The department of state revenue shall collect fees paid under this chapter and deposit the fees as follows:

(1) ~~Fees~~ **The ninety dollar ($90) fee** paid in connection with underground petroleum storage tanks shall be deposited ~~as follows:~~

~~(A) Forty-five dollars ($45) shall be deposited~~ in the excess liability trust fund.

~~(B) Forty-five dollars ($45) shall be deposited in the petroleum trust fund.~~

(2) Fees paid in connection with underground storage tanks used to contain regulated substances other than petroleum shall be deposited as follows:

(A) Forty-five dollars ($45) shall be deposited in the hazardous substances response trust fund.

(B) Two hundred dollars ($200) shall be deposited in the excess liability trust fund.

SECTION 22. IC 13-25-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) Except as provided in subsection (b), (c), or (d), a person that is liable under Section 107(a) of CERCLA (42 U.S.C. 9607(a)) for:

(1) the costs of removal or remedial action incurred by the commissioner consistent with the national contingency plan;

(2) the costs of any health assessment or health effects study carried out by or on behalf of the commissioner under Section 104(i) of CERCLA (42 U.S.C. 9604(i)); or

(3) damages for:

(A) injury to;

(B) destruction of; or

(C) loss of;

natural resources of Indiana;

is liable, in the same manner and to the same extent, to the state under this section.

(b) The exceptions provided by Section 107(b) of CERCLA (42 U.S.C. 9607(b)) to liability otherwise imposed by Section 107(a) of CERCLA (42 U.S.C. 9607(a)) are equally applicable to any liability otherwise imposed under subsection (a).

(c) Notwithstanding any liability imposed by the environmental management laws, a lender, a secured or unsecured creditor, or a fiduciary is not liable under the environmental management laws, in connection with the release or threatened release of a hazardous substance from a facility unless the lender, the fiduciary, or creditor has participated in the management of the hazardous substance at the facility.

(d) Notwithstanding any liability imposed by the environmental management laws, the liability of a fiduciary for a release or threatened release of a hazardous substance from a facility that is held by the fiduciary in its fiduciary capacity may be satisfied only from the assets held by the fiduciary in the same estate or trust as the facility that gives rise to the liability.

(e) **Except as provided in subsection (g),** a political subdivision (as defined in IC 36-1-2-13) **or unit of federal or state government** is not liable to the state under this section for costs or damages associated with the presence of a hazardous substance on, in, or at a property in which the political subdivision **or unit of federal or state government** acquired an interest in the property **because of:**

(1) ~~under IC 6-1.1-24 or IC 6-1.1-25,~~ bankruptcy; ~~abandonment, or other circumstances in which the political subdivision involuntarily acquired an interest in the property; or~~

~~(2) to conduct remedial actions on a brownfield,~~

~~after the hazardous substance was disposed of or placed on, in, or at the property.~~

(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) 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;

(8) transfer from another political subdivision or unit of federal or state government; or

(9) any other means to conduct remedial actions on a brownfield.

(f) If a transfer of an interest in property as described in subsection (e) occurs, a person who owned, operated, or otherwise controlled the property immediately before the political subdivision or unit of federal or state government acquired the interest in the property remains liable under this section:

(1) in the same manner; and

(2) to the same extent;

as the person was liable immediately before the person's interest in the property was acquired by the political subdivision or unit of federal or state government.

(g) Notwithstanding subsection (e), a political subdivision or unit of federal or state government that causes or contributes to the release or threatened release of a hazardous substance on, in, or at a property remains subject to this section:

(1) in the same manner; and

(2) to the same extent;

as a nongovernmental entity under this section.

SECTION 23. IC 34-13-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: 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) if the claimed loss occurs at least twenty (20) years after the public highway 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 20-8.1-5.1-7(b).
(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) 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) 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 24. [EFFECTIVE UPON PASSAGE] **(a) IC 6-3.1-23-4, IC 6-3.1-23-5, IC 6-3.1-23-6, IC 6-3.1-23-12, IC 6-3.1-23-13, IC 6-3.1-23-15, and IC 6-3.1-23-16, all as amended by this act, apply to reportable periods beginning after December 31, 2004.**

(b) The department of state revenue shall implement this act to allow the application of the statutes referred to in subsection (a), all as amended by this act, to reportable periods beginning after December 31, 2004.

SECTION 25. [EFFECTIVE UPON PASSAGE] **(a) The environmental quality service council shall study issues concerning the establishment and operation of mercury recovery and recycling programs in Indiana.**

(b) The council shall submit its report on and make recommendations concerning mercury recovery and recycling programs described in subsection (a) as part of the council's 2005 final report.

(c) This SECTION expires January 1, 2006.".

Renumber all SECTIONS consecutively.

(Reference is to SB 169 as reprinted January 28, 2005.)
and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

WOLKINS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Engrossed Senate Bill 175, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

ULMER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred Engrossed Senate Bill 196, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 22, delete "may" and insert "**shall**".

Page 2, line 24, delete "chapter that may include the following:" and insert "**chapter. The rules shall include a limited criminal history check, and financial information to the extent allowed by law. The commission shall request that the state police department:**
(1) perform a limited criminal history check on an applicant; and
(2) request the release of an applicant's criminal history information from the Federal Bureau of Investigation's National Crime Information Center.
The applicant shall pay any fees required for the criminal history check.".

Page 2, delete lines 25 through 32.

(Reference is to SB 196 as printed January 12, 2005.)
and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

ALDERMAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred Engrossed Senate Bill 200, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 11, after "graduate." insert "**Except as provided in subsection (j), the student's parent and the student's counselor (or another staff member who assists students in course selection) shall meet to discuss the student's progress. Following the meeting, the student's parent shall determine whether the student will achieve greater educational benefits by:**
(1) continuing the general curriculum; or
(2) completing the Core 40 curriculum.".

Page 5, line 22, delete "that".

Page 5, line 24, delete "IC 20-10.1-5.7;" and insert "**IC 20-30-10;**".

Page 5, line 41, delete "IC 20-10.1-5.7;" and insert "**IC 20-30-10;**".

Page 6, line 10, delete "IC 20-10.1-5.7;" and insert "**IC 20-30-10;**".

Page 6, delete lines 25 through 42.

Delete pages 7 through 9.

Page 10, delete lines 1 through 15, begin a new paragraph and insert:

"SECTION 6. IC 20-32-4-1, AS ADDED BY HEA 1288-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. **(a) Except as provided in subsection (b),** a student must meet:

(1) the academic standards tested in the graduation examination; and

(2) any additional requirements established by the governing body of the student's school corporation;

to be eligible to graduate.

(b) Except as provided in sections 4, 5, 6, 7, 8, 9, and 10 of this chapter, beginning with the class of students who expect to graduate during the 2010-2011 school year, each student is required to meet:

(1) the academic standards tested in the graduation examination;

(2) the Core 40 course and credit requirements adopted by the state board under IC 20-30-10; and

(3) any additional requirements established by the governing body;

to be eligible to graduate.

SECTION 7. IC 20-32-4-4, AS ADDED BY HEA 1288-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A student who does not achieve a passing score on the graduation examination and who does not meet the requirements of section ~~3~~ **1** of this chapter may be eligible to graduate if the student does all the following:

(1) Takes the graduation examination in each subject area in which the student did not achieve a passing score at least one (1) time every school year after the school year in which the student first takes the graduation examination.

(2) Completes remediation opportunities provided to the student by the student's school.

(3) Maintains a school attendance rate of at least ninety-five percent (95%) with excused absences not counting against the student's attendance.

(4) Maintains at least a "C" average or the equivalent in the courses comprising the credits specifically required for graduation by rule of the state board.

~~(5) Obtains a written recommendation from a teacher of the student in each subject area in which the student has not achieved a passing score. The recommendation must:~~

~~(A) be concurred in by the principal of the student's school; and~~

~~(B) be supported by documentation that the student has attained the academic standard in the subject area based on:~~

~~(i) tests other than the graduation examination; or~~

~~(ii) classroom work.~~

~~(6)~~ **(5)** Otherwise satisfies all state and local graduation requirements.

(6) Either:

(A) completes:

(i) the course and credit requirements for a general diploma, including the career academic sequence;

(ii) a workforce readiness assessment; and

(iii) at least one (1) career exploration internship, cooperative education, or workforce credential recommended by the student's school; or

(B) obtains a written recommendation from a teacher of the student in each subject area in which the student has not achieved a passing score on the graduation examination. The written recommendation must be concurred in by the principal of the student's school and be supported by documentation that the student has attained the academic standard in the subject area based on:

(i) tests other than the graduation examination; or

(ii) classroom work.

SECTION 8. IC 20-32-4-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 6. A decision with regard to whether a student who is a child with a disability (as defined in IC 20-35-1-2) is subject to the requirements of section 1(b)(2) of this chapter shall be made in accordance with the student's individualized education program and federal law.**

SECTION 9. IC 20-32-4-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. Upon the request of a student's parent, the student may be exempted from the Core 40 curriculum requirement set forth in section 1 of this chapter and be required to complete the general curriculum to be eligible to graduate. Except as provided in section 10 of this chapter, the student's parent and the student's counselor (or another staff member who assists students in course selection) shall meet to discuss the student's progress. Following the meeting, the student's parent shall determine whether the student will achieve greater educational benefits by:**

(1) continuing the general curriculum; or

(2) completing the Core 40 curriculum.

SECTION 10. IC 20-32-4-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 8. This section applies to a student who does not pass at least three (3) courses required under the Core 40 curriculum. Except as provided in section 10 of this chapter, the student's parent and the student's counselor (or another staff member who assists students in course selection) shall meet to discuss the student's progress. Following the meeting, the student's parent shall determine whether the student will achieve greater educational benefits by:**

(1) continuing in the Core 40 curriculum; or

(2) completing the general curriculum.

SECTION 11. IC 20-32-4-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9. This section applies to a student who receives a score on the graduation examination that is in the tenth percentile or lower when the student takes the graduation examination for the first time. Except as provided in section 10 of this chapter, the student's parent and the student's counselor (or another staff member who assists students in course selection) shall meet to discuss the student's progress. Following the meeting, the student's parent shall determine whether the student will achieve greater educational benefits by:**

(1) continuing in the Core 40 curriculum; or

(2) completing the general curriculum.

SECTION 12. IC 20-32-4-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 10. This section applies if the parent of a student to whom section 8 or 9 of this chapter applies does not attend a meeting with the student and the student's counselor after receiving two (2) written requests to attend a meeting. If the student's parent does not attend a meeting described in section 8 or 9 of this chapter, the student and the student's counselor shall meet and:**

(1) the student's counselor shall make a recommendation to the student as to whether the student will achieve greater educational benefits by:

(A) continuing in the Core 40 curriculum; or

(B) completing the general curriculum; and

(2) the student shall determine which curriculum the student will complete.

SECTION 13. IC 20-32-4-3 IS REPEALED [EFFECTIVE JULY 1, 2005].".

Page 10, line 16, delete "(a)".

Page 10, line 17, delete "IC 20-10.1-16-13," and insert "**IC 20-32-4-1,**".

Page 10, line 22, delete "IC 20-10.1-16-1.5);" and insert "**IC 20-18-2-6);**".

Page 10, line 24, delete "IC 20-10.1-1-5)." and insert "**IC 20-18-2-5).**".

Page 10, line 38, delete "IC 20-10.1-5.7-1." and insert "**IC 20-30-10.**".

Page 11, line 27, delete "IC 20-1-6-1)." and insert "**IC 20-35-1-2).**".

Page 12, delete lines 18 through 42.

Delete pages 13 through 14.

Renumber all SECTIONS consecutively.

(Reference is to SB 200 as reprinted March 1, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

BEHNING, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred Engrossed Senate Bill 222, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "," and insert "**and any other law,**".

Page 1, line 6, delete ":".

Page 1, delete line 7.

Page 1, line 8, delete "(2)".

Page 1, run in lines 6 through 8.

Page 1, line 9, delete "(A)", begin a new line block indented and insert:

"**(1)**".

Page 1, line 12, delete ", including a specific" and insert "**.**".

Page 1, delete lines 13 through 14.

Page 1, line 15, delete "(B)", begin a new line block indented and insert:

"**(2)**".

Page 1, line 16, delete "(i)", begin a new line double block indented and insert:

"**(A)**".

Page 1, line 17, delete "(ii)", begin a new line double block indented and insert:

"**(B)**".

Page 2, line 1, beginning with "include" begin a new line block indented.

Page 2, line 3, delete "and specifying each" and insert "**.**".

Page 2, delete lines 4 through 5.

Page 2, line 6, delete "(C)", begin a new line block indented and insert:

"**(3)**".

Page 2, line 7, delete "(i)", begin a new line double block indented and insert:

"**(A)**".

Page 2, line 8, delete "(ii)", begin a new line double block indented and insert:

"**(B)**".

Page 2, line 9, beginning with "do" begin a new line block indented.

Page 2, line 10, delete "(D)", begin a new line block indented and insert:

"**(4)**".

Page 2, line 13, delete "(E)", begin a new line block indented and insert:

"**(5)**".

Page 2, line 13, delete ":" and insert "**review the waiver upon request if:**

(A) the individual to whom the waiver applies has not received medical advice, diagnosis, care, or treatment related to the waived condition; and

(B) no recommendation has been made to the individual to whom the waiver applies that the individual should receive medical advice, diagnosis, care, or treatment related to the waived condition;

for at least two (2) years.".

Page 2, delete lines 14 through 17.

Page 2, line 18, delete "(F)", begin a new line block indented and insert:"

"**(6)**".

Page 2, delete lines 22 through 23.

Page 2, line 24, delete "(H)", begin a new line block indented and insert:

"**(7)**".

Page 2, line 28, delete "(2)(A)" and insert "**(1)**".

Page 2, line 29, delete "(2)(B)" and insert "**(2)**".

Page 2, delete lines 35 through 42, begin a new paragraph and insert:

"**(b) Notwithstanding subsection (a), an individual policy of accident and sickness insurance may not include a waiver of coverage for a:**

(1) mental health condition; or

(2) developmental disability.".

Page 3, delete lines 1 through 14.

Page 3, line 19, delete "after June".

Page 3, line 20, delete "30, 2005,".

Page 3, line 25, delete "," and insert "**and any other law,**".

Page 3, line 28, delete ":".

Page 3, delete line 29.

Page 3, line 30, delete "(2)".

Page 3, run in lines 28 through 30.

Page 3, line 31, delete "(A)", begin a new line block indented and insert:

"**(1)**".

Page 3, line 34, delete ", including a specific" and insert "**.**".

Page 3, delete lines 35 through 36.

Page 3, line 37, delete "(B)", begin a new line block indented and insert:

"**(2)**".

Page 3, line 38, delete "(i)", begin a new line double block indented and insert:

"**(A)**".

Page 3, line 39, delete "(ii)", begin a new line double block indented and insert:

"**(B)**".

Page 3, line 40, beginning with "include" begin a new line block indented.

Page 3, line 42, delete "and specifying each" and insert "**.**".

Page 4, delete lines 1 through 2.

Page 4, line 3, delete "(C)", begin a new line block indented and insert:

"**(3)**".

Page 4, line 4, delete "(i)", begin a new line double block indented and insert:

"**(A)**".

Page 4, line 5, delete "(ii)", begin a new line double block indented and insert:

"**(B)**".

Page 4, line 6, beginning with "do" begin a new line block indented.

Page 4, line 7, delete "(D)", begin a new line block indented and insert:

"**(4)**".

Page 4, line 10, delete "(E)", begin a new line block indented and insert:

"**(5)**".

Page 4, line 10, delete ":" and insert "**review the waiver upon request if:**

(A) the individual to whom the waiver applies has not received medical advice, diagnosis, care, or treatment related to the waived condition; and

(B) no recommendation has been made to the individual to whom the waiver applies that the individual should receive medical advice, diagnosis, care, or treatment related to the waived condition;

for at least two (2) years.".

Page 4, delete lines 11 through 14.

Page 4, line 15, delete "(F)", begin a new line block indented and insert:

"**(6)**".

Page 4, line 16, after "and" insert "**that**".

Page 4, delete lines 20 through 21.

Page 4, line 22, delete "(H)", begin a new line block indented and insert:

"**(7)**".

Page 4, line 26, delete "(b)(2)(A)" and insert "**(b)(1)**".

Page 4, line 28, delete "(b)(2)(B)" and insert "**(b)(2)**".

Page 4, delete lines 30 through 41.

Page 4, line 42, delete "(f)" and insert "**(d)**".

Page 5, delete lines 4 through 14, begin a new paragraph and insert:

"**(e) Notwithstanding subsection (b), a policy described in subsection (a) may not include a waiver of coverage for a:**

(1) mental health condition; or

(2) developmental disability.".

Page 7, delete lines 21 through 42.

Delete pages 8 through 9.

Page 10, delete lines 1 through 9.

Page 10, line 10, delete "," and insert "**and IC 27-8-5-19.3, both**".

Page 10, line 11, delete "applies" and insert "**apply**".

Page 10, delete lines 13 through 42.

Delete page 11.

Renumber all SECTIONS consecutively.

(Reference is to SB 222 as reprinted January 25, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 5, nays 3.

RIPLEY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Engrossed Senate Bill 230, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal justice.

Page 1, line 1, after "IC 5-2-6-3.5" insert ", AS AMENDED BY HEA 1288-2005, SECTION 72,".

Page 1, line 14, delete "IC 20-1-6-1)." and insert " IC 20-18-2-16).".

Page 1, line 15, delete "IC 20-10.1-1-3)." and insert "IC 20-18-2-12).".

Page 2, after line 34, begin a new paragraph and insert:

"SECTION 2. IC 5-2-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: 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.

(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) establish and maintain the sex and violent offender directory under IC 5-2-12; ~~and~~

(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 5-2-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Subject to section 13 of this chapter, the following persons must register under this chapter:

(1) An offender who resides in Indiana. An offender resides in Indiana if either of the following applies:

(A) The offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.

(B) The offender owns real property in Indiana and returns to Indiana at any time.

(2) An offender not described in subdivision (1) who works or carries on a vocation or intends to work or carry on a vocation full time or part time for a period of time:

(A) exceeding fourteen (14) consecutive days; or

(B) for an aggregate period of time exceeding thirty (30) days;

during any calendar year in Indiana, whether the offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) An offender not described in subdivision (1) who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education in Indiana.

(b) Except as provided in subsection (e), an offender who resides in Indiana shall register with the sheriff of the county where the offender resides. If an offender resides in more than one (1) county, the offender shall register with the sheriff of each county in which the offender resides. However, if an offender resides in a county having a consolidated city, the offender shall register with the police chief of the consolidated city.

(c) An offender described in subsection (a)(2) shall register with the sheriff of the county where the offender is or intends to be employed or carry on a vocation. However, an offender described in subsection (a)(2) who is employed or intends to be employed or to carry on a vocation in a consolidated city shall register with the police chief of the consolidated city. If an offender is or intends to be employed or carry on a vocation in more than one (1) county, the offender shall register with the sheriff of each county. However, if an offender is employed or intends to be employed or to carry on a vocation in a county containing a consolidated city and another county, the offender shall register with the police chief of the consolidated city and the sheriff of the other county.

(d) An offender described in subsection (a)(3) shall register with the sheriff of the county where the offender is enrolled or intends to be enrolled as a student. However, if an offender described in subsection (a)(3) is enrolled or intends to be enrolled as a student in a county containing a consolidated city, the offender shall register with the police chief of the consolidated city.

(e) An offender described in subsection (a)(1)(B) shall register with the sheriff in the county in which the real property is located. However, if the offender owns real property in a county containing a consolidated city, the offender shall register with the police chief of the consolidated city.

(f) An offender shall complete a registration form. Each sheriff or police chief of a consolidated city shall make the registration forms available to registrants.

(g) The offender shall register not more than seven (7) days after the offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21);

(2) is released from a secure private facility (as defined in IC 31-9-2-115);

(3) is released from a juvenile detention facility;

(4) is transferred to a community transition program;

(5) is placed on parole;

(6) is placed on probation;

(7) is placed on home detention; or

(8) arrives at the place where the offender is required to register under subsection (b), (c), or (d);

whichever occurs first.

(h) Whenever an offender registers with a sheriff or the police chief of a consolidated city, the sheriff or police chief shall immediately notify the institute of the offender's registration by forwarding a copy of the registration form to the institute.

(i) The sheriff with whom an offender registers under this section shall make and publish a photograph of an offender on the Indiana

sheriffs' sex offender registry web site established under IC 36-2-13-5.5. The police chief of a consolidated city with whom an offender registers under this section shall make a photograph of the offender that complies with the requirements of IC 36-2-13-5.5 and transmit the photograph (and other identifying information required by IC 36-2-13-5.5) to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. Every time a sex offender submits a new registration form to the police chief of a consolidated city, but at least once per year, the police chief shall make a photograph of the sex offender that complies with the requirements of IC 36-2-13-5.5. The police chief of a consolidated city shall transmit the photograph and a copy of the registration form to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. The sheriff of a county containing a consolidated city shall provide the police chief of a consolidated city with all photographic and computer equipment necessary to enable the police chief of the consolidated city to transmit sex offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the county's financial obligation for the establishment and maintenance of the Indiana sheriff's sex offender registry web site established under IC 36-2-13-5.5.

(j) When an offender completes a new registration form, the sheriff or police chief of a consolidated city shall:

(1) forward a copy of the new registration form to the:

(A) institute; and

(B) department of correction if the department has established an automated victim notification system under IC 11-8-7; and

(2) notify every law enforcement agency having jurisdiction in the area where the offender resides.

SECTION 4. IC 11-8-7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 7. Victim Notification Services

Sec. 1. As used in the chapter, "registered crime victim" refers to a crime victim who registers to receive victim notification services under section 2(a)(4) of this chapter if the department establishes an automated victim notification system under this chapter.

Sec. 2. (a) The department may establish an automated victim notification system that must do the following:

(1) Automatically notify a registered crime victim when a committed offender who committed the crime against the victim:

(A) is assigned to a:

(i) department facility; or

(ii) county jail or any other facility not operated by the department;

(B) is transferred to a:

(i) department facility; or

(ii) county jail or any other facility not operated by the department;

(C) is given a different security classification;

(D) is released on temporary leave;

(E) is discharged; or

(F) has escaped.

(2) Allow a registered crime victim to receive the most recent status report for an offender by calling the automated victim notification system on a toll free telephone number.

(3) Notify a registered crime victim concerning a change in the status of:

(A) a criminal appeal;

(B) a writ of habeas corpus proceeding;

(C) an appeal from the granting of a petition for postconviction relief; or

(D) a postconviction proceeding in a capital case;

concerning the committed offender who committed the crime against the registered crime victim.

(4) Allow a crime victim to register or update the victim's registration for the automated victim notification system by calling a toll free telephone number.

(b) For purposes of subsection (a), if the department establishes an automated victim notification system, a sheriff responsible for the operation of a county jail shall immediately notify the department if a committed offender:

(1) is transferred to another county jail or another facility not operated by the department of correction;

(2) is released on temporary leave;

(3) is discharged; or

(4) has escaped.

Sheriffs and other law enforcement officers and prosecuting attorneys shall cooperate with the department in establishing and maintaining an automated victim notification system.

(c) An automated victim notification system may transmit information to a person by:

(1) telephone;

(2) electronic mail; or

(3) another method as determined by the department.

Sec. 3. (a) The department must ensure that the offender information contained in an automated victim notification system is updated frequently enough to timely notify a registered crime victim that an offender has:

(1) been released;

(2) been discharged; or

(3) escaped.

(b) The failure of an automated victim notification system to provide notice to the victim does not establish a separate cause of action by the victim against:

(1) the state; or

(2) the department.

Sec. 4. If the department establishes an automated victim notification system under this chapter, the department, in cooperation with the Indiana criminal justice institute:

(1) may use money in the victim and witness assistance fund under IC 5-2-6-14(e); and

(2) shall seek:

(A) federal grants; and

(B) other funding.

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

(Reference is to SB 230 as printed January 20, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

ULMER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 278, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 7 and 8, begin a new line block indented and insert:

"**(2) The total dollar amounts and recipients of payments that are made:**

(A) to an entity other than a political subdivision or the state; and

(B) for a purpose other than contractual services.".

Page 1, line 8, delete "(2)" and insert "**(3)**".

Page 1, line 9, delete "subdivision (1)" and insert "**subdivisions (1) and (2)**".

(Reference is to SB 278 as printed January 28, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 21, nays 0.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Engrossed Senate Bill 307, has had the same under

consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning local government and to make an appropriation.

Page 2, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 2. IC 6-3.5-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) If on January 1 of a calendar year the county option income tax rate in effect for resident county taxpayers equals six tenths of one percent (0.6%), then the county income tax council of that county may after January 1 and before April 1 of that year pass an ordinance to increase its tax rate for resident county taxpayers. **Except as provided in section 9.6 of this chapter,** if a county income tax council passes an ordinance under this section, its county option income tax rate for resident county taxpayers increases by one tenth of one percent (0.1%) each succeeding July 1 until its rate reaches a maximum of one percent (1%).

(b) The auditor of the county shall record any vote taken on an ordinance proposed under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

SECTION 3. IC 6-3.5-6-9.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9.6. Notwithstanding any other provision of this chapter, the county income tax council for a county containing a consolidated city may pass an ordinance to increase the county option income tax rate for resident county taxpayers by not more than three-tenths of one percent (0.3%) on the succeeding July 1, up to a maximum rate of one percent (1%).**

SECTION 4. IC 6-3.5-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The county income tax council of any county may adopt an ordinance to permanently freeze the county option income tax rates at the rate in effect for its county on January 1 of a year.

(b) To freeze the county option income tax rates a county income tax council must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The _____ County Income Tax Council permanently freezes the county option income tax rates at the rate in effect on January 1 of the current year.".

(c) An ordinance adopted under the authority of this section remains in effect until rescinded. The county income tax council may rescind such an ordinance after January 1 but before April 1 of any calendar year. Such an ordinance shall take effect July 1 of that same calendar year.

(d) **Except as provided in section 9.6 of this chapter,** if a county income tax council rescinds an ordinance as adopted under this section the county option income tax rate shall automatically increase by one-tenth of one percent (0.01%) until:

(1) the tax rate is again frozen under another ordinance adopted under this section; or

(2) the tax rate equals six tenths of one percent (0.6%) (if the frozen tax rate equaled an amount less than six tenths of one percent (0.6%)) or one percent (1%) (if the frozen tax rate equaled an amount in excess of six tenths of one percent (0.6%)).

(e) The county auditor shall record any vote taken on an ordinance proposed under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

SECTION 5. IC 8-22-3-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.1. (a) This section applies only to the board of an airport authority established for a county having a consolidated city.

(b) The board consists of members appointed as follows:

(1) The mayor of the consolidated city shall appoint six (6) members. Each member appointed under this subdivision must be a resident of the county having the consolidated city.

(2) The board of commissioners of the county having the consolidated city shall appoint one (1) member. The member appointed under this subdivision must be a resident of the county having the consolidated city.

(3) The county executive of each Indiana county that fulfills all of the following requirements shall each appoint one (1) member:

(A) The county is adjacent to the county having the consolidated city.

~~(B) The county has a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000).~~

~~(C)~~ **(B)** The authority:

(i) owns real property in the county; **and**

(ii) owned property in the county before July 1, 2005.

The county executive of a county represented on the board under this subdivision may not appoint an advisory member under section 4(e) of this chapter.

Not more than four (4) members appointed under subdivisions (1) and (2) may be members of the same political party.

(c) At least one (1) member of the board appointed under subsection (b)(1) must also be a resident of a township that:

(1) is located in the county having the consolidated city; and

(2) has a population of:

(A) less than twenty-five thousand (25,000); or

(B) more than one hundred thirty-three thousand (133,000) but less than one hundred fifty thousand (150,000).

(d) A member of the board appointed under subsection (b)(3) **for a county that has a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000)** must be a resident of a township:

(1) located in the county making the appointment; and

(2) having a population of more than twenty thousand (20,000) but less than twenty-five thousand (25,000).

(e) The county executive of a county that is not otherwise represented on the board and that is located not more than one thousand two hundred (1,200) feet from a certified air carrier airport that is owned or operated by the authority may appoint one (1) advisory member to the board. An advisory member appointed under this subsection:

(1) must be a resident of:

(A) the county making the appointment; and

(B) one (1) of the two (2) townships in the county located nearest to the airport;

(2) may not vote on any matter before the board;

(3) serves at the pleasure of the appointing authority; and

(4) serves without compensation or payment for expenses.

(f) A member of the board holds office for four (4) years and until the member's successor is appointed and qualified.

(g) If a vacancy occurs in the board, the authority that appointed the member that vacated the board shall appoint an individual to serve for the remainder of the unexpired term.

(h) A board member may be reappointed to successive terms.

(i) A board member may be impeached under the procedure provided for the impeachment of county officers.

(j) A board member appointed under subsection (b)(3) may not vote on a matter before the board relating to imposing, increasing, or decreasing property taxes in the county having the consolidated city.

SECTION 6. IC 36-3-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. (a) The following executive departments of the consolidated city are established, subject to IC 36-3-4-23:

(1) Department of administration **and equal opportunity.**

(2) Department of metropolitan development.

(3) Department of public safety.

(4) Department of public works.

(5) Department of transportation.

(6) Department of parks and recreation.

These departments and their divisions have all the powers, duties, functions, and obligations prescribed by law for them as of August 31, 1981, subject to IC 36-3-4-23.

(b) The department of public utilities established under IC 8-1-11.1 continues as an agency of the consolidated city, which is the successor trustee of a public charitable trust created under Acts 1929, c. 78. The department of public utilities is governed under IC 8-1-11.1 and is not subject to this article.".

Page 3, line 9, delete "which" and insert "**that**".

Page 3, after line 12, begin a new paragraph and insert:

"SECTION 8. IC 36-3-7-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 6. Notwithstanding any other provision, the department of administration and equal opportunity is responsible for:**

(1) payroll functions; and

(2) other human resources and personnel functions;

for all city and county departments, offices, and agencies.

SECTION 9. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "commission" refers to the Marion County consolidation study commission established by subsection (b).**

(b) The Marion County consolidation study commission is established.

(c) The commission consists of the following members:

(1) Two (2) members of the house of representatives, not more than one (1) of whom may be a member of the same political party, appointed by the speaker of the house of representatives.

(2) Two (2) members of the senate, not more than one (1) of whom may be a member of the same political party, appointed by the president pro tempore of the senate.

(3) One (1) member appointed by the mayor of Indianapolis.

(4) One (1) member who is a township trustee in Marion County, appointed by the chairman of the legislative council upon the recommendation of the Marion County Trustees Association.

(5) One (1) member who is an elected township assessor in Marion County, appointed by the chairman of the legislative council upon the recommendation of the Marion County Township Assessors Association.

(6) Two (2) members appointed by the chairman of the legislative council upon the recommendation of the president of Indianapolis Lodge No. 86, Fraternal Order of Police, Inc. One (1) member appointed under this subdivision must be a law enforcement officer employed by the Marion County Sheriff's Department, and one (1) member appointed under this subdivision must be a law enforcement officer employed by the Indianapolis Police Department.

(7) Two (2) members appointed by the chairman of the legislative council upon the recommendation of the president of Indianapolis Metropolitan Professional Firefighters Local 416. One (1) member appointed under this subdivision must be a full-time firefighter employed by a fire department in a Marion County township other than Center Township. One (1) member appointed under this subdivision must be a full-time firefighter employed by the Indianapolis Fire Department.

(8) Two (2) members of the Marion County city-county council appointed by the chairman of the legislative council upon the joint recommendation of the president and the minority leader of the Marion County city-county council.

(9) One (1) member appointed by the chairman of the legislative council upon the recommendation of the president of the Marion County Alliance of Neighborhood Associations.

(10) One (1) member appointed by the chairman of the legislative council upon the recommendation of the president of the Greater Indianapolis Chamber of Commerce.

(d) The chairman of the legislative council shall appoint a member of the commission as the chair of the commission.

(e) The affirmative votes of a majority of the members appointed to the commission are required for the commission to take action on any measure, including the adoption of a final report.

(f) The legislative services agency shall provide staff support for the commission.

(g) Except as otherwise provided in this SECTION, the commission shall operate under the rules and procedures of the legislative council.

(h) The commission shall study the consolidation of local government in Marion County, including the consolidation of functions proposed in HB 1435-2005, as introduced, and in the "Indianapolis Works" plan.

(i) There is appropriated forty-five thousand dollars ($45,000) to the legislative council from the state general fund for the period beginning July 1, 2005, and ending June 30, 2006, to hire consultants, including accountants, auditors, and actuaries, that are necessary to assist the commission in reviewing and verifying information and data concerning the consolidation of local government in Marion County. The chairman and vice chairman of the legislative council must approve the hiring of any consultants by the commission.

(j) Before July 1, 2005, the city of Indianapolis must submit information concerning the following to the commission, including any data or assumption used by the city in providing the information:

(1) The anticipated locations and staffing levels of offices in Marion County providing services related to property assessment and township assistance.

(2) The operational efficiencies that may be achieved from the consolidation of law enforcement and firefighting functions.

(3) The anticipated law enforcement staffing and patrolling patterns throughout Marion County.

(4) The anticipated staffing of each existing fire station in Marion County.

(5) The anticipated wages and benefits that would be paid to law enforcement officers and firefighters of the consolidated departments, including any information concerning the timing of expected wage increases for officers and firefighters currently earning less than other officers with comparable rank and experience.

(6) The anticipated pension payments to law enforcement officers and firefighters and the funding source of those payments.

(7) The amount of any reductions in administrative costs resulting from the consolidation of property assessment, township assistance, law enforcement, and firefighting functions.

(8) The amount of any other savings that might occur if services currently provided by township assessors and township trustees (other than township assistance and firefighting services) were transferred to existing county and city departments.

(9) Any other information demonstrating the manner in which the consolidation proposed by HB 1435-2005, as introduced, would affect:

(A) the cost of providing local government services in Marion County;

(B) tax rates, tax levies, and budgets of units of local government in Marion County;

(C) the ability of local government to provide services; and

(D) the ability of citizens to interact with government officials.

(k) Any interested party may submit information and data described in subsection (j) to the commission.

(l) The commission shall issue a final report to the legislative council before December 1, 2005, concerning any findings and recommendations made by the commission.

(m) This SECTION expires December 31, 2005.

SECTION 10. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 6-3.5-6, if the county income tax council for a county containing a consolidated city passes an ordinance described in IC 6-3.5-6-9.6, as added by this act, before June 1, 2005, the increased rate takes effect July 1, 2005.**

(b) An ordinance or resolution adopted to increase the rate of the county option income tax for resident county taxpayers under IC 6-3.5-6-9.6, as added by this act, by not more than three-tenths of one percent (0.3%) on the succeeding July 1, up to a maximum rate of one percent (1%), is valid and effective, regardless of whether the ordinance or resolution is passed before, on, or after the effective date of this act.

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

Renumber all SECTIONS consecutively.

(Reference is to SB 307 as reprinted February 22, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 4.

HINKLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred Engrossed Senate Bill 315, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

HOFFMAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 329, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, strike line 7.

Page 4, line 8, delete "2016.".

Page 4, line 31, strike "remains".

Page 4, strike lines 32 through 33 and insert "**terminates two (2) years after the retirement of debt that was incurred under this chapter.**".

Page 4, line 34, after "(e)" insert "**Subject to subsection (f), the county food and beverage tax council may adopt an ordinance to rescind the tax imposed under this chapter.**".

Page 4, strike line 39.

Page 4, line 40, strike "January 1,".

Page 4, line 40, delete "2016.".

Page 6, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 5. IC 6-9-27-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This chapter applies to the following:

(1) A town:

(A) located in a county having a population of more than sixty-five thousand (65,000) but less than seventy thousand (70,000); and

(B) having a population of more than nine thousand (9,000).

(2) A town:

(A) located in a county having a population of more than thirty-four thousand nine hundred (34,900) but less than thirty-four thousand nine hundred fifty (34,950); and

(B) having a population of less than one thousand (1,000).

(3) A town:

(A) located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000); and

(B) having a population of more than fifteen thousand (15,000).

(4) A town:

(A) located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000); and

(B) having a population of more than ten thousand (10,000) but less than fifteen thousand (15,000).

(5) A town:

(A) located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000); and

(B) having a population of more than five thousand (5,000) but less than six thousand three hundred (6,300).

(6) A city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

SECTION 6. IC 6-9-27-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The fiscal body of the ~~town~~ **municipality** may adopt an ordinance to impose an excise tax, known as the ~~town~~ **municipal** food and beverage tax, on transactions described in section 4 of this chapter.

(b) If a fiscal body adopts an ordinance under subsection (a), the fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

(c) If a fiscal body adopts an ordinance under subsection (a), the ~~town~~ **municipal** 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.

SECTION 7. IC 6-9-27-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a 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 **city or** town 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 ~~town~~ **municipal** food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

SECTION 8. IC 6-9-27-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The ~~town~~ **municipal** food and beverage tax imposed on a food or beverage transaction described in section 4 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 a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

SECTION 9. IC 6-9-27-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the **city or** town fiscal officer upon warrants issued by the auditor of state.

SECTION 10. IC 6-9-27-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) If a tax is imposed under section 3 of this chapter **by a town described in section 1 of this chapter,** the town fiscal officer shall establish a food and beverage tax receipts fund.

(b) The town fiscal officer shall deposit in this fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

SECTION 11. IC 6-9-27-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 8.5. (a) If a tax is imposed under section 3 of this chapter by a city described in section 1(6) of this chapter, the city fiscal officer shall establish a food and beverage tax receipts fund.**

(b) The city fiscal officer shall deposit in this fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

SECTION 12. IC 6-9-27-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Except as provided in subsection (b), money in the fund **established under section 8 of this chapter** shall be used by the town for the financing, construction, operation, or maintenance of the following:

(1) Sanitary sewers or wastewater treatment facilities.
(2) Park or recreational facilities.
(3) Drainage or flood control facilities.
(4) Water treatment, storage, or distribution facilities.

(b) The fiscal body of the town 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 town or a special taxing district in the town to provide the facilities 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 (a) is enforceable under IC 5-1-14-4.

SECTION 13. IC 6-9-27-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **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 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, 2010.

(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 14. IC 6-9-27-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. With respect to obligations for which a pledge has been made under ~~section~~ **sections** 9(b) **or 9.5(b)** of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding.

SECTION 15. IC 6-9-27-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 11. A food and beverage tax imposed under this chapter terminates two (2) years after the retirement of debt that was incurred under this chapter.**

SECTION 16. IC 6-9-35 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 35. Food and Beverage Taxes in Wayne County

Sec. 1. This chapter applies to a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400).

Sec. 2. Except as otherwise provided in this chapter, the definitions in IC 36-1-2 apply throughout this chapter.

Sec. 3. As used in this chapter, "beverage" includes an alcoholic beverage.

Sec. 4. As used in this chapter, "bonds" has the meaning set forth in IC 5-1-11-1.

Sec. 5. As used in this chapter, "department" means the department of state revenue.

Sec. 6. As used in this chapter, "economic development project" has the meaning set forth in IC 6-3.5-7-13.1.

Sec. 7. As used in this chapter, "food" includes any food product.

Sec. 8. As used in this chapter, "gross retail income" has the meaning set forth in IC 6-2.5-1-5.

Sec. 9. As used in this chapter, "obligations" has the meaning set forth in IC 5-1-3-1(b).

Sec. 10. As used in this chapter, "person" has the meaning set forth in IC 6-2.5-1-3.

Sec. 11. As used in this chapter, "retail merchant" has the meaning set forth in IC 6-2.5-1-8.

Sec. 12. As used in this chapter, "unit" means:

(1) a county described in section 1 of this chapter; or
(2) a city or town located in the county described in section 1 of this chapter.

Sec. 13. (a) After January 1 but before August 1, the fiscal body of a unit may adopt an ordinance to impose an excise tax known as the unit's food and beverage tax on transactions described in section 14 of this chapter. The fiscal body of a unit other than a county may not adopt an ordinance under this chapter until after July 31, 2006, unless the fiscal body of the county adopts a resolution to relinquish its exclusive authority to adopt an ordinance under this chapter before August 1, 2006. If a county fiscal body adopts a resolution under this subsection, the county fiscal body shall send a certified copy of the resolution to the executive of each city and town located in the county.

(b) Before a fiscal body may adopt an ordinance imposing a food and beverage tax, the fiscal body must hold a public hearing on the proposed ordinance, with notice of the time, date, and place of the public hearing given in accordance with IC 5-3-1.

(c) If the fiscal body of a county adopts an ordinance to impose a food and beverage tax under this chapter, the county executive must also adopt a substantially similar ordinance to impose the tax.

(d) If an ordinance is adopted under subsection (c), the county executive shall immediately send a certified copy of the ordinance to the department.

(e) If a unit other than a county adopts an ordinance under this section, the unit's executive shall immediately send a certified copy of the ordinance to the department.

Sec. 14. (a) Except as provided in subsection (c), a food and beverage tax imposed under section 13 of this chapter applies to any transaction in which food or a beverage is furnished, prepared, or served:

(1) for consumption at a location, or on equipment, provided by a retail merchant;
(2) in the unit in which the tax is imposed; and
(3) by the retail merchant for consideration.

If both a county and another unit located in the county impose a tax under this chapter, the tax imposed by the county does not apply within the territory of the other unit imposing the tax.

(b) Transactions described in subsection (a)(1) include transactions in which food or a beverage is:

(1) served by a retail merchant off the merchant's premises;
(2) sold by a retail merchant who ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverages sold on a "take out" or "to go" basis; or
(3) sold by a street vendor.

(c) A food and beverage tax imposed under this chapter does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed under IC 6-2.5.

Sec. 15. The food and beverage tax imposed on a food or beverage transaction described in section 14 of this chapter may not exceed one percent (1%) of the gross retail income received by the retail 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.

Sec. 16. If the food and beverage tax imposed in a unit is imposed at a rate lower than the rate permitted under section 15 of this chapter, the unit's fiscal body may adopt an ordinance to increase the unit's food and beverage tax rate. The ordinance must be adopted after January 1 but before September 1 of a year. The fiscal body shall send a certified copy of the ordinance increasing the food and beverage tax rate to the department.

Sec. 17. (a) If no bonds, leases, obligations, or other evidences of indebtedness of a unit that are payable from a food and beverage tax imposed under this chapter are outstanding, the unit's fiscal body may adopt an ordinance to:

(1) reduce the unit's food and beverage tax rate; or

(2) repeal the unit's food and beverage tax.

(b) An ordinance described in subsection (a) must be adopted after January 1 but before September 1 of a year. The fiscal body shall send a certified copy of the ordinance adopted under this section to the department.

Sec. 18. If a fiscal body adopts an ordinance under this chapter, the ordinance takes effect January 1 of the year following the year in which the ordinance is adopted.

Sec. 19. A food and beverage tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return that is filed for the payment of the tax may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax as prescribed by the department.

Sec. 20. (a) The department shall notify the county auditor of a county containing a unit that imposes a food and beverage tax under this chapter of the amount of tax paid in the unit.

(b) The amounts received from a food and beverage tax imposed under this chapter shall be paid monthly by the treasurer of state on warrants issued by the auditor of state to the county auditor of the county in which the unit that imposed the tax is located.

Sec. 21. A county auditor shall establish for each unit in the county that imposes a tax under this chapter a local food and beverage tax revenue fund into which all amounts received monthly from the treasurer of state under this chapter shall be deposited.

Sec. 22. Revenue derived from a tax imposed under this chapter may be treated by a unit as additional revenue for the purpose of fixing its budget for the budget year during which the revenues are to be distributed to the unit.

Sec. 23. A unit may use revenues from a tax imposed under this chapter for one (1) or more of the following purposes:

(1) To promote and encourage conventions, visitors, and tourism within the unit.

(2) To promote and encourage economic development within the unit.

(3) Paying debt service or lease rentals on:

(A) bonds;

(B) leases;

(C) obligations; or

(D) any other evidence of indebtedness of the unit;

for a project described in subdivisions (1) and (2).

Sec. 24. The department of local government finance may not reduce a unit's property tax levy by the amount of revenue received from a tax imposed under this chapter.

Sec. 25. (a) The food and beverage tax revenue committee is established to make recommendations concerning the use of money in the funds established under section 21 of this chapter. The committee consists of the following members:

(1) One (1) resident of the county representing each of the three (3) commissioner districts, appointed by the county executive. Not more than two (2) of the members appointed under this subdivision may be from the same political party.

(2) Two (2) residents of the county, appointed by the county fiscal body. The two (2) appointees may not be from the same political party.

(3) Two (2) residents of the largest city in the county, appointed by the city executive. The two (2) appointees under this subdivision may not be from the same political party. One (1) appointee must be interested in economic development.

(4) Two (2) residents of the largest city in the county, appointed by the city fiscal body. The two (2) appointees under this subdivision may not be from the same political party. One (1) appointee must be interested in tourism.

(b) Except as provided in subsection (c), the term of a member appointed to the food and beverage tax revenue committee under this section is four (4) years.

(c) The initial terms of office for the members appointed to the food and beverage tax revenue committee under subsection (a) are as follows:

(1) Of the members appointed under subsection (a)(1), one (1) member shall be appointed for a term of two (2) years, one (1) member shall be appointed for three (3) years, and one (1) member shall be appointed for four (4) years.

(2) Of the members appointed under subsection (a)(2), one (1) member shall be appointed for two (2) years and one (1) member shall be appointed for three (3) years.

(3) Of the members appointed under subsection (a)(3), one (1) member shall be appointed for two (2) years and one (1) member shall be appointed for three (3) years.

(4) Of the members appointed under subsection (a)(4), one (1) member shall be appointed for three (3) years and one (1) member shall be appointed for four (4) years.

(d) At the expiration of a term under subsection (c), the member whose term expired shall be reappointed to the food and beverage tax revenue committee to fill the vacancy caused by the expiration.

(e) The food and beverage tax revenue committee is abolished on the date that the county fiscal body adopts a resolution abolishing the food and beverage tax revenue committee. A county fiscal body may adopt a resolution under this subsection if the county fiscal body determines that each unit in the county that had imposed a tax under this chapter has adopted an ordinance to rescind the tax.

Sec. 26. The general assembly covenants with each unit subject to this chapter and the purchasers and owners of bonds, leases, obligations, or any other evidences of indebtedness of the county payable from a tax imposed under this chapter that this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of a tax imposed under this chapter so long as the principal, interest, or lease rentals due under those bonds, leases, obligations, or other evidences of indebtedness of a unit that are payable from a tax imposed under this chapter remain unpaid.

SECTION 17. IC 6-9-36 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 36. Monroe County Food and Beverage Tax

Sec. 1. This chapter applies to Monroe County.

Sec. 2. The definitions in IC 6-9-12-1 apply throughout this chapter.

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 the 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 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.

(d) If the fiscal body adopts an ordinance under subsection (a), it may adopt an ordinance to allow every retail merchant to deduct and retain from the amount of those taxes otherwise required to be remitted under this chapter, if timely remitted, a retail merchant's collection allowance. The fiscal body shall state the amount of the allowance in the ordinance. An allowance authorized under this subsection is in addition to any allowance authorized under an ordinance adopted under section 6 or 7 of this chapter.

(e) The fiscal body may not adopt an ordinance under subsection (a) before January 1, 2006.

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

(1) for consumption at a location, or on equipment, provided by a retail merchant;

(2) in the county in which the tax is imposed; and

(3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

(1) served by a retail merchant off the merchant's premises;

(2) 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. 5. The county food and beverage tax imposed on a food or beverage transaction described in section 4 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 such a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

Sec. 6. If an ordinance is not adopted under section 7 of this chapter, the tax that may be imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the tax under this chapter may be made separately or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 7. (a) The county fiscal body may adopt an ordinance to require that the tax be reported on forms approved by the county treasurer and that the tax shall be paid monthly to the county treasurer. If such an ordinance is adopted, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month the tax is collected. If such an ordinance is not adopted, the tax shall be imposed, paid, and collected in exactly the same manner as the state gross retail tax is imposed, paid, and collected pursuant to IC 6-2.5.

(b) If an ordinance is adopted under this section, all 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 3 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. Specifically and not in limitation of this subsection, the terms "person" and "gross income" shall have the same meaning in this section as set forth in IC 6-2.5, except that "person" shall 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. 8. If an ordinance is not adopted under section 9 of this chapter, the amounts received from the county food and beverage tax imposed under this chapter shall be paid monthly by the treasurer of state to the county treasurer upon warrants issued by the auditor of state.

Sec. 9. (a) If an ordinance is adopted under section 3 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. 10. (a) If an ordinance is adopted under section 3 of this chapter, the fiscal officer of the city of Bloomington 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. 11. (a) Each month, the auditor of Monroe County shall distribute the county food and beverage tax revenue received by the county treasurer between the city of Bloomington and Monroe County in the same ratio that the population of the city of Bloomington bears to the population of Monroe County.

(b) Distribution of county food and beverage tax revenue to the city of Bloomington must be on warrants issued by the auditor of Monroe County.

Sec. 12. Monroe County's share of county food and beverage tax revenue deposited in the county food and beverage tax receipts fund may be used to only finance, construct, operate, and maintain one (1) or more of the following:

(1) A convention center, conference center, or auditorium facility.

(2) Public safety facilities or operations.

(3) Parks and recreation facilities.

(4) Tourism or economic development projects.

(5) Parking facilities.

Sec. 13. Money deposited in the city food and beverage tax receipts fund may be used only to finance, construct, operate, and maintain one (1) or more of the following:

(1) A convention center, conference center, or auditorium facility.

(2) Parks and recreation facilities.

(3) Tourism or economic development projects.

(4) Parking facilities.

(5) Public safety facilities or operations.

Sec. 14. (a) There is created a nine (9) member food and beverage tax authority to make recommendations to the county executive and the city executive concerning the use of money in the funds established under sections 9 and 10 of this chapter. The nine (9) members are appointed as follows:

(1) Two (2) members appointed by the executive of the largest municipality in the county. Not more than one (1) member appointed under this subdivision may be of the same political party. One (1) member appointed under this subdivision must represent the hospitality or restaurant industry.

(2) Two (2) members appointed by the city council of the largest municipality in the county. Not more than one (1) member appointed under this subdivision may be of the same political party. One (1) member appointed under this subdivision must represent the hospitality or restaurant industry.

(3) Three (3) members appointed by the county executive body. Not more than two (2) members appointed under this subdivision may be of the same political party. One (1) member appointed under this subdivision must represent the hospitality or restaurant industry.

(4) Two (2) members appointed by the county fiscal body. One (1) member appointed under this subdivision must be a resident of Ellettsville.

A member appointed under this subsection must reside in Monroe County.

(b) The term of appointment on the authority is two (2) years. However, when the initial appointments are made, each appointing authority shall appoint one (1) member for a one (1) year term and the remaining members for two (2) year terms. Subsequent appointments are for two (2) year terms. A vacancy on the authority shall be filled for the unexpired term by the authority that made the prior appointment.

(c) The affirmative vote of at least five (5) members of the authority is required for the authority to take an action.

Sec. 15. (a) If no obligations are outstanding, the county fiscal body may adopt an ordinance to rescind the tax imposed under this chapter before December 1 in any year.

(b) An ordinance to rescind the food and beverage tax takes effect January 1 of the year immediately following the year in which the ordinance is adopted.

(c) If the county 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.

SECTION 18. [EFFECTIVE UPON PASSAGE] **A large percentage of the land in the city of Bloomington and in Monroe County is not taxable because it 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 19. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding any other law, a food and beverage tax imposed in Monroe County terminates two (2) years after the retirement of debt financed by the food and beverage tax.**

(b) Notwithstanding any other law, a food and beverage taximposed in Wayne County terminates two (2) years after the retirement of debt financed by the food and beverage tax.".

Renumber all SECTIONS consecutively.

(Reference is to SB 329 as reprinted February 1, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 17, nays 4.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 360, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Page 1, line 3, delete ":" and insert "**covered under a health care plan.**".

Page 1, delete lines 4 through 9.

Page 2, line 26, delete "is necessary to save the life".

Page 2, delete lines 27 through 28.

Page 2, line 32, delete "." and insert "**; and each physician documents in the covered individual's medical record the reason for the physician's determination.**".

Page 3, line 17, delete "a" and insert "**the patient.**".

Page 3, delete line 18.

Page 3, line 23, delete "in which" and insert "**where**".

Page 3, line 25, delete "behind" and insert "**in which**".

Page 3, line 25, delete "." and insert "**occurred.**".

Page 3, line 29, delete "records" and insert "**reports made**".

Page 3, line 29, delete "subsection (a)(2)" and insert "**section 2(a)(2) of this chapter**".

Page 3, line 31, after "information" insert "**contained**".

Page 3, line 31, delete "records" and insert "**reports**".

Page 3, line 32, delete "identify" and insert "**reveal**".

Page 3, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 4. IC 20-5-13-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 10. (a) Before July 1, 2006, each school board shall establish a coordinated school health advisory council. The advisory council shall develop a local wellness policy that complies with the requirements under federal Public Law 108-265 and IC 5-22-15-24(c). The advisory council must hold at least one (1) hearing that allows public testimony.**

(b) The school board shall appoint the members of the advisory council, which must include parents, food service directors and staff, students, nutritionists or certified dietitians, health care professionals, school board members, a school administrator, and representatives of interested community organizations. However, a person who represents a food manufacturer or marketer or a person with a conflict of interest or a financial interest in selling food in schools may not serve on the advisory council.

(c) The school board shall adopt a school district policy on child nutrition and physical activity that takes into consideration the advisory council's recommendations.

(d) The department shall, in consultation with the state department of health, provide technical assistance to coordinated school health advisory councils, including providing information on health, nutrition, and physical activity, through educational materials and professional development opportunities. The department shall provide the information given to a coordinated school health advisory council under this subsection to a school or parent upon request.

SECTION 5. IC 20-5-13-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 11. (a) This section does not apply to a food or beverage item that is:**

(1) part of a school lunch program or a school breakfast program;

(2) sold in an area that is not accessible to a student;

(3) sold after normal school hours; or

(4) sold or distributed as part of a fundraiser conducted by students, teachers, school groups, or parent groups, if the food or beverage is not intended for student consumption during the school day.

(b) A vending machine at an elementary school that dispenses food or beverages may not be accessible to a student.

(c) At least fifty percent (50%) of the foods and beverages available for sale at school or on the school grounds must qualify as a healthy food or a healthy beverage. Food and beverage items must meet the following qualifications:

(1) The following do not qualify as healthy beverages:

(A) Soft drinks, punch, iced tea, and coffee.

(B) Fruit or vegetable based drinks that contain less than fifty percent (50%) real fruit or vegetable juice or that contain additional caloric sweeteners.

(C) Except for low-fat and fat-free chocolate milk, drinks that contain caffeine.

(2) The following qualify as healthy beverages:

(A) Fruit or vegetable based drinks that contain at least fifty percent (50%) real fruit or vegetable juice or that do not contain additional caloric sweeteners.

(B) Water and seltzer water that do not contain additional caloric sweeteners.

(C) Low-fat and fat-free milk, including chocolate milk, soy milk, rice milk, and other similar dairy and nondairy calcium fortified milks.

(3) Foods that meet the following standards are considered healthy foods:

(A) Not more than thirty percent (30%) of their total calories are from fat.

(B) Not more than ten percent (10%) of their total calories are from saturated and trans fat.

(C) Not more than thirty-five percent (35%) of their weight is from sugars that do not occur naturally in fruits, vegetables, or dairy products.

(D) Are limited to the following portion sizes:

(i) One and one quarter (1.25) ounces for potato chips, crackers, popcorn, cereal, trail mixes, nuts, seeds, dried fruit, and jerky.

(ii) Two (2) ounces for cookies and cereal bars.

(iii) Three (3) ounces for bakery items, including pastries, muffins, and donuts.

(iv) Three (3) fluid ounces for frozen desserts, including ice cream.

(v) Eight (8) ounces of nonfrozen yogurt.

(vi) Twelve (12) ounces for beverages, except water.

(vii) Entree items and side dish items, including french fries and onion rings, may not exceed the portions for those foods when served as part of the school lunch program or school breakfast program.

SECTION 6. IC 20-10.1-4-5.5 IS ADDED TO THE INDIANA

CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5.5. (a) This section does not apply to:**

(1) students who are in half-day kindergarten; or

(2) a student who has a medical condition that precludes participation in the daily physical activity provided under this section.

(b) Beginning in the 2005-2006 school year, the governing body of each school corporation shall provide daily physical activity for students in elementary school. The physical activity must be consistent with the curriculum and programs developed under IC 20-1-1.1-7 and may include the use of recess. On a day when there is inclement weather or unplanned circumstances have shortened the school day, the school corporation may provide physical activity alternatives or elect not to provide daily physical activity.".

Page 4, line 25, delete "necessary to save the life of the".

Page 4, delete lines 26 through 27.

Page 4, line 31, delete "." and insert "**;**

and each physician documents in the insured's medical record the reason for the physician's determination.".

Page 5, line 21, delete "is necessary to save".

Page 5, delete lines 22 through 23.

Page 5, line 24, delete "that the surgery".

Page 5, line 27, delete "." and insert "**;**

and each physician documents in the enrollee's medical record the reason for the physician's determination.".

Page 5, line 28, delete "IC 5-10-8-7.7(f)," and insert "**IC 5-10-8-7.7,**".

Page 5, line 29, delete "added" and insert "**amended**".

Page 5, line 32, delete "IC 27-8-14.1-4(b)," and insert "**IC 27-8-14.1-4,**".

Page 5, line 32, delete "added" and insert "**amended**".

Page 5, line 35, delete "IC 27-13-7-14.5(d)," and insert "**IC 27-13-7-14.5,**".

Page 5, line 35, delete "added" and insert "**amended**".

Page 5, after line 37, begin a new paragraph and insert:

"SECTION 10. [EFFECTIVE UPON PASSAGE] **(a) IC 20-5-13-11, as added by this act, does not apply to a contract that:**

(1) was executed before the effective date of this SECTION;

(2) takes effect not later than the effective date of this SECTION; and

(3) requires a governing body of a school corporation to allow the sale of:

(A) soft drinks and similar beverages; and

(B) food;

with no or low nutritional value, as defined by the United States Department of Agriculture, from vending machines or other dispensing units during school hours.

However, the governing body may not renew a contract described in this SECTION and, after the contract expires, must comply with IC 20-5-13-11, as added by this act.

(b) This SECTION expires July 1, 2010.

SECTION 11. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding IC 20-5-13-11(c), as added by this act, the following percentages of foods and beverages sold at school or on school grounds must qualify as a healthy food or a healthy beverage, as described in IC 20-5-13-11(c), as added by this act:**

(1) Twenty percent (20%), beginning July 1, 2005, through June 30, 2006.

(2) Thirty-five percent (35%), beginning July 1, 2006, through June 30, 2007.

(b) This SECTION expires July 1, 2007.

SECTION 12. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to SB 360 as reprinted March 1, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 2.

BECKER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 363, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 33-37-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state ~~six million seven hundred four thousand two hundred fifty-seven~~ **seven million five hundred ninety-seven thousand two hundred nine** dollars ~~($6,704,257)~~ **($7,597,209)** 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 an amount equal to ~~eleven~~ **nine** and ~~eight-hundredths~~ **seventy-eight hundredths** percent ~~(11.08%);~~ **(9.78%);**

(2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to ~~twenty-five~~ **thirty-three** and ~~twenty-one~~ **ninety-six** hundredths percent ~~(25.21%);~~ **(33.96%);**

(3) the law enforcement academy building fund established by IC 5-2-1-13 an amount equal to three and ~~fifty-two~~ **eleven** hundredths percent ~~(3.52%);~~ **(3.11%);**

(4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to ~~fourteen~~ **twelve** and ~~nineteen-hundredths~~ **fifty-three hundredths** percent ~~(14.19%);~~ **(12.53%);**

(5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to ~~sixteen~~ **fourteen** and ~~fifty-hundredths~~ **fifty-seven hundredths** percent ~~(16.50%);~~ **(14.57%);**

(6) the motor vehicle highway account an amount equal to ~~twenty-six~~ **twenty-three** and ~~ninety-five~~ **seventy-nine** hundredths percent ~~(26.95%);~~ **(23.79%);**

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to ~~thirty-two~~ **twenty-nine** hundredths of one percent ~~(0.32%);~~ **(0.29%);** and

(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 ~~two~~ **one** and ~~twenty-three~~ **ninety-seven** hundredths percent ~~(2.23%);~~ **(1.97%);**

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 two hundred thousand dollars ($2,200,000).".

Page 2, delete lines 1 through 4.

Page 2, line 6, delete "base".

Page 2, line 8, strike "ninety" and insert "**one hundred ten**".

Page 2, line 8, after "thousand" insert "**five hundred**".

Page 2, line 8, strike "($90,000)," and insert "**($110,500), as adjusted after June 30, 2006, under section 8.1 of this chapter,**".

Page 2, line 9, delete ":".

Page 2, line 10, delete "(1) a salary increase under section 8.1 of this chapter;"

Page 2, line 10, strike "and".

Page 2, line 11, strike "(2)".

Page 2, run in lines 9 through 11.

Page 2, line 19, reset in roman "(a),".

Page 2, line 19, delete "(a)(2),".

Page 3, line 4, reset in roman "(a).".

Page 3, line 4, delete "(a)(2).".

Page 3, line 6, delete "base".

Page 3, line 8, strike "fifteen" and insert "**thirty-three**".

Page 3, line 8, after "thousand" insert "**six hundred**".
Page 3, line 8, strike "($115,000).".
Page 3, delete line 8, delete "In addition, a justice under this" and insert "**($133,600), as adjusted after June 30, 2006, under section 8.1 of this chapter.**".
Page 3, delete line 9 through 10.
Page 3, line 11, delete "base".
Page 3, line 12, strike "ten" and insert "**twenty-nine**".
Page 3, line 12, after "thousand" insert "**eight hundred**".
Page 3, line 12, strike "($110,000).".
Page 3, line 12, delete "In addition," and insert "**($129,800), as adjusted after June 30, 2006, under section 8.1 of this chapter.**".
Page 3, delete lines 13 through 14.
Page 3, line 39, delete "judge's or justice's salary" and insert "**judicial salaries in sections 6 and 8 of this chapter**".
Page 3, line 39, delete "shall be" and insert "**are**".
Page 3, line 40, delete "or cost" and insert "**average**".
Page 3, line 41, delete "of living".
Page 3, line 42, delete "." and insert "**, as determined by the budget director.**".
Page 4, line 4, delete "sum of:" and insert "**salary, as adjusted after June 30, 2006, under this section, that is in effect for the court on the immediately preceding June 30.**".
Page 4, delete lines 5 through 6.
Page 4, line 9, delete "or cost of living" and insert "**average**".
Page 4, after line 15, begin a new paragraph and insert:
"SECTION 5 [EFFECTIVE JULY 1, 2005] **IC 33-38-5-6 and IC 33-38-5-8, both as amended by this act, apply only to increase the part of an annual salary payable after June 30, 2005.**".
Renumber all SECTIONS consecutively.
(Reference is to SB 363 as printed February 18, 2005.)
and when so amended that said bill do pass.

Committee Vote: yeas 22, nays 0.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred Engrossed Senate Bill 376, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:
Page 2, line 37, delete "senate" and insert "**president**".
Page 2, line 37, after "pro tempore" insert "**of the senate**".
Page 4, between lines 1 and 2, begin a new line block indented and insert:
"**(6) Parental rights.**".
(Reference is to SB 376 as reprinted March 1, 2005.)
and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 3.

BUDAK, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 432, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:
Page 1, delete lines 9 through 18.
Page 2, delete lines 1 through 16.
Page 2, line 17, delete "(d)" and insert "**(b)**".
Page 2, line 18, after "a" insert "**long term care**".
Page 2, line 26, delete "and" and insert "**concerning**".
Page 2, line 30, delete "." and insert "**for long term care.**".
Page 2, line 32, after "for" insert "**long term care under**".
Page 2, line 36, delete "." and insert "**in long term care.**".
Page 2, line 39, after "sources" insert "**in long term care**".
Page 3, delete lines 2 through 14.
Page 3, line 15, delete "(i)" and insert "**(c)**".
(Reference is to SB 432 as printed March 2, 2005, Senate Rule 77(b) Technical Amendment version.)
and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

BECKER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 452, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:
Page 1, between the enacting clause and line 1, begin a new paragraph and insert:
"SECTION 1. IC 4-4-5.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The Indiana twenty-first century research and technology fund is established to provide grants or loans to support proposals for economic development in one (1) or more of the following areas:
(1) To increase the capacity of Indiana institutions of higher education, Indiana businesses, and Indiana nonprofit corporations and organizations to compete successfully for federal or private research and development funding.
(2) To stimulate the transfer of research and technology into marketable products.
(3) To assist with diversifying Indiana's economy by focusing investment in biomedical research and biotechnology, information technology, and other high technology industry clusters requiring high skill, high wage employees.
(4) To encourage an environment of innovation and cooperation among universities and businesses to promote research activity.
(b) The fund shall be administered by the budget agency. The fund consists of:
(1) appropriations from the general assembly;
(2) proceeds of bonds issued by the Indiana development finance authority under IC 4-4-11.4 for deposit in the fund; and
(3) gifts and grants to the fund.
The budget agency shall review each recommendation. The budget agency, after review by the budget committee, may approve, deny, or modify grants and loans recommended by the board. Money in the fund may not be used to provide a recurring source of revenue for the normal operating expenditures of any project.
(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) The 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 the purposes of this chapter.
SECTION 2. IC 4-4-5.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board has the following powers:
(1) To accept, analyze, and approve applications under this chapter.
(2) To contract with experts for advice and counsel.
(3) To employ staff to assist in carrying out this chapter, including providing assistance to applicants who wish to apply for a grant or loan from the fund, analyzing proposals, working with experts engaged by the board, and preparing reports and recommendations for the board.
(4) To approve and recommend applications for grants or loans from the fund to the budget committee and budget agency.
(b) The board shall give priority to applications for grants or loans from the fund that:
(1) have the greatest economic development potential; and
(2) require the lowest ratio of money from the fund compared with the combined financial commitments of the applicant and those cooperating on the project.
(c) The board shall make final funding determinations for applications for grants or loans from the fund that will be submitted to the budget agency for review and approval. In making a determination on a proposal intended to obtain federal or private research funding, the board shall be advised by a peer review panel and shall consider the following factors in evaluating the proposal:

(1) The scientific merit of the proposal.
(2) The predicted future success of federal or private funding for the proposal.
(3) The ability of the researcher to attract merit based scientific funding of research.
(4) The extent to which the proposal evidences interdisciplinary or inter-institutional collaboration among two (2) or more Indiana institutions of higher education or private sector partners, as well as cost sharing and partnership support from the business community.

The purposes for which grants and loans may be made include erecting, constructing, reconstructing, extending, remodeling, improving, completing, equipping, and furnishing research and technology transfer facilities.

(d) The peer review panel shall be chosen by and report to the board. In determining the composition and duties of a peer review panel, the board shall consider the National Institutes of Health and the National Science Foundation peer review processes as models. The members of the panel must have extensive experience in federal research funding. A panel member may not have a relationship with any private entity or academic institution in Indiana that would constitute a conflict of interest for the panel member.

(e) In making a determination on any other application for a grant or loan from the fund involving a proposal to transfer research results and technologies into marketable products or commercial ventures, the board shall consult with experts as necessary to analyze the likelihood of success of the proposal and the relative merit of the proposal.

SECTION 3. IC 4-4-11-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) The authority is granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes under this chapter, IC 4-4-21, and IC 15-7-5, including but not limited to the following:

(1) Have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions.
(2) Without complying with IC 4-22-2, adopt, amend, and repeal bylaws, rules, and regulations not inconsistent with this chapter, IC 4-4-21, and IC 15-7-5 and necessary or convenient to regulate its affairs and to carry into effect the powers, duties, and purposes of the authority and conduct its business.
(3) Sue and be sued in its own name.
(4) Have an official seal and alter it at will.
(5) Maintain an office or offices at a place or places within the state as it may designate.
(6) Make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter, IC 4-4-21, and IC 15-7-5.
(7) Employ architects, engineers, attorneys, inspectors, accountants, agriculture experts, silviculture experts, aquaculture experts, and financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment and to fix their compensation.
(8) Procure insurance against any loss in connection with its property and other assets, including loans and loan notes in amounts and from insurers as it may consider advisable.
(9) Borrow money, make guaranties, issue bonds, and otherwise incur indebtedness for any of the authority's purposes, and issue debentures, notes, or other evidences of indebtedness, whether secured or unsecured, to any person, as provided by this chapter, IC 4-4-21, **IC 4-4-11.4,** and IC 15-7-5.
(10) Procure insurance or guaranties from any public or private entities, including any department, agency, or instrumentality of the United States, for payment of any bonds issued by the authority or for reinsurance on amounts paid from the industrial development project guaranty fund, including the power to pay premiums on any insurance or reinsurance.
(11) Purchase, receive, take by grant, gift, devise, bequest, or otherwise, and accept, from any source, aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this chapter, IC 4-4-21, and IC 15-7-5, subject to the conditions upon which the grants or contributions are made, including but not limited to gifts or grants from any department, agency, or instrumentality of the United States, and lease or otherwise acquire, own, hold, improve, employ, use, and otherwise deal in and with real or personal property or any interest in real or personal property, wherever situated, for any purpose consistent with this chapter, IC 4-4-21, or IC 15-7-5.
(12) Enter into agreements with any department, agency, or instrumentality of the United States or this state and with lenders and enter into loan agreements, sales contracts, and leases with contracting parties, including borrowers, lenders, developers, or users, for the purpose of planning, regulating, and providing for the financing and refinancing of any agricultural enterprise (as defined in IC 15-7-4.9-2), rural development project (as defined in IC 15-7-4.9-19.5), industrial development project, or international exports, and distribute data and information concerning the encouragement and improvement of agricultural enterprises and agricultural employment, rural development projects, industrial development projects, international exports, and other types of employment in the state undertaken with the assistance of the authority under this chapter.
(13) Enter into contracts or agreements with lenders and lessors for the servicing and processing of loans and leases pursuant to this chapter, IC 4-4-21, and IC 15-7-5.
(14) Provide technical assistance to local public bodies and to profit and nonprofit entities in the development or operation of agricultural enterprises, rural development projects, and industrial development projects.
(15) To the extent permitted under its contract with the holders of the bonds of the authority, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any contract, loan, loan note, loan note commitment, contract, lease, or agreement of any kind to which the authority is a party.
(16) To the extent permitted under its contract with the holders of bonds of the authority, enter into contracts with any lender containing provisions enabling it to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges when, by reason of other income or payment by any department, agency, or instrumentality of the United States of America or of this state, the reduction can be made without jeopardizing the economic stability of the agricultural enterprise, rural development project, or industrial development project being financed.
(17) Invest any funds not needed for immediate disbursement, including any funds held in reserve, in direct and general obligations of or obligations fully and unconditionally guaranteed by the United States, obligations issued by agencies of the United States, obligations of this state, or any obligations or securities which may from time to time be legally purchased by governmental subdivisions of this state pursuant to IC 5-13, or any obligations or securities which are permitted investments for bond proceeds or any construction, debt service, or reserve funds secured under the trust indenture or resolution pursuant to which bonds are issued.
(18) Collect fees and charges, as the authority determines to be reasonable, in connection with its loans, guarantees, advances, insurance, commitments, and servicing.
(19) Cooperate and exchange services, personnel, and information with any federal, state, or local government agency, or instrumentality of the United States or this state.
(20) Sell, at public or private sale, with or without public bidding, any loan or other obligation held by the authority.
(21) Enter into agreements concerning, and acquire, hold, and dispose by any lawful means, land or interests in land, building improvements, structures, personal property, franchises, patents, accounts receivable, loans, assignments, guarantees, and insurance needed for the purposes of this chapter, IC 4-4-21, or IC 15-7-5.
(22) Take assignments of accounts receivable, loans, guarantees, insurance, notes, mortgages, security agreements securing notes, and other forms of security, attach, seize, or take

title by foreclosure or conveyance to any industrial development project when a guaranteed loan thereon is clearly in default and when in the opinion of the authority such acquisition is necessary to safeguard the industrial development project guaranty fund, and sell, or on a temporary basis, lease, or rent such industrial development project for any use.
(23) Expend money, as the authority considers appropriate, from the industrial development project guaranty fund created by section 16 of this chapter.
(24) Purchase, lease as lessee, construct, remodel, rebuild, enlarge, or substantially improve industrial development projects, including land, machinery, equipment, or any combination thereof.
(25) Lease industrial development projects to users or developers, with or without an option to purchase.
(26) Sell industrial development projects to users or developers, for consideration to be paid in installments or otherwise.
(27) Make direct loans from the proceeds of the bonds to users or developers for:
(A) the cost of acquisition, construction, or installation of industrial development projects, including land, machinery, equipment, or any combination thereof; or
(B) eligible expenditures for an educational facility project described in IC 4-4-10.9-6.2(a)(2);
with the loans to be secured by the pledge of one (1) or more bonds, notes, warrants, or other secured or unsecured debt obligations of the users or developers.
(28) Lend or deposit the proceeds of bonds to or with a lender for the purpose of furnishing funds to such lender to be used for making a loan to a developer or user for the financing of industrial development projects under this chapter.
(29) Enter into agreements with users or developers to allow the users or developers, directly or as agents for the authority, to wholly or partially construct industrial development projects to be leased from or to be acquired by the authority.
(30) Establish reserves from the proceeds of the sale of bonds, other funds, or both, in the amount determined to be necessary by the authority to secure the payment of the principal and interest on the bonds.
(31) Adopt rules governing its activities authorized under this chapter, IC 4-4-21, and IC 15-7-5.
(32) Use the proceeds of bonds to make guaranteed participating loans.
(33) Purchase, discount, sell, and negotiate, with or without guaranty, notes and other evidences of indebtedness.
(34) Sell and guarantee securities.
(35) Make guaranteed participating loans under IC 4-4-21-26.
(36) Procure insurance to guarantee, insure, coinsure, and reinsure against political and commercial risk of loss, and any other insurance the authority considers necessary, including insurance to secure the payment of principal and interest on notes or other obligations of the authority.
(37) Provide performance bond guarantees to support eligible export loan transactions, subject to the terms of this chapter or IC 4-4-21.
(38) Provide financial counseling services to Indiana exporters.
(39) Accept gifts, grants, or loans from, and enter into contracts or other transactions with, any federal or state agency, municipality, private organization, or other source.
(40) Sell, convey, lease, exchange, transfer, or otherwise dispose of property or any interest in property, wherever the property is located.
(41) Cooperate with other public and private organizations to promote export trade activities in Indiana.
(42) Make guarantees and administer the agricultural loan and rural development project guarantee fund established by IC 15-7-5.
(43) Take assignments of notes and mortgages and security agreements securing notes and other forms of security, and attach, seize, or take title by foreclosure or conveyance to any agricultural enterprise or rural development project when a guaranteed loan to the enterprise or rural development project is clearly in default and when in the opinion of the authority the acquisition is necessary to safeguard the agricultural loan and rural development project guarantee fund, and sell, or on a temporary basis, lease or rent the agricultural enterprise or rural development project for any use.
(44) Expend money, as the authority considers appropriate, from the agricultural loan and rural development project guarantee fund created by IC 15-7-5-19.5.
(45) Reimburse from bond proceeds expenditures for industrial development projects under this chapter.
(46) Do any act necessary or convenient to the exercise of the powers granted by this chapter, IC 4-4-21, or IC 15-7-5, or reasonably implied from those statutes, including but not limited to compliance with requirements of federal law imposed from time to time for the issuance of bonds.
(b) The authority's powers under this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers.
(c) This chapter does not authorize the financing of industrial development projects for a developer unless any written agreement that may exist between the developer and the user at the time of the bond resolution is fully disclosed to and approved by the authority.
SECTION 4. IC 4-4-11.4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:
Chapter 11.4. Additional Authority: Twenty-First Century Research and Technology Fund
Sec. 1. As used in this chapter, "authority" refers to the Indiana development finance authority.
Sec. 2. As used in this chapter, "bonds" means any bonds, notes, debentures, interim certificates, revenue anticipation notes, warrants, or any other evidences of indebtedness of the authority.
Sec. 3. As used in this chapter, "financial institution" means a financial institution (as defined in IC 28-1-1).
Sec. 4. As used in this chapter, "holder" means a person who is the:
(1) bearer of any outstanding bond or note registered to bearer or not registered; or
(2) registered owner of any outstanding bond or note that is registered other than to bearer.
Sec. 5. As used in this chapter, "person" means any individual, partnership, firm, association, joint venture, limited liability company, or corporation.
Sec. 6. As used in this chapter, "reserve fund" means a reserve fund established under section 15 of this chapter.
Sec. 7. (a) The authority may issue its bonds in principal amounts that the authority considers necessary to provide funds for the purposes under this chapter, including the following:
(1) Providing a source of money for the Indiana twenty-first century research and technology fund established by IC 4-4-5.1-3.
(2) Payment, funding, or refunding of the principal of, or interest or redemption premiums on, bonds issued by the authority under this chapter whether the bonds or interest to be paid, funded, or refunded have or have not become due.
(3) Establishment or increase of reserves to secure or to pay bonds or interest on bonds and all other costs or expenses of the authority incident to and necessary or convenient to carry out the authority's corporate purposes and powers under this chapter.
(b) Every issue of bonds shall be obligations of the authority payable solely out of the revenues or funds of the authority under section 15 of this chapter, subject to agreements with the holders of a particular series of bonds pledging a particular revenue or fund. Bonds may be additionally secured by a pledge of a grant or contributions from the United States, a political subdivision, or a person, or by a pledge of income or revenues, funds, or money of the authority from any source.
Sec. 8. (a) A bond of the authority:
(1) is not a debt, liability, loan of the credit, or pledge of the faith and credit of the state or of any political subdivision;
(2) is payable solely from the money pledged or available for its payment under this chapter, unless funded or refunded

by bonds of the authority; and

(3) must contain on its face a statement that the authority is obligated to pay principal and interest, and redemption premiums, if any, and that the faith, credit, and taxing power of the state are not pledged to the payment of the bond.

(b) The state pledges to and agrees with the holders of the bonds issued under this chapter that the state will not:

(1) limit or restrict the rights vested in the authority to fulfill the terms of any agreement made with the holders of its bonds; or

(2) in any way impair the rights or remedies of the holders of the bonds;

until the bonds, together with the interest on the bonds, and interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met, paid, and discharged.

Sec. 9. The bonds of the authority are negotiable instruments for all purposes of the Uniform Commercial Code (IC 26), subject only to the provisions of the bonds for registration.

Sec. 10. (a) Bonds of the authority must be authorized by resolution of the authority, may be issued in one (1) or more series, and must:

(1) bear the date;

(2) mature at the time or times;

(3) be in the denomination;

(4) be in the form;

(5) carry the conversion or registration privileges;

(6) have the rank or priority;

(7) be executed in the manner;

(8) be payable from the sources in the medium of payment at the place inside or outside Indiana; and

(9) be subject to the terms of redemption;

as the resolution of the authority or the trust agreement securing the bonds provides.

(b) Bonds may be issued under this chapter without obtaining the consent of any state agency and without any other proceeding or condition other than the proceedings or conditions specified in this chapter. However, the total principal of all outstanding bonds issued under this chapter may not exceed one billion dollars ($1,000,000,000). Not more than two hundred million dollars ($200,000,000) in bonds may be issued in any state fiscal year. Bonds issued before July 1, 2007, must provide that debt principal and other debt service payments are not required before July 1, 2007. Bonds may not be issued under this chapter after June 30, 2011, other than bonds issued to refinance bonds originally issued before July 1, 2011.

(c) The rate or rates of interest on the bonds may be fixed or variable. Variable rates shall be determined in the manner and in accordance with the procedures set forth in the resolution authorizing the issuance of the bonds. Bonds bearing a variable rate of interest may be converted to bonds bearing a fixed rate or rates of interest, and bonds bearing a fixed rate or rates of interest may be converted to bonds bearing a variable rate of interest, to the extent and in the manner set forth in the resolution pursuant to which the bonds are issued. The interest on bonds may be payable semiannually or annually or at any other interval or intervals as may be provided in the resolution, or the interest may be compounded and paid at maturity or at any other times as may be specified in the resolution.

(d) The bonds may be made subject to mandatory redemption by the authority at the times and under the circumstances set forth in the authorizing resolution.

Sec. 11. Bonds of the authority may be sold at public or private sale at the price the authority determines. If bonds of the authority are to be sold at public sale, the authority shall publish notice of the sale for two (2) weeks in two (2) newspapers published and of general circulation in Indianapolis.

Sec. 12. The authority may periodically issue its bonds under this chapter and pay and retire the principal of the bonds or pay the interest due thereon or fund or refund the bonds from proceeds of bonds, or from other funds or money of the authority available for that purpose in accordance with a contract between the authority and the holders of the bonds.

Sec. 13. (a) In the discretion of the authority, any bonds issued under this chapter may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside Indiana.

(b) The trust agreement or the resolution providing for the issuance of the bonds may contain provisions for protecting and enforcing the rights and remedies of the holders of any such bonds as are reasonable and proper and not in violation of law.

(c) The trust agreement or resolution may set forth the rights and remedies of the holders of any bonds and of the trustee and may restrict the individual right of action by the holders.

(d) In addition to the provisions of subsections (a), (b), and (c), any trust agreement or resolution may contain other provisions the authority considers reasonable and proper for the security of the holders of any bonds.

(e) All expenses incurred in carrying out the trust agreement or resolution may be paid from revenues or assets pledged or assigned to the payment of the principal of and the interest on bonds or from any other funds available to the authority.

Sec. 14. The authority may purchase bonds of the authority out of the authority's funds or money available for the purchase of its own bonds. The authority may hold, cancel, or resell the bonds subject to, and in accordance with, agreements with holders of its bonds. Unless canceled, bonds held by the authority are considered to be held for resale or transfer and the obligation evidenced by the bonds shall not be considered to be extinguished.

Sec. 15. (a) The authority may establish and maintain a debt service fund, and if necessary, a reserve fund, for each issue of bonds in which there shall be deposited or transferred:

(1) all money appropriated by the general assembly for the purpose of the fund in accordance with section 18(a) of this chapter;

(2) all proceeds of bonds required to be deposited in the fund by terms of a contract between the authority and its holders or a resolution of the authority with respect to the proceeds of bonds;

(3) all other money appropriated by the general assembly to the funds; and

(4) any other money or funds of the authority that the authority decides to deposit in either fund.

(b) Subject to section 18(b) of this chapter, money in any reserve fund shall be held and applied solely to the payment of the interest on and principal of bonds of the authority as the interest and principal become due and payable and for the retirement of bonds.

(c) Money in any reserve fund in excess of the required debt service reserve, whether by reason of investment or otherwise, may be withdrawn at any time by the authority and transferred to another fund or account of the authority, subject to the provisions of any agreement with the holders of any bonds.

Sec. 16. Money in any reserve fund may be invested in the manner provided in the trust agreement or the resolution authorizing issuance of the bonds.

Sec. 17. For purposes of valuation, investments in the reserve fund shall be valued at par, or if purchased at less than par, at cost unless otherwise provided by resolution or trust agreement of the authority. Valuation on a particular date shall include the amount of interest then earned or accrued to that date on the money or investments in the reserve fund.

Sec. 18. (a) In order to assure the payment of debt service on bonds of the authority issued under this chapter or maintenance of the required debt service reserve in any reserve fund, the general assembly may annually or biannually appropriate to the authority for deposit in one (1) or more of the funds the sum, certified by the chairman of the authority to the general assembly, that is necessary to pay the debt service on the bonds or to restore one (1) or more of the funds to an amount equal to the required debt service reserve. The chairman annually, before December 1, shall make and deliver to the general assembly the chairman's certificate stating the sum required to pay debt service on the bonds or to restore one (1) or more of the funds to an amount equal to the required debt service reserve. This

subsection does not create a debt or liability of the state to make any appropriation.

(b) All amounts received on account of money appropriated by the state to any fund shall be held and applied in accordance with section 15(b) of this chapter. However, at the end of each fiscal year, if the amount in any fund exceeds the debt service or required debt service reserve, any amount representing earnings or income received on account of any money appropriated to the funds that exceeds the expenses of the authority for that fiscal year may be transferred to the Indiana twenty-first century research and technology fund established by IC 4-4-5.1-3.

Sec. 19. Subject to any agreement with its holders, the authority may combine a reserve fund established for an issue of bonds into one (1) or more reserve funds.

Sec. 20. The authority may establish additional reserves or other funds or accounts as the authority considers necessary, desirable, or convenient to further the accomplishment of the authority's purposes or to comply with any of the authority's agreements or resolutions.

Sec. 21. Unless the resolution or trust agreement authorizing the bonds provides otherwise, money or investments in a fund or account of the authority established or held for the payment of bonds shall be applied to the payment or retirement of the bonds, and to no other purpose.

Sec. 22. (a) An action to contest the validity of any bonds of the authority to be sold at public sale may not be brought after the fifteenth day following the first publication of notice of the sale of the bonds. An action to contest the validity of any bond sale under this chapter may not be brought after the fifth day following the bond sale.

(b) If bonds are sold at private sale, an action to contest the validity of such bonds may not be brought after the fifteenth day following the adoption of the resolution authorizing the issuance of the bonds.

(c) If an action challenging the bonds of the authority is not brought within the time prescribed by subsection (a) or (b), whichever is applicable, all bonds of the authority are conclusively presumed to be fully authorized and issued under the laws of the state, and a person or a qualified entity is estopped from questioning their authorization, sale, issuance, execution, or delivery by the authority.

(d) If this chapter is inconsistent with any other law (general, special, or local), this chapter controls.

Sec. 23. All property of the authority is exempt from levy and sale by virtue of an execution and no execution or other judicial process may issue against the property. A judgment against the authority may not be a charge or lien upon its property. However, this section does not apply to or limit the rights of the holder of bonds to pursue a remedy for the enforcement of a pledge or lien given by the authority on the authority's revenues or other money.

Sec. 24. A pledge of revenues or other money made by the authority is binding from the time the pledge is made. Revenues or other money so pledged and thereafter received by the authority are immediately subject to the lien of the pledge without any further act, and the lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, regardless of whether the parties have notice of the lien. Neither the resolution nor any other instrument by which a pledge is created needs to be filed or recorded except in the records of the authority.

Sec. 25. The chairman of the authority may receive from the United States of America or any department or agency thereof, or any state agency any amount of money as and when appropriated, allocated, granted, turned over, or in any way provided for the purposes of the authority or this chapter, and those amounts shall, unless otherwise directed by the federal authority, be credited to and be available to the authority.

Sec. 26. A financial institution may give to the authority a good and sufficient undertaking with such sureties as are approved by the authority to the effect that the financial institution shall faithfully keep and pay over to the order of or upon the warrant of the authority or the authority's authorized agent all those funds deposited with the financial institution by the authority and agreed interest under or by reason of this chapter, at such times or upon such demands as may be agreed with the authority or instead of these sureties, deposit with the authority or the authority's authorized agent or a trustee or for the holders of bonds, as collateral, those securities as the authority may approve. The deposits of the authority may be evidenced by an agreement in the form and upon the terms and conditions that may be agreed upon by the authority and the financial institution.

Sec. 27. The authority may enter into agreements or contracts with a financial institution inside or outside Indiana as the authority considers necessary, desirable, or convenient for rendering services in connection with the care, custody, or safekeeping of securities or other investments held or owned by the authority, for rendering services in connection with the payment or collection of amounts payable as to principal or interest, and for rendering services in connection with the delivery to the authority of securities or other investments purchased by or sold by the authority, and to pay the cost of those services. The authority may also, in connection with any of the services to be rendered by a financial institution as to the custody and safekeeping of its securities or investments, require security in the form of collateral bonds, surety agreements, or security agreements in such form and amount as, the authority considers necessary or desirable.

Sec. 28. Notwithstanding the restrictions of any other law, all financial institutions, investment companies, insurance companies, insurance associations, executors, administrators, guardians, trustees, and other fiduciaries may legally invest sinking funds, money, or other funds belonging to them or within their control in bonds issued under this chapter.

Sec. 29. All property of the authority is public property devoted to an essential public and governmental function and purpose and is exempt from all taxes and special assessments, direct or indirect, of the state or a political subdivision of the state. All bonds issued under this chapter are issued by a body corporate and public of the state, but not a state agency, and for an essential public and governmental purpose and the bonds, the interest thereon, the proceeds received by a holder from the sale of the bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, and proceeds received at maturity and the receipt of the interest and proceeds are exempt from taxation in the state for all purposes except a state inheritance tax imposed under IC 6-4.1.

Sec. 30. Any bonds issued by the authority under this chapter are exempt from the registration and other requirements of IC 23-2-1 and any other securities registration laws.

Sec. 31. This chapter is supplemental to all other statutes governing the authority.".

Renumber all SECTIONS consecutively.

(Reference is to SB 452 as printed January 28, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 18, nays 2.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 459, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 6, begin a new paragraph and insert:

"SECTION 1. IC 6-3-2-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 20. (a) Each taxable year, an individual who makes a contribution to a college choice 529 investment plan established under IC 21-9 for the benefit of a dependent of the individual may deduct from the individual's adjusted gross income (as defined in IC 6-3-1-3.5(a)) the lesser of:**

(1) the amount of the contribution made by the individual during the taxable year; or

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

(b) Notwithstanding subsection (a), a husband and wife filing a joint adjusted gross income tax return for a particular taxable year may not claim a deduction under this section of more than two thousand dollars ($2,000).".

Page 7, line 6, delete "ten (10) full-time employees who are" and insert "**one (1) full-time employee who is**".

Page 8, line 27, delete "ten (10) full-time employees who are" and insert "**one (1) full-time employee who is**".

Page 10, delete lines 3 through 33, begin a new paragraph and insert:

"SECTION 3. IC 21-9-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) The board of directors of the authority is established. The board consists of the following:

(1) The following four (4) ex officio members or directors:
(A) The treasurer of state.
(B) The state superintendent of public instruction.
(C) The Indiana commissioner of higher education.
(D) The budget director.

(2) ~~Five (5)~~ **Three (3)** appointed members or directors who:
(A) are appointed by the governor; and
(B) have knowledge, skill, and experience in academic, business, financial, or education fields.

(b) During a member's term of service on the board, an appointed member of the board may not be an official or employee of the state.

(c) Not more than ~~three (3)~~ **two (2)** of the appointed members of the board may belong to the same political party.

(d) An appointed member serves a four (4) year term. An appointed member shall hold over after the expiration of the member's term until the member's successor is appointed and qualified.

(e) The governor may reappoint an appointed member of the board.

(f) A vacancy shall be filled for the balance of an unexpired term in the same manner as the original appointment.

(g) The treasurer of state shall serve as chairman of the board. The board shall annually elect one (1) of its ex officio members as vice chairman, and may elect any other officer that the board desires.

(h) The governor may remove an appointed member for misfeasance, malfeasance, willful neglect of duty, or other cause after notice and a public hearing, unless the member expressly waives the notice and hearing in writing.

SECTION 4. IC 21-9-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) ~~Five (5)~~ **Four (4)** members of the board are a quorum for:

(1) the transaction of business at a meeting of the board; or
(2) the exercise of a power or function of the authority.

(b) This subsection applies to a meeting of the board at which at least ~~five (5)~~ **four (4)** members of the board are physically present at the place where the meeting is conducted. A member of the board may participate in a meeting of the board by using a means of communication that permits:

(1) the member;
(2) all other members participating in the meeting; and
(3) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting. A member who participates in a meeting described in this subsection is considered to be present at the meeting. If a meeting is held under this subsection, the memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of each member who was physically present at the place where the meeting was conducted, who participated in the meeting by using a means of communication described in this subsection, and who was absent from the meeting.

(c) The affirmative vote of a majority of all the members of the board who are present is necessary for the authority to take action. A vacancy in the membership of the board does not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. An action taken by the board under this article may be authorized by:

(1) resolution at any regular or special meeting; or
(2) unanimous consent of all the members who have not abstained.

A resolution takes effect immediately upon adoption and need not be published or posted.

(d) The board shall meet at the call of the chairman and as provided in the bylaws of the authority.

(e) Meetings of the board may be held anywhere in Indiana.

SECTION 5. IC 21-9-10-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 5. The treasurer of state and the board for depositories shall cooperate and provide to the Indiana education savings authority the following:**

(1) Clerical and professional staff and related support.
(2) Office space and services.
(3) Reasonable financial support for the development of rules, policies, programs, and guidelines, including authority operations and travel.

SECTION 6. [EFFECTIVE JANUARY 1, 2006] **IC 6-3-2-20, as added by this act, applies to taxable years beginning after December 31, 2005.**".

Renumber all SECTIONS consecutively.

(Reference is to SB 459 as reprinted March 1, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 21, nays 0.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Engrossed Senate Bill 472, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective dates in SECTIONS 1 through 7 with "[EFFECTIVE UPON PASSAGE]".

Page 4, after line 16, begin a new paragraph and insert:

"SECTION 9. **An emergency is declared for this act.**".

(Reference is to SB 472 as printed February 18, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

ULMER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Engrossed Senate Bill 487, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, delete lines 7 through 29, begin a new paragraph and insert:

"SECTION 2. IC 8-22-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) **This subsection applies only in counties that contain a consolidated city or at least one (1) second class city.** To be eligible to be a member of the board of aviation commissioners, a person must:

(1) be at least eighteen (18) years of age;
(2) be a resident of the county in which the eligible entity is located;
(3) not be actively engaged or employed in commercial aeronautics;
(4) not hold any other governmental office (by appointment or election) that has statutory fiscal or management review of the board's actions; and
(5) not serve as a member of any other agency, board, commission, department, or other governmental entity that:
(A) is located within the jurisdiction of the department of aviation; and
(B) has statutory fiscal or management review of the board's actions.

~~(b) The restrictions on membership qualifications contained in subsection (a)(4) and (a)(5) apply only to counties in which are located:~~

~~(1) consolidated cities; or~~
~~(2) second class cities.~~

(b) This subsection does not apply to a county if the county

contains a consolidated city or a second class city. To be eligible to be a member of the board of aviation commissioners, a person must:

(1) be at least eighteen (18) years of age;

(2) be a resident of the county in which the eligible entity is located; and

(3) not be actively engaged or employed in commercial aeronautics in a county that the board serves.".

Page 4, line 13, delete "(g)," and insert "**(g) and section 4.3 of this chapter,**".

Page 5, delete lines 17 through 36, begin a new paragraph and insert:

"SECTION 5. IC 8-22-3-4.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 4.3. (a) This section applies only to the board of an airport authority that:**

(1) is not located in a county containing a consolidated city;

(2) is established by a city; and

(3) has entered into a federal interstate compact.

(b) The board of an airport authority described in subsection (a) consists of members appointed as follows:

(1) Four (4) members appointed by the executive of the city in which the airport is located. Not more than two (2) members appointed under this subdivision may be members of the same political party.

(2) One (1) member appointed by the executive of the county in which the airport is located.

(3) One (1) member appointed by the executive of the county (other than the county in which the airport is located) that is closest geographically to the airport.

(4) One (1) member appointed by the governor.

(c) A member of the board holds office for four (4) years and until the member's successor is appointed and qualified.

(d) If a vacancy occurs in the board, the authority that appointed the member that vacated the board shall appoint an individual to serve for the remainder of the unexpired term.

(e) A board member may be reappointed to successive terms.

(f) A board member may be impeached under the procedure provided for the impeachment of county officers.

SECTION 6. IC 8-22-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) **This subsection applies only in counties that contain a consolidated city or at least one (1) second class city.** To be eligible to be a member of the board, a person must have the following qualifications:

(1) Be at least eighteen (18) years old.

(2) Except as provided in section 4.1 of this chapter, be a resident of the county in which the eligible entity is located.

(3) Not be actively engaged or employed in commercial aeronautics.

(4) Not hold any other governmental office (by appointment or election) that has statutory fiscal or management review of the board's actions.

(5) Not serve as a member of any other agency, board, commission, department, or other governmental entity that:

(A) is located within the jurisdiction of the authority; and

(B) has statutory fiscal or management review of the authority's actions.

~~(b) The restrictions on membership qualifications contained in subsection (a)(4) and (a)(5) apply only to counties in which are located:~~

~~(1) consolidated cities; or~~

~~(2) second class cities.~~

(b) This subsection does not apply to a county if the county contains a consolidated city or a second class city. To be eligible to be a member of the board, a person must:

(1) be at least eighteen (18) years of age;

(2) be a resident of the county in which the eligible entity is located; and

(3) not be actively engaged or employed in commercial aeronautics in a county that the board serves.".

Page 6, between lines 8 and 9, begin a new line block indented and insert:

"**(5) If a sixth appointment is necessary, one (1) for an initial term of four (4) years.**".

Renumber all SECTIONS consecutively.

(Reference is to SB 487 as reprinted February 18, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

HINKLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred Engrossed Senate Bill 508, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new a paragraph and insert:

"SECTION 1. IC 5-16-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Any firm, individual, partnership, limited liability company, or corporation that is awarded a contract by the state, a political subdivision, or a municipal corporation for the construction of a public work, and any subcontractor of the construction, shall pay for each class of work described in subsection (c)(1) on the project a scale of wages that may not be less than the common construction wage.

(b) For the purpose of ascertaining what the common construction wage is in the county, the awarding governmental agency, before advertising for the contract, shall set up a committee of five (5) persons as follows:

(1) One (1) person representing labor, to be named by the president of the state federation of labor.

(2) One (1) person representing industry, to be named by the awarding agency.

(3) A third member to be named by the governor.

(4) One (1) taxpayer who pays the tax that will be the funding source for the project and resides in the county where the project is located. The owner of the project shall make the appointment under this subdivision.

(5) One (1) taxpayer who pays the tax that will be the funding source for the project and resides in the county where the project is located. The legislative body (as defined in IC 36-1-2-9) for the county where the project is located shall make the appointment under this subdivision.

(c) As soon as appointed, the committee shall meet in the county where the project is located and determine in writing the following:

(1) A classification of the labor to be employed in the performance of the contract for the project, divided into the following three (3) classes:

(A) Skilled labor.

(B) Semiskilled labor.

(C) Unskilled labor.

(2) The wage per hour to be paid each of the classes.

The committee is not required to consider information not presented to the committee at the meeting. IC 5-14-1.5 (open door law) applies to a meeting of the committee.

(d) Notice of the committee's meeting shall be published:

(1) as required by IC 5-3-1; and

(2) on the Internet through the computer gateway administered by the intelenet commission under IC 5-21-2.

The notice given under subdivision (2) must be published not later than forty-eight (48) hours before the meeting. A determination made at a meeting held in violation of this subsection is void.

~~(d)~~ **(e)** The rate of wages determined under subsection (c) shall not be less than the common construction wage for each of the three (3) classes of wages described in subsection (c) that are currently being paid in the county where the project is located.

~~(e) The provisions of~~ **(f)** This chapter ~~shall~~ **does** not apply to contracts let by the Indiana department of transportation for the construction of highways, streets, and bridges. IC 8-23-9 applies to state highway projects.

~~(f)~~ **(g)** A determination under subsection (c) shall be made and filed with the awarding agency at least two (2) weeks ~~prior to~~ **before** the date fixed for the letting, and a copy of the determination shall be

furnished upon request to any person desiring to bid on the contract. The schedule is open to the inspection of the public.

~~(g)~~ **(h)** If the committee appointed under subsection (b) fails to act and to file a determination under subsection (c) ~~at or before the time required under~~ **by the deadline set forth in** subsection ~~(f),~~ **(g),** the awarding agency shall make the determination, and its finding shall be final.

~~(h)~~ **(i)** It shall be a condition of a contract awarded under this chapter that the successful bidder and all subcontractors shall comply strictly with the determination made under this section.

~~(i) The provisions of~~ **(j)** This chapter ~~do~~ **does** not apply to public projects in ~~this state~~ **Indiana** that would otherwise be subject to ~~the provisions of~~ this chapter that are to be paid for in whole or in part with funds granted by the federal government, unless the department of the federal government making the grant ~~shall consent~~ **consents** in writing that ~~the provisions of~~ this chapter ~~are~~ **is** applicable to the project.

~~(j)~~ **(k)** Notwithstanding any other law, ~~the provisions of~~ this chapter ~~apply~~ **applies** to projects that will be:

(1) owned entirely; or

(2) leased with an option to purchase;

by the state or a political subdivision (as defined in IC 36-1-2-13).

~~(k)~~ **(l)** Notwithstanding any other law, this chapter does not apply to projects in which the actual construction costs less than ~~one~~ **two** hundred fifty thousand dollars ~~($150,000).~~ **($250,000).**

SECTION 2. IC 22-2-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Every person, firm, corporation, limited liability company, or association, their trustees, lessees, or receivers appointed by any court, doing business in Indiana, shall pay each employee at least semimonthly or biweekly, if requested, the amount due the employee. The payment shall be made in lawful money of the United States, by negotiable check, draft, or money order, or by electronic transfer to the financial institution designated by the employee. Any contract in violation of this subsection is void.

(b) Payment shall be made for all wages earned to a date not more than ten (10) **business** days prior to the date of payment. ~~However,~~ This subsection does not prevent payments being made at shorter intervals than specified in this subsection, nor repeal any law providing for payments at shorter intervals. ~~However,~~ If an employee voluntarily leaves employment, either permanently or temporarily, the employer shall not be required to pay the employee an amount due the employee until the next usual and regular day for payment of wages, as established by the employer. If an employee leaves employment voluntarily, and without the employee's whereabouts or address being known to the employer, the employer is not subject to section 2 of this chapter until:

(1) ten (10) **business** days have elapsed after the employee has made a demand for the wages due the employee; or

(2) the employee has furnished the employer with the employee's address where the wages may be sent or forwarded.

SECTION 3. IC 22-2-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Any assignment of the wages of an employee is valid only if all of the following conditions are satisfied:

(1) The assignment is:

(A) in writing;

(B) signed by the employee personally;

(C) by its terms revocable at any time by the employee upon written notice to the employer; and

(D) agreed to in writing by the employer.

(2) An executed copy of the assignment is delivered to the employer within ten (10) days after its execution.

(3) The assignment is made for a purpose described in subsection (b).

(b) A wage assignment under this section may be made for the purpose of paying any of the following:

(1) Premium on a policy of insurance obtained for the employee by the employer.

(2) Pledge or contribution of the employee to a charitable or nonprofit organization.

(3) Purchase price of bonds or securities, issued or guaranteed by the United States.

(4) Purchase price of shares of stock, or fractional interests therein, of the employing company, or of a company owning the majority of the issued and outstanding stock of the employing company, whether purchased from such company, in the open market or otherwise. However, if such shares are to be purchased on installments pursuant to a written purchase agreement, the employee has the right under the purchase agreement at any time before completing purchase of such shares to cancel said agreement and to have repaid promptly the amount of all installment payments which theretofore have been made.

(5) Dues to become owing by the employee to a labor organization of which the employee is a member.

(6) Purchase price of merchandise sold by the employer to the employee, at the written request of the employee.

(7) Amount of a loan made to the employee by the employer and evidenced by a written instrument executed by the employee subject to the amount limits set forth in section 4(c) of this chapter.

(8) Contributions, assessments, or dues of the employee to a hospital service or a surgical or medical expense plan or to an employees' association, trust, or plan existing for the purpose of paying pensions or other benefits to said employee or to others designated by the employee.

(9) Payment to any credit union, nonprofit organizations, or associations of employees of such employer organized under any law of this state or of the United States.

(10) Payment to any person or organization regulated under the Uniform Consumer Credit Code (IC 24-4.5) for deposit or credit to the employee's account by electronic transfer or as otherwise designated by the employee.

(11) Premiums on policies of insurance and annuities purchased by the employee on the employee's life.

(12) The purchase price of shares or fractional interest in shares in one (1) or more mutual funds.

(13) A judgment owed by the employee if the payment:

(A) is made in accordance with an agreement between the employee and the creditor; and

(B) is not a garnishment under IC 34-25-3.

(14) Payment for the purchase or maintenance of uniforms worn by the employee while performing duties for the employer.

(15) Payment for the purchase of tools and portable equipment used by the employee while performing duties for the employer.

SECTION 4. IC 22-2-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. **(a)** The commissioner of labor is hereby authorized to take assignments of wage claims of less than ~~eight hundred dollars ($800.00),~~ **three thousand dollars ($3,000),** rights of action for penalties, mechanics and other liens of workers, without being bound by any of the technical rules with reference to the validity of such assignments; and shall have power and authority to prosecute actions for the collection of such claims of persons who, in the judgment of the commissioner:

(1) are entitled to the services of the commissioner; and ~~who, in his judgment,~~

(2) have claims which are valid and enforceable in the court.

(b) The commissioner shall have power to join various claimants in one (1) preferred claim or lien, and, in case of suit, to join them in one (1) cause of action.".

Page 5, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 8. IC 22-3-3-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. In ~~all~~ cases of the death of an employee from an injury by an accident arising out of and in the course of the employee's employment under ~~such~~ circumstances that the employee would have been entitled to compensation if death had not resulted, the employer shall pay the burial expenses of such employee, not exceeding ~~six~~ **seven** thousand **five hundred** dollars ~~($6,000).~~ **($7,500).**".

Page 5, line 11, delete "IC 22-3-6-1" and insert "IC 22-3-6-1, AS AMENDED BY HEA1288-2005, SECTION 182,".

Page 8, line 8, delete "IC 20-8.1-4-25," and insert "IC 20-33-3-35,".

Page 8, line 22, delete "IC 20-10.1-6-7" and insert "IC 20-37-2-7".

Page 9, line 24, delete "IC 20-10.1-6-7," and insert "IC 20-37-2-7,".

Page 16, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 12. IC 22-3-7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. In ~~all~~ cases of the death of an employee from an occupational disease arising out of and in the course of the employee's employment under ~~such~~ circumstances that the employee would have been entitled to compensation if death had not resulted, the employer shall pay the burial expenses of such employee, not exceeding ~~six~~ **seven** thousand **five hundred** dollars ~~($6,000).~~ **($7,500).**".

Page 22, after line 4, begin a new paragraph and insert:

"SECTION 14. IC 22-5-6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 6. Employer Sales to Employees

Sec. 1. An employer may not sell to an employee of the employer:

(1) merchandise; or

(2) supplies;

at a price higher than the price at which the employer sells the merchandise or supplies for cash to another person who is not an employee of the employer.

Sec. 2. A person who violates section 1 of this chapter commits a Class C infraction.

SECTION 15. IC 22-2-4 IS REPEALED [EFFECTIVE JULY 1, 2005].

SECTION 16. [EFFECTIVE JULY 1, 2005] **(a) IC 22-2-9-5, as amended by this act, applies to wage claims filed with the commissioner of labor after June 30, 2005.**

(b) This SECTION expires January 1, 2006.

SECTION 17. [EFFECTIVE JULY 1, 2005] **IC 5-16-7-1, as amended by this act, applies to projects for which a contract isawarded after June 30, 2005. IC 5-16-7-1, as in effect before July 1, 2005, applies to projects for which a contract was awarded before July 1, 2005.**".

Renumber all SECTIONS consecutively.

(Reference is to SB 508 as reprinted February 23, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 6, nays 5.

TORR, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Engrossed Senate Bill 512, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 3. IC 36-4-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: 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 ~~two hundred thousand (200,000)~~ **one hundred eighty-two thousand seven hundred ninety (182,790)** but less than three hundred thousand (300,000).

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 4. IC 36-4-3-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.1. (a) This section applies to the following:
(1) A town having a population of:
(A) more than fifteen thousand (15,000); or
(B) more than five thousand (5,000) but less than six thousand three hundred (6,300);
located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000).
(2) A city having a population of more than thirty-two thousand eight hundred (32,800) but less than thirty-three thousand (33,000).
(3) A municipality that is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).
(4) A town having a population of more than nine thousand (9,000) but less than thirty thousand (30,000) located in a county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790).
(5) A town located in a county that contains a racetrack sanctioned by a nationally chartered and recognized auto racing organization.
(6) A town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).
(7) A town having a population of more than one thousand five hundred (1,500) but less than one thousand nine hundred (1,900) located in a county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).
(8) A town located in a township that:
(A) borders the Muscatatuck River; and
(B) has a canning factory.

(b) Except as provided in subsection (c), the legislative body of a municipality to which this section applies may, by ordinance, annex territory that:
(1) is contiguous to the municipality;
(2) in the case of a municipality described in subsection ~~(a)(1)~~ **(a)(1)(A) or (a)(1)(B),** has its entire area within the township within which the municipality is primarily located; and
(3) is owned by a property owner who consents to the annexation.

(c) Subsection (b)(2) does not apply to a town having a population of:
(1) more than five thousand (5,000) but less than eight thousand (8,000); or
(2) more than nine thousand (9,000) but less than twelve thousand five hundred (12,500);
in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(d) Territory annexed under this section is exempt from all property tax liability under IC 6-1.1 for municipal purposes for all portions of the annexed territory that ~~is~~ **are** classified for zoning purposes as ~~agriculture~~ **agricultural** and ~~remains~~ **remain** exempt from the property tax liability while the property's zoning classification remains ~~agriculture.~~ **agricultural.**

(e) There may not be a change in the zoning classification of territory annexed under this section without the consent of the owner of the annexed territory.

(f) Except as provided in subsection (g), territory annexed under this section may not be considered a part of the municipality for purposes of involuntarily annexing additional territory.

(g) Territory annexed under this section shall be considered a part of the municipality for purposes of annexing additional territory under section 5 or 5.1 of this chapter.".

Page 5, line 40, delete "ten" and insert "**one hundred (100)**".
Page 5, line 41, delete "(10)".
Page 6, line 4, delete "ninety" and insert "**seventy-five**".
Page 6, line 4, delete "(90%)" and insert "**(75%)**".
Page 6, line 6, delete "of this chapter." and insert "**.**".
Page 8, line 10, delete "ten (10)" and insert "**one hundred (100)**".
Page 8, line 11, delete "ninety" and insert "**seventy-five**".
Page 8, line 11, delete "(90%)" and insert "**(75%)**".
Page 11, line 8, delete "section" and insert "**SECTION**".
Page 11, line 13, delete "section." and insert "**SECTION.**".
Renumber all SECTIONS consecutively.
(Reference is to SB 512 as printed February 25, 2005.)
and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 2.

HINKLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred Engrossed Senate Bill 513, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

BUCK, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Engrossed Senate Bill 524, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-5-2-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. "Fiscal officer" means **the:**
(1) ~~the~~ city controller **or clerk-treasurer** of a second class city; ~~or~~
(2) ~~the~~ clerk-treasurer of a town; or
(3) clerk-treasurer of a third class city.

SECTION 2. IC 3-8-1-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. A candidate for the office of city clerk of a second class city, ~~or~~ **city clerk-treasurer of a second class city, or** city clerk-treasurer of a third class city must have resided in the city for at least one (1) year before the election.

SECTION 3. IC 3-13-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A vacancy in the office of mayor of a second class city not covered by section 1 of this chapter shall be filled as follows:
(1) If the city has a deputy mayor, the deputy mayor assumes the office for the remainder of the unexpired term.
(2) If the city does not have a deputy mayor, the city controller **or city clerk-treasurer** assumes the office for the remainder of the unexpired term.
(3) If the city does not have a deputy mayor and the office of city controller **or city clerk-treasurer** is vacant, the common council shall fill the vacancy at a regular or special meeting.

(b) The city clerk **or president of the common council** shall give notice of the meeting required under subsection (a)(3), which shall be held within thirty (30) days after the vacancy occurs. The notice must:
(1) be in writing;
(2) state the purpose of the meeting;
(3) state the date, time, and place of the meeting; and
(4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(c) Until the vacancy is filled, the council shall designate one (1) of its members to serve as acting mayor.

SECTION 4. IC 3-13-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) A vacancy in the office of city clerk of a second class city **or city clerk-treasurer of a second class city** not covered by section 1 of this chapter shall be filled by the mayor or acting mayor, subject to the approval of the common council.

(b) The common council shall vote on the question of approving the mayor or acting mayor's appointment at a regular or special meeting. The president of the common council shall give notice of the meeting, which shall be held within thirty (30) days after the appointment is made. The notice must:

(1) be in writing;
(2) state the purpose of the meeting;
(3) state the date, time, and place of the meeting; and
(4) be sent by first class mail to each council member at least ten (10) days before the meeting.

SECTION 5. IC 3-13-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. A vacancy in the common council of a second class city not covered by section 1 of this chapter shall be filled by the remaining members of the council at a regular or special meeting. The city clerk **or city clerk-treasurer** shall give notice of the meeting, which shall be held within thirty (30) days after the vacancy occurs. The notice must:

(1) be in writing;
(2) state the purpose of the meeting;
(3) state the date, time, and place of the meeting; and
(4) be sent by first class mail to each council member at least ten (10) days before the meeting.

SECTION 6. IC 3-13-11-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. In accordance with section 12 of this chapter, if the position of deputy mayor is not established by ordinance in a first class or second class city, the city controller **or city clerk-treasurer** assumes the duties of mayor until the office is filled under this chapter.

SECTION 7. IC 5-1-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The legislative body of any county, second or third class city, or town in which is located one (1) or more participating hospitals, upon request in writing by the board of trustees or other governing board of any such participating hospital, may adopt a resolution for the creation of an authority under this chapter.

(b) Upon the adoption of the resolution, there is created an authority which shall be a body corporate and politic for the purpose of financing, acquiring, constructing, equipping, and leasing a project or projects to participating hospitals located in the county, city, or town or refunding outstanding indebtedness of participating hospitals located in the county, city, or town as authorized by this chapter, or both.

(c) If the authority is created by a resolution of the legislative body of a county, it shall be known as the "Hospital Authority of _____ County" (include the name of the county).

(d) If the authority is created by resolution of the legislative body of a second or third class city or town, it shall be known as the "Hospital Authority of _____" (include the name of the city or town).

(e) The county auditor, the city clerk, **the city clerk-treasurer,** or the town clerk-treasurer, as the case may be, shall file a certified copy of the resolution with the executive of the county, city, or town, as the case may be, in which the authority is created.

SECTION 8. IC 5-11-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) This section applies to the state and its political subdivisions. However, this section does not apply to the following:

(1) The state universities.
(2) Ivy Tech State College.
(3) A municipality (as defined in IC 36-1-2-11).
(4) A county.
(5) An airport authority operating in a consolidated city.
(6) A capital improvements board of managers operating in a consolidated city.
(7) A board of directors of a public transportation corporation operating in a consolidated city.
(8) A municipal corporation organized under IC 16-22-8-6.
(9) A public library.
(10) A library services authority.
(11) A hospital organized under IC 16-22 or a hospital organized under IC 16-23.
(12) A school corporation (as defined in IC 36-1-2-17).
(13) A regional water or sewer district organized under IC 13-26 or under IC 13-3-2 (before its repeal).
(14) A municipally owned utility (as defined in IC 8-1-2-1).
(15) A board of an airport authority under IC 8-22-3.
(16) A conservancy district.
(17) A board of aviation commissioners under IC 8-22-2.
(18) A public transportation corporation under IC 36-9-4.
(19) A commuter transportation district under IC 8-5-15.
(20) A solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).
(21) A county building authority under IC 36-9-13.
(22) A soil and water conservation district established under IC 14-32.
(23) The northwestern Indiana regional planning commission established by IC 36-7-7.6-3.

(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 9. IC 5-11-10-1.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: 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.

(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 20-10.1-25-3. **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 10. IC 5-11-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) As used in this section, "official" includes the following:

(1) An elected official who is entitled to attend a conference under this section.

(2) An individual elected to an office who is entitled to attend a conference under this section.

(3) A deputy or an assistant to an elected official who is entitled to attend a conference under this section.

(b) The state board of accounts shall annually call a conference of each of the following:

(1) County auditors and auditors elect.

(2) County treasurers and treasurers elect.

(3) Circuit court clerks and circuit court clerks elect.

(c) Each of the conferences called under subsection (b):

(1) must be held at a time and place fixed by the state examiner;

(2) may be held statewide or by district; and

(3) may not continue for longer than three (3) days in any one (1) year.

(d) The following training must be provided at each conference called under subsection (b):

(1) The proper use of forms prescribed by the state board of accounts.

(2) The keeping of the records of the respective offices.

(3) At the conference for county treasurers and treasurers elect, investment training by the following:

(A) The treasurer of state.

(B) The board for depositories.

(C) Any other person the state examiner considers to be competent in providing investment training.

(4) Any other training that, in the judgment of the state examiner, will result in the better conduct of the public business.

(e) The state examiner may hold other conferences for:

(1) the officials described in subsection (b); or

(2) other county, city, or township officers;

whenever in the judgment of the state examiner conferences are necessary.

(f) Whenever a conference is called by the state board of accounts under this section, an elected official, at the direction of the state examiner, may require the attendance of:

(1) each of the elected official's appointed and acting chief deputies or chief assistants; and

(2) if the number of deputies or assistants employed:

(A) does not exceed three (3), one (1) of the elected official's appointed and acting deputies or assistants; or

(B) exceeds three (3), two (2) of the elected official's duly appointed and acting deputies or assistants.

(g) Each official **representing the unit and** attending any conference under this section shall be allowed **the following:**

(1) A sum for mileage at a rate determined by the fiscal body of the unit the official represents for each mile necessarily traveled in going to and returning from the conference by the most expeditious route. ~~a sum for mileage at a rate determined by the fiscal body of the unit the official represents~~. **Regardless of the duration of the conference, only one (1) mileage reimbursement shall be allowed to the official furnishing the conveyance although the official transports more than one (1) person.**

(2) ~~Each official shall also be allowed, while attending a conference called under this section,~~ An allowance for lodging for each night preceding conference attendance in an amount equal to the single room rate. However, lodging expense, in the case of a one (1) day conference, shall only be allowed for persons who reside fifty (50) miles or farther from the conference location.

(3) ~~Each official shall be reimbursed,~~ **Reimbursement of an official** in an amount determined by the fiscal body of the unit the official represents, for meals purchased while attending a conference called under this section. ~~Regardless of the duration of the conference, only one (1) mileage reimbursement shall be allowed to the official furnishing the conveyance although the official transports more than one (1) person.~~

(h) The state board of accounts shall certify the number of days of attendance and the mileage for each conference to each official attending any conference under this section.

(i) All payments of mileage and lodging shall be made by the proper disbursing officer in the manner provided by law on a duly verified claim or voucher to which shall be attached the certificate of the state board of accounts showing the number of days attended and the number of miles traveled. All payments shall be made from the general fund from any money not otherwise appropriated and without any previous appropriation being made therefor.

(j) A claim for reimbursement under this section may not be denied by the body responsible for the approval of claims if the claim complies with IC 5-11-10-1.6 and this section.

SECTION 11. IC 6-1.1-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The officers of political subdivisions shall meet each year to fix the budget, tax rate, and tax levy of their respective subdivisions for the ensuing budget year as follows:

(1) The fiscal body of a consolidated city and county, not later than the last meeting of the fiscal body in September.

(2) The fiscal body of a ~~second class city,~~ **municipality,** not later than September 30.

(3) 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) September 20 if a resolution adopted under section 5.6(d) of this chapter is in effect.

(4) The proper officers of all other political subdivisions, not later than September 20.

Except in a consolidated city and county and in a second class city, the public hearing required by section 3 of this chapter must be completed at least ten (10) days before the proper officers of the political subdivision meet to fix the budget, tax rate, and tax levy. In a consolidated city and county and in a second class city, that public hearing, by any committee or by the entire fiscal body, may be held

at any time after introduction of the budget.

(b) Ten (10) or more taxpayers may object to a budget, tax rate, or tax levy of a political subdivision fixed under subsection (a) by filing an objection petition with the proper officers of the political subdivision not more than seven (7) days after the hearing. The objection petition must specifically identify the provisions of the budget, tax rate, and tax levy to which the taxpayers object.

(c) If a petition is filed under subsection (b), the fiscal body of the political subdivision shall adopt with its budget a finding concerning the objections in the petition and any testimony presented at the adoption hearing.

(d) This subsection does not apply to a school corporation. Each year at least two (2) days before the first meeting of the county board of tax adjustment held under IC 6-1.1-29-4, a political subdivision shall file with the county auditor:

(1) a statement of the tax rate and levy fixed by the political subdivision for the ensuing budget year;

(2) two (2) copies of the budget adopted by the political subdivision for the ensuing budget year; and

(3) two (2) copies of any findings adopted under subsection (c).

Each year the county auditor shall present these items to the county board of tax adjustment at the board's first meeting.

(e) In a consolidated city and county and in a second class city, the clerk of the fiscal body shall, notwithstanding subsection (d), file the adopted budget and tax ordinances with the county board of tax adjustment within two (2) days after the ordinances are signed by the executive, or within two (2) days after action is taken by the fiscal body to override a veto of the ordinances, whichever is later.

(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 12. IC 6-1.1-12.4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 12.4. Deduction for Redevelopment or Rehabilitation of Real Property in a Residential Redevelopment Area

Sec. 1. This chapter applies to:

(1) a consolidated city; and

(2) a second class city that has established a residential redevelopment area under IC 36-7-17.5.

Sec. 2. As used in this chapter, "city" means:

(1) a consolidated city; or

(2) a second class city.

Sec. 3. As used in this chapter, "commission" refers to:

(1) the metropolitan development commission in a consolidated city; or

(2) a redevelopment commission in a second class city.

Sec. 4. As used in this chapter, "property" means a residential building or structure assessed as real property under IC 6-1.1-4. The term does not include land.

Sec. 5. As used in this chapter, "redevelopment" means the construction of a new residential structure in a residential redevelopment area on:

(1) unimproved land; or

(2) land on which a structure is demolished to allow for the construction of the new residential structure.

Sec. 6. As used in this chapter, "rehabilitation" means the remodeling, repair, or betterment of residential property in any manner or any enlargement or extension of property in which depreciable rehabilitation expenditures of at least twenty-five thousand dollars ($25,000) are incurred.

Sec. 7. As used in this chapter, "residential redevelopment area" means an area established under IC 36-7-17.5.

Sec. 8. (a) If a commission has:

(1) established a residential redevelopment area; and

(2) included a property tax deduction as an incentive available in the residential redevelopment area under a redevelopment plan adopted under IC 36-7-17.5-9;

the county auditor shall deduct the amount determined under subsection (b) from the assessed value of a taxpayer's property that is located in the residential redevelopment area and has been redeveloped or rehabilitated.

(b) Subject to subsection (d), the amount deducted from the assessed value of the taxpayer's property under subsection (a) is equal to the product of:

(1) the increase in the property's assessed value resulting from the rehabilitation or redevelopment of the property; multiplied by

(2) the applicable percentage set forth in subsection (c).

(c) The percentage to be applied under subsection (b)(2) is as follows:

(1) One hundred percent (100%) for the first three (3) years that the taxpayer claims a deduction for a particular property under this section.

(2) Fifty percent (50%) for the fourth through sixth years that the taxpayer claims a deduction for a particular property under this section.

(3) Forty percent (40%) for the seventh year that the taxpayer claims a deduction for a particular property under this section.

(4) Thirty percent (30%) for the eighth year that the taxpayer claims a deduction for a particular property under this section.

(5) Twenty percent (20%) for the ninth year that the taxpayer claims a deduction for a particular property under this section.

(6) Ten percent (10%) for the tenth year that the taxpayer claims a deduction for a particular property under this section.

(d) The amount of the deduction determined under subsection (b) shall be adjusted:

(1) to reflect the percentage increase or decrease in the property's assessed valuation that resulted from a general reassessment of real property occurring within the period of the deduction; or

(2) to reflect the percentage decrease in the property's assessed valuation that resulted from a successful appeal of an assessment of the property occurring within the period of the deduction.

(e) The department of local government finance shall adopt rules under IC 4-22-2 to implement the adjustments required under subsection (d).

(f) A deduction provided under this section terminates if the property ceases to be used as residential property.

(g) The county auditor shall continue to make the assessed value deduction provided under this section after the property is transferred to another owner as long as the property is used as residential property and the deduction period described in subsection (c) has not expired.

Sec. 9. A property owner may not receive a deduction under this chapter for repairs or improvements to real property if the property owner receives a deduction under either IC 6-1.1-12-18 or IC 6-1.1-12-22 for those same repairs or improvements.

Sec. 10. (a) For properties located within a residential redevelopment area, the township assessor shall send a notice of assessment to the commission at the same time the township assessor sends a notice of assessment to the taxpayer under IC 6-1.1-4-22.

(b) Not more than forty-five (45) days after receiving a notice of assessment under subsection (a), the commission shall inform the county auditor of the amount determined under section 8(b) of this chapter.

SECTION 13. IC 6-1.1-24-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) ~~On or~~ Before July ~~1~~ **2** of each year, the county treasurer shall certify to the county auditor a list of real property on which any of the following exist:

(1) Any property taxes or special assessments certified to the county auditor for collection by the county treasurer from the prior year's spring installment or before are delinquent as determined under IC 6-1.1-37-10.

(2) Any unpaid costs are due under section 2(b) of this chapter from a prior tax sale.

Failure of the county treasurer to certify the list before July 2 does not invalidate an otherwise valid sale.

(b) The county auditor shall maintain a list of all real property eligible for sale. Unless the taxpayer pays to the county treasurer the

amounts in subsection (a), the taxpayer's property shall remain on the list. The list must:

(1) describe the real property by parcel number and ~~common~~ **street** address, if any;

(2) for a tract or item of real property with a single owner, indicate the name of the owner; and

(3) for a tract or item with multiple owners, indicate the name of at least one (1) of the owners.

(c) Except as otherwise provided in this chapter, the real property so listed is eligible for sale in the manner prescribed in this chapter.

(d) Not later than fifteen (15) days after the date of the county treasurer's certification under subsection (a), the county auditor shall mail by certified mail a copy of the list described in subsection (b) to each mortgagee who requests from the county auditor by certified mail a copy of the list. Failure of the county auditor to mail the list under this subsection does not invalidate an otherwise valid sale.".

Page 1, between lines 8 and 9, begin a new line block indented and insert:

"**(3) A redevelopment commission that has established a residential redevelopment area under IC 36-7-17.5.**".

Page 2, delete lines 25 through 42, begin a new paragraph and insert:

"SECTION 15. IC 6-1.1-24-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) In addition to the delinquency list required under section 1 of this chapter, each county auditor shall prepare a notice. The notice shall contain the following:

(1) A list of tracts or real property eligible for sale under this chapter.

(2) A statement that the tracts or real property included in the list will be sold at public auction to the highest bidder, subject to the right of redemption.

(3) A statement that the tracts or real property will not be sold for an amount which is less than the sum of:

(A) the delinquent taxes and special assessments on each tract or item of real property;

(B) the taxes and special assessments on each tract or item of real property that are due and payable in the year of the sale, whether or not they are delinquent;

(C) all penalties due on the delinquencies;

(D) an amount prescribed by the county auditor that equals the sum of:

(i) twenty-five dollars ($25) for postage and publication costs; and

(ii) any other actual costs incurred by the county that are directly attributable to the tax sale; and

(E) any unpaid costs due under subsection (b) from a prior tax sale.

(4) A statement that a person redeeming each tract or item of real property after the sale must pay:

(A) one hundred ten percent (110%) of the amount of the minimum bid for which the tract or item of real property was offered at the time of sale if the tract or item of real property is redeemed not more than six (6) months after the date of sale;

(B) one hundred fifteen percent (115%) of the amount of the minimum bid for which the tract or item of real property was offered at the time of sale if the tract or item of real property is redeemed more than six (6) months after the date of sale;

(C) the amount by which the purchase price exceeds the minimum bid on the tract or item of real property plus ten percent (10%) per annum on the amount by which the purchase price exceeds the minimum bid; and

(D) all taxes and special assessments on the tract or item of real property paid by the purchaser after the tax sale plus interest at the rate of ten percent (10%) per annum on the amount of taxes and special assessments paid by the purchaser on the redeemed property.

(5) A statement for informational purposes only, of the location of each tract or item of real property by key number, if any, and street address, if any, or a common description of the property other than a legal description. The township assessor, upon written request from the county auditor, shall provide the information to be in the notice required by this subsection. A misstatement in the ~~key number or~~ street address **or common description** does not invalidate an otherwise valid sale.

(6) A statement that the county does not warrant the accuracy of the street address or common description of the property.

(7) A statement indicating:

(A) the name of the owner of each tract or item of real property with a single owner; or

(B) the name of at least one (1) of the owners of each tract or item of real property with multiple owners.

(8) A statement of the procedure to be followed for obtaining or objecting to a judgment and order of sale, that must include the following:

(A) A statement:

(i) that the county auditor and county treasurer will apply on or after a date designated in the notice for a court judgment against the tracts or real property for an amount that is not less than the amount set under subdivision (3), and for an order to sell the tracts or real property at public auction to the highest bidder, subject to the right of redemption; and

(ii) indicating the date when the period of redemption specified in IC 6-1.1-25-4 will expire.

(B) A statement that any defense to the application for judgment must be filed with the court before the date designated as the earliest date on which the application for judgment may be filed.

(C) A statement that the court will set a date for a hearing at least seven (7) days before the advertised date and that the court will determine any defenses to the application for judgment at the hearing.

(9) A statement that the sale will be conducted at a place designated in the notice and that the sale will continue until all tracts and real property have been offered for sale.

(10) A statement that the sale will take place at the times and dates designated in the notice. Except as provided in section 5.5 of this chapter, the sale must take place on or after August 1 and before November 1 of each year.

(11) A statement that a person redeeming each tract or item after the sale must pay the costs described in IC 6-1.1-25-2(e).

(12) If a county auditor and county treasurer have entered into an agreement under IC 6-1.1-25-4.7, a statement that the county auditor will perform the duties of the notification and title search under IC 6-1.1-25-4.5 and the notification and petition to the court for the tax deed under IC 6-1.1-25-4.6.

(13) A statement that, if the tract or item of real property is sold for an amount more than the minimum bid and the property is not redeemed, the owner of record of the tract or item of real property who is divested of ownership at the time the tax deed is issued may have a right to the tax sale surplus.

(14) If a determination has been made under subsection (d), a statement that **indicates the** tracts or items **that** will be sold together.

(b) If within sixty (60) days before the date of the tax sale the county incurs costs set under subsection (a)(3)(D) and those costs are not paid, the county auditor shall enter the amount of costs that remain unpaid upon the tax duplicate of the property for which the costs were set. The county treasurer shall mail notice of unpaid costs entered upon a tax duplicate under this subsection to the owner of the property identified in the tax duplicate.

(c) The amount of unpaid costs entered upon a tax duplicate under subsection (b) must be paid no later than the date upon which the next installment of real estate taxes for the property is due. Unpaid costs entered upon a tax duplicate under subsection (b) are a lien against the property described in the tax duplicate, and amounts remaining unpaid on the date the next installment of real estate taxes is due may be collected in the same manner that delinquent property taxes are collected.

(d) The county auditor and county treasurer may establish the condition that a tract or item will be sold ~~and may be redeemed~~ under this chapter only if the tract or item is sold ~~or redeemed~~ together with one (1) or more other tracts or items. Property may be sold together only if the tract or item is owned by the same person. **Property sold**

together must be redeemed together.

SECTION 16. IC 6-1.1-24-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.2. (a) This section applies to ~~a county having a consolidated city.~~ **all counties.**

(b) Whenever a notice required under section 2 of this chapter includes real property on the list prepared under ~~section 1.5(c)~~ **section 1.5(f)** of this chapter, the notice must also contain a statement that:

(1) the property is on the alternate list prepared under ~~section 1.5(c)~~ **section 1.5(f)** of this chapter;

(2) the owner of the property may file an affidavit with the county auditor no later than twenty (20) days following the date of the notice indicating that the residential structure located on the property is:

(A) habitable under state law and any ordinance of the political subdivision where the property is located; and

(B) has been occupied as a permanent residence for the six (6) month period preceding the date of the notice;

(3) if the auditor determines that the statements made in the affidavit are correct, the auditor will remove the property from the list prepared under ~~section 1.5(c)~~ **section 1.5(f)** of this chapter and restore the parcel to the delinquent tax list prepared under section 1 of this chapter;

(4) if the property is not redeemed within one hundred twenty (120) days after the date of sale the county auditor shall execute and deliver a deed for the property to the purchaser or purchaser's assignee; and

(5) if the property is offered for sale and a bid is not received for at least the amount required under section 5 of this chapter, the county auditor may execute and deliver a deed for the property to:

(A) if the property is under the jurisdiction of a purchasing agency under IC 36-7-17, the purchasing agency; ~~under IC 36-7-17,~~

(B) if the property is in an area designated as a residential redevelopment area under IC 36-7-17.5 by the metropolitan development commission, the metropolitan development commission; or

(C) if the property is in an area designated as a residential redevelopment area under IC 36-7-17.5 by a redevelopment commission, the redevelopment commission;

subject to IC 6-1.1-25.

SECTION 17. IC 6-1.1-24-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) When real property is eligible for sale under this chapter, the county auditor shall post a copy of the notice required by sections 2 and 2.2 of this chapter at a public place of posting in the county courthouse or in another public county building at least twenty-one (21) days before the earliest date of application for judgment. In addition, the county auditor shall, in accordance with IC 5-3-1-4, publish the notice required in sections 2 and 2.2 of this chapter once each week for three (3) consecutive weeks before the earliest date on which the application for judgment may be made. The expenses of this publication shall be paid out of the county general fund without prior appropriation.

(b) **Subject to subsection (d),** at least twenty-one (21) days before the application for judgment is made, the county auditor shall mail a copy of the notice required by sections 2 and 2.2 of this chapter by certified mail, return receipt requested, to any mortgagee who annually requests, by certified mail, a copy of the notice. However, the failure of the county auditor to mail this notice or its nondelivery does not affect the validity of the judgment and order.

(c) The advertisement published under section 4(b) of this chapter is considered sufficient notice of the intended application for judgment and of the sale of real property under the order of the court.

(d) The county auditor is not required to mail the notice referred to in subsection (b) by certified mail to a person with a mailing address outside the United States.".

Page 3, delete lines 1 through 11.

Page 3, line 13, delete "Not" and insert "**Subject to subsection (d),** not".

Page 4, between lines 1 and 2, begin a new paragraph and insert:

"**(d) The county auditor is not required to mail the notice referred to in subsection (a) by certified mail to a person with a mailing address outside the United States.**".

Page 5, line 14, after "tract" insert "**or an item of real property or a certificate of sale**".

Page 5, line 15, after "5" insert ",".

Page 5, line 15, strike "or".

Page 5, line 15, after "5.5" insert ", **or 6.1**".

Page 5, line 16, after "tract" insert "**or an item of real property or a certificate of sale**".

Page 5, line 17, after "property" insert "**or certificate**".

Page 5, line 21, after "the" insert "**tract or item of**".

Page 5, line 21, after "property" insert "**or certificate**".

Page 5, line 38, after "chapter" delete ";" and insert "**for which the tract or item of real property was last offered for sale;**".

Page 6, delete lines 31 through 42, begin a new paragraph and insert:

"SECTION 23. IC 6-1.1-24-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.5. (a) This section applies to ~~a county having a consolidated city.~~ **all counties.**

(b) Whenever real property on the list prepared under section 1.5 of this chapter:

(1) is offered for sale under this chapter; and

(2) does not receive a bid for at least the amount required under section 5 of this chapter;

the auditor shall notify the ~~metropolitan development~~ commission **(as defined in section 1.5 of this chapter)** that the real property has been offered for sale under this chapter and that an adequate bid has not been received.

(c) **This subsection does not apply to property described under subsection (b) that the redevelopment commission desires to acquire for redevelopment purposes under IC 36-7-17.5.** The ~~metropolitan development~~ commission shall, within a reasonable time after receiving notice under subsection (b), identify any property described under subsection (b) that the ~~metropolitan development~~ commission desires to acquire for urban homesteading under IC 36-7-17 or redevelopment purposes under **IC 36-7-14 or** IC 36-7-15.1. The ~~metropolitan development~~ commission shall then provide the county auditor with a list of the properties identified under this subsection.

(d) This subsection applies only to property described under subsection (b) that the redevelopment commission desires to acquire for redevelopment purposes under IC 36-7-17.5. The redevelopment commission shall, within a reasonable time after receiving notice under subsection (b), identify any property described in subsection (b) that the redevelopment commission desires to acquire for redevelopment purposes under IC 36-7-17.5. The redevelopment commission shall then provide the county auditor with a list of the properties identified under this subsection.

~~(d)~~ **(e)** The county auditor shall execute and deliver a deed for any property identified under subsection (c) **or (d)** to the ~~metropolitan development~~ **appropriate** commission, subject to IC 6-1.1-25. Properties identified under subsection (c) **or (d)** but not acquired by the ~~metropolitan development~~ **appropriate** commission shall be restored to the delinquent list prepared under section 1 of this chapter.

~~(e)~~ **(f)** The county acquires a lien under section 6 of this chapter for any property that is:

(1) not identified under subsection (c) **or (d);** and

(2) offered for sale under this chapter for two (2) consecutive sales.

~~(f)~~ **(g)** The ~~metropolitan development~~ commission may not pay for any property acquired under subsection ~~(d).~~ **(e).** However, a taxing unit having an interest in the taxes on the real property shall be credited with the full amount of the delinquent tax due to that unit.

SECTION 24. IC 6-1.1-24-6.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.7. (a) After each tax sale conducted under this chapter, the county auditor shall prepare and deliver to the county commissioners a list of all properties:

(1) that have been offered for sale in two (2) consecutive tax sales;

(2) that have not received a bid for at least the amount required under section 5 of this chapter;

(3) that are not subject to the provisions of section 6.5 of this chapter;

(4) that are not located in a residential redevelopment area designated under IC 36-7-17.5;

~~(4)~~ **(5)** on which the county has acquired a lien under section 6 of this chapter; and

~~(5)~~ **(6)** for which the county is eligible to take title.

(b) The county commissioners shall:

(1) by resolution, identify the property described under subsection (a) that the county commissioners desire to transfer to a nonprofit corporation for use for the public good; and

(2) set a date, time, and place for a public hearing to consider the transfer of the property to a nonprofit corporation.

(c) Notice of the list prepared under subsection (b) and the date, time, and place for the hearing on the proposed transfer of the property on the list shall be published in accordance with IC 5-3-1. The notice must include a description of the property by:

(1) legal description; and

(2) parcel number or street address, or both.

The notice must specify that the county commissioners will accept applications submitted by nonprofit corporations as provided in subsection (f) and hear any opposition to a proposed transfer.

(d) After the hearing set under subsection (b), the county commissioners shall by resolution make a final determination concerning:

(1) the properties that are to be transferred to a nonprofit corporation;

(2) the nonprofit corporation to which each property is to be transferred; and

(3) the terms and conditions of the transfer.

(e) This subsection applies only to a county having a consolidated city. The resolution of the county commissioners prepared under subsection (d) shall be forwarded to the county executive for approval. The county executive may remove any properties from the list of properties to be transferred that is prepared under subsection (d). The final list of properties to be transferred to nonprofit corporations shall be approved by the county executive and returned to the county commissioners.

(f) To be eligible to receive property under this section, a nonprofit corporation must file an application with the county commissioners. The application must state the property that the corporation desires to acquire, the use to be made of the property, and the time period anticipated for implementation of the use. The application must be accompanied by documentation verifying the nonprofit status of the corporation and be signed by an officer of the corporation. If more than one (1) application for a single property is filed, the county commissioners shall determine which application is to be accepted based on the benefit to be provided to the public and the neighborhood and the suitability of the stated use for the property and the surrounding area.

(g) After the hearing set under subsection (b) and the final determination of properties to be transferred under subsection (d) or (e), whichever is applicable, the county commissioners, on behalf of the county, shall cause all delinquent taxes, special assessments, penalties, interest, and costs of sale to be removed from the tax duplicate and the county auditor to prepare a deed transferring the property to the nonprofit corporation. The deed shall provide for:

(1) the use to be made of the property;

(2) the time within which the use must be implemented and maintained;

(3) any other ~~term~~ **terms** and conditions that are established by the county commissioners; and

(4) the reversion of the property to the county if the grantee nonprofit corporation fails to comply with the terms and conditions.

If the grantee nonprofit corporation fails to comply with the terms and conditions of the transfer and title to the property reverts to the county, the property may be retained by the county or disposed of under any of the provisions of this chapter. ~~or IC 6-1.1-24, or both.~~

SECTION 25. IC 6-1.1-24-6.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 6.8. (a) This section applies to:**

(1) a county having a consolidated city; and

(2) a county having a second class city that has established a residential redevelopment area under IC 36-7-17.5.

(b) As used in this section, "commission" means:

(1) the metropolitan development commission in a county having a consolidated city; or

(2) a redevelopment commission that has established a residential redevelopment area under IC 36-7-17.5.

(c) After each tax sale conducted under this chapter, the county auditor shall prepare and deliver to the commission a list of all properties within a residential redevelopment area in the county:

(1) that have been offered for sale in two (2) consecutive tax sales;

(2) that have not received a bid for at least the amount required under section 5 of this chapter;

(3) that are not subject to section 6.5 of this chapter;

(4) on which the county has acquired a lien under section 6 of this chapter; and

(5) for which the county is eligible to take title.

(d) The commission shall:

(1) by resolution, identify and prepare a list of the properties described under subsection (c) that the commission desires to transfer to an eligible entity, as described under subsection (g), for the public good; and

(2) set a date, time, and place for a public hearing to consider the transfer of the property to an eligible entity under subsection (h).

(e) Notice of the list prepared under subsection (d) and the date, time, and place for the hearing on the proposed transfer of property on the list shall be published in accordance with IC 5-3-1. The notice must include a description of the property by:

(1) legal description; and

(2) either:

(A) parcel number; or

(B) street address.

The notice must specify that the commission will accept applications submitted by eligible entities under subsection (g) that pledge to develop the property in accordance with a residential redevelopment plan under IC 36-7-17.5-9 and hear any opposition to a proposed transfer.

(f) After the hearing set under subsection (d), the commission shall by resolution make a final determination concerning:

(1) the properties that are to be transferred to an eligible entity under subsection (h);

(2) the eligible entity under subsection (g) to which each property is transferred; and

(3) the terms and conditions of the transfer.

(g) To be an eligible entity that may receive property under this section, an entity must file an application with the commission. The application must identify:

(1) the property that the entity desires to acquire;

(2) the use to be made of the property that is in accordance with the residential redevelopment plan under IC 36-7-17.5-9; and

(3) the period anticipated for implementation of the use identified under subdivision (2).

The application must be accompanied by documentation of the financial status of the entity, the relevant experience of the entity in developing similar property, and any other information required by the commission. The application must be signed by an individual authorized to sign for the entity. If more than one (1) application for a single property is filed, the commission shall determine which application is in the best interest of the public and the neighborhood. In making the determination, the commission shall consider the suitability of the use of the property proposed in each application for the property and the surrounding area.

(h) After the hearing set under subsection (d) and the final determination of properties to be transferred under subsection (f), the county commissioners (or in a consolidated city, the city-county council), on behalf of the county, shall cause all delinquent taxes, special assessments, penalties, interest, and costs of sale to be removed from the tax duplicate and the county

auditor to prepare a deed transferring the property to the eligible entity. The deed must provide for:

(1) the use to be made of the property;

(2) the time within which the use must be implemented and maintained;

(3) any other terms and conditions that are established by the commission; and

(4) the reversion of the property to the commission if the grantee eligible entity fails to comply with the terms and conditions.

If the grantee eligible entity fails to comply with the terms and conditions of the transfer and title to the property reverts to the commission, the property may be retained by the county or disposed of under this chapter.

SECTION 26. IC 6-1.1-24-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) When real property is sold under this chapter, the purchaser at the sale shall immediately pay the amount of the bid to the county treasurer. The county treasurer shall apply the payment in the following manner:

(1) first, to the taxes, special assessments, penalties, and costs described in section 5(e) of this chapter;

(2) second, to other delinquent property taxes in the manner provided in IC 6-1.1-23-5(b); and

(3) third, to a separate "tax sale surplus fund".

(b) The:

(1) owner of record of the real property at the time the tax deed is issued who is divested of ownership by the issuance of a tax deed; or

(2) tax sale purchaser or purchaser's assignee, upon redemption of the tract or item of real property;

may file a verified claim for money which is deposited in the tax sale surplus fund. If the claim is approved by the county auditor and the county treasurer, the county auditor shall issue a warrant to the claimant for the amount due.

(c) If the person described in subsection (b)(1) acquired the property from a delinquent taxpayer after the property was sold at a tax sale under this chapter, the county auditor may not issue a warrant to the person **under subsection (b)** unless:

(1) the person ~~is named on a tax sale surplus fund disclosure form filed with the county auditor under IC 32-21-8.~~ **files a verified petition with the court; and**

(2) the court:

(A) holds a hearing on the matter; and

(B) issues an order to the county auditor to issue the warrant.

(d) An amount deposited in the tax sale surplus fund shall be transferred by the county auditor to the county general fund and may not be disbursed under subsection (b) if it is not claimed within the three (3) year period after the date of its receipt.

(e) If an amount applied to taxes under this section is later paid out of the county general fund to the purchaser or the purchaser's successor due to the invalidity of the sale, all the taxes shall be reinstated and recharged to the tax duplicate and collected in the same manner as if the property had not been offered for sale.

(f) When a refund is made to any purchaser or purchaser's successor by reason of the invalidity of a sale, the county auditor shall, at the December settlement immediately following the refund, deduct the amount of the refund from the gross collections in the taxing district in which the land lies and shall pay that amount into the county general fund.".

Page 7, delete lines 1 through 23.

Page 8, line 14, strike "which exist at the time the certificate is issued." and insert "**except:**

(1) a lien granted priority under federal law; and

(2) the lien of the state or a political subdivision for taxes and special assessments that accrue after the sale.".

Page 8, line 21, after "purchaser" delete "," and insert "**under section 4 of this chapter for a property listed according to section 1.5 of this chapter,**".

Page 9, between lines 31 and 32, begin a new line blocked left and insert:

"**For purposes of this subsection, costs of giving notice means costs for postage, certified mailing, and publication.**".

Page 9, delete lines 36 through 42, begin a new paragraph and insert:

"SECTION 29. IC 6-1.1-25-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. **(a) Except as provided in subsection (b),** when real property is redeemed and the certificate of sale is surrendered to the county auditor, the auditor shall issue a warrant to the:

(1) purchaser; **or**

(2) purchaser's assignee; ~~or~~

~~(3) purchaser of the certificate of sale under IC 6-1.1-24,~~

in an amount equal to the amount received by the county treasurer for redemption. The county auditor shall ~~indorse~~ **endorse** the certificate and preserve it as a public record. If a certificate of sale is lost and the auditor is satisfied that the certificate did exist, the county auditor may make payment in the manner provided in this section.

(b) When real property sold under IC 6-1.1-24-6.1 is redeemed and the certificate of sale is surrendered to the county auditor, the county auditor shall issue a warrant to the purchaser of the certificate of sale, or the purchaser's assignee, in an amount equal to the remainder of:

(1) the amount received by the county treasurer for redemption; minus

(2) the remainder of:

(A) the amount of the minimum bid under IC 6-1.1-24-5(e) for which the tract or item of real property was last offered for sale; and

(B) the amount for which the certificate of sale was sold.

SECTION 30. IC 6-1.1-25-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. (a) Except as provided in subsection (d), a purchaser or the purchaser's assignee is entitled to a tax deed to the property that was sold only if:

(1) the redemption period specified in section 4(a)(1) of this chapter has expired;

(2) the property has not been redeemed within the period of redemption specified in section 4(a) of this chapter; and

(3) not later than nine (9) months after the date of the sale:

(A) the purchaser or the purchaser's assignee; or

(B) in a county where the county auditor and county treasurer have an agreement under section 4.7 of this chapter, the county auditor;

gives notice of the sale to the owner of record at the time of the sale and any person with a substantial property interest of public record in the tract or real property.

(b) A county is entitled to a tax deed to property on which the county acquires a lien under IC 6-1.1-24-6 and for which the certificate of sale is not sold under IC 6-1.1-24-6.1 only if:

(1) the redemption period specified in section 4(b) of this chapter has expired;

(2) the property has not been redeemed within the period of redemption specified in section 4(b) of this chapter; and

(3) not later than ninety (90) days after the date the county acquires the lien under IC 6-1.1-24-6, the county auditor gives notice of the sale to:

(A) the owner of record at the time the lien was acquired; and

(B) any person with a substantial property interest of public record in the tract or real property.

(c) A purchaser of a certificate of sale under IC 6-1.1-24-6.1 is entitled to a tax deed to the property for which the certificate was sold only if:

(1) the redemption period specified in section 4(c) of this chapter has expired;

(2) the property has not been redeemed within the period of redemption specified in section 4(c) of this chapter; and

(3) not later than ninety (90) days after the date of sale of the certificate of sale under IC 6-1.1-24, the purchaser gives notice of the sale to:

(A) the owner of record at the time of the sale; and

(B) any person with a substantial property interest of public record in the tract or real property.

(d) A purchaser or the purchaser's assignee is entitled to a tax deed to the property that was sold under IC 6-1.1-24-5.5(b) only if:

(1) the redemption period specified in section 4(a)(4) of this chapter has expired;

(2) the property has not been redeemed within the period of redemption specified in section 4(a)(4) of this chapter; and

(3) not later than ninety (90) days after the date of the sale, the purchaser or the purchaser's assignee gives notice of the sale to:

(A) the owner of record at the time of the sale; and

(B) any person with a substantial property interest of public record in the tract or real property.

(e) **Subject to subsection (l),** the person required to give the notice under subsection (a), (b), ~~or~~ (c), **or (d)** shall give the notice by sending a copy of the notice by certified mail to:

(1) the owner of record at the time of the:

(A) sale of the property;

(B) acquisition of the lien on the property under IC 6-1.1-24-6; or

(C) sale of the certificate of sale on the property under IC 6-1.1-24;

at the last address of the owner for the property, as indicated in the records of the county auditor; and

(2) any person with a substantial property interest of public record at the address for the person included in the public record that indicates the interest.

However, if the address of the person with a substantial property interest of public record is not indicated in the public record that created the interest **or the address indicated is no longer valid** and **a valid address** cannot be located by ordinary means by the person required to give the notice under subsection (a), (b), ~~or~~ (c), **or (d),** the person may give notice by publication in accordance with IC 5-3-1-4 once each week for three (3) consecutive weeks.

(f) The notice that this section requires shall contain at least the following:

(1) A statement that a petition for a tax deed will be filed on or after a specified date.

(2) The date on or after which the petitioner intends to petition for a tax deed to be issued.

(3) A description of the tract or real property shown on the certificate of sale.

(4) The date the tract or real property was sold at a tax sale.

(5) The name of the:

(A) purchaser or purchaser's assignee;

(B) county that acquired the lien on the property under IC 6-1.1-24-6; or

(C) person that purchased the certificate of sale on the property under IC 6-1.1-24.

(6) A statement that any person may redeem the tract or real property.

(7) The components of the amount required to redeem the tract or real property.

(8) A statement that an entity identified in subdivision (5) is entitled to reimbursement for additional taxes or special assessments on the tract or real property that were paid by the entity subsequent to the tax sale, lien acquisition, or purchase of the certificate of sale, and before redemption, plus interest.

(9) A statement that the tract or real property has not been redeemed.

(10) A statement that an entity identified in subdivision (5) is entitled to receive a deed for the tract or real property if it is not redeemed before the expiration of the period of redemption specified in section 4 of this chapter.

(11) A statement that an entity identified in subdivision (5) is entitled to reimbursement for costs described in section 2(e) of this chapter.

(12) The date of expiration of the period of redemption specified in section 4 of this chapter.

(13) A statement that if the property is not redeemed, the owner of record at the time the tax deed is issued may have a right to the tax sale surplus, if any.

(14) The street address, if any, or a common description of the tract or real property.

(15) The key number or parcel number of the tract or real property.

(g) The notice under this section must include not more than one (1) tract or item of real property listed and sold in one (1) description. However, when more than one (1) tract or item of real property is owned by one (1) person, all of the tracts or real property that are owned by that person may be included in one (1) notice.

(h) A single notice under this section may be used to notify joint owners of record at the last address of the joint owners for the property sold, as indicated in the records of the county auditor.

(i) The notice required by this section is considered sufficient if the notice is mailed to the address required under subsection (e).

(j) The notice under this section and the notice under section 4.6 of this chapter are not required for persons in possession not shown in the public records.

(k) If the purchaser **of a certificate of sale under IC 6-1.1-24-6.1** fails to:

(1) comply with subsection (c)(3); or

(2) **file a** petition for the issuance of a tax deed within the time permitted under section 4.6(a) of this chapter;

the certificate of sale reverts to the county and may be retained by the county or sold under IC 6-1.1-24-6.1.

(l) A person is not required to mail the notice referred to in subsection (e) by certified mail to a person with a mailing address outside the United States.

SECTION 31. IC 6-1.1-25-4.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.6. (a) After the expiration of the redemption period specified in section 4 of this chapter but not later than six (6) months after the expiration of the period of redemption:

(1) the purchaser, the purchaser's assignee, the county, or the purchaser of the certificate of sale under IC 6-1.1-24 may; or

(2) in a county where the county auditor and county treasurer have an agreement under section 4.7 of this chapter, the county auditor shall, upon the request of the purchaser or the purchaser's assignee;

file a verified petition in the same court and under the same cause number in which the judgment of sale was entered asking the court to direct the county auditor to issue a tax deed if the real property is not redeemed from the sale. Notice of the filing of this petition shall be given to the same parties and ~~in the same manner as provided in~~ **by the method by which notice is given under** section 4.5 of this chapter, except that, if notice is given by publication, only one (1) publication is required. The notice required by this section is considered sufficient if the notice is sent to the address required by section 4.5(e) of this chapter. Any person owning or having an interest in the tract or real property may file a written objection to the petition with the court not later than thirty (30) days after the date the petition was filed. If a written objection is timely filed, the court shall conduct a hearing on the objection.

(b) Not later than sixty-one (61) days after the petition is filed under subsection (a), the court shall enter an order directing the county auditor (on the production of the certificate of sale and a copy of the order) to issue to the petitioner a tax deed if the court finds that the following conditions exist:

(1) The time of redemption has expired.

(2) The tract or real property has not been redeemed from the sale before the expiration of the period of redemption specified in section 4 of this chapter.

(3) Except with respect to a petition for the issuance of a tax deed under a sale of the certificate of sale on the property under IC 6-1.1-24-6.1, all taxes and special assessments, penalties, and costs have been paid.

(4) The notices required by this section and section 4.5 of this chapter have been given.

(5) The petitioner has complied with all the provisions of law entitling the petitioner to a deed.

The county auditor shall execute deeds issued under this subsection in the name of the state under the county auditor's name. If a certificate of sale is lost before the execution of a deed, the county auditor shall issue a replacement certificate if the county auditor is satisfied that the original certificate existed.

(c) Upon application by the grantee of a valid tax deed in the same court and under the same cause number in which the judgment of sale was entered, the court shall enter an order to place the grantee of a valid tax deed in possession of the real estate. The court may enter any orders and grant any relief that is necessary or desirable to place or maintain the grantee of a valid tax deed in possession of the real

estate.

(d) Except as provided in subsections (e) and (f), if the court refuses to enter an order directing the county auditor to execute and deliver the tax deed because of the failure of the petitioner under subsection (a) to fulfill the requirements of this section, the court shall order the return of the purchase price minus a penalty of twenty-five percent (25%) of the amount of the purchase price. Penalties paid under this subsection shall be deposited in the county general fund.

(e) Notwithstanding subsection (d), in all cases in which:

(1) the petitioner under subsection (a) has made a bona fide attempt to comply with the statutory requirements under subsection (b) for the issuance of the tax deed but has failed to comply with these requirements; and

(2) the court refuses to enter an order directing the county auditor to execute and deliver the tax deed because of the failure to comply with these requirements;

the county auditor shall not execute the deed but shall refund the purchase money plus six percent (6%) interest per annum from the county treasury to the purchaser, the purchaser's successors or assignees, or the purchaser of the certificate of sale under IC 6-1.1-24. The tract or item of real property, if it is then eligible for sale under IC 6-1.1-24, shall be placed on the delinquent list as an initial offering under IC 6-1.1-24-6.

(f) Notwithstanding subsections (d) and (e), the court shall not order the return of the purchase price if:

(1) the purchaser or the purchaser of the certificate of sale under IC 6-1.1-24 has failed to provide notice or has provided insufficient notice as required by section 4.5 of this chapter; and

(2) the sale is otherwise valid.

(g) A tax deed executed under this section vests in the grantee an estate in fee simple absolute, free and clear of all liens and encumbrances created or suffered before or after the tax sale except those liens granted priority under federal law, and the lien of the state or a political subdivision for taxes and special assessments that accrue subsequent to the sale. However, the estate is subject to all easements, covenants, declarations, and other deed restrictions and laws governing land use, including all zoning restrictions and liens and encumbrances created or suffered by the purchaser at the tax sale. The deed is prima facie evidence of:

(1) the regularity of the sale of the real property described in the deed;

(2) the regularity of all proper proceedings; and

(3) valid title in fee simple in the grantee of the deed.

(h) A tax deed issued under this section is incontestable except by appeal from the order of the court directing the county auditor to issue the tax deed filed not later than sixty (60) days after the date of the court's order.

SECTION 32. IC 6-1.1-25-4.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.7. (a) A county auditor and county treasurer may enter into a mutual agreement for the county auditor to perform the following duties instead of the purchaser:

(1) Notification and title search under section 4.5 of this chapter.

(2) Notification and petition to the court for the tax deed under section 4.6 of this chapter.

(b) If a county auditor and county treasurer enter into an agreement under this section, notice shall be given under ~~IC 6-1.1-24-2(a)(11).~~ **IC 6-1.1-24-2(a)(12).**

SECTION 33. IC 6-1.1-25-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.5. (a) This section applies to ~~a county having a consolidated city.~~ **all counties.**

(b) The county auditor shall provide the ~~metropolitan development~~ commission **(as defined in IC 6-1.1-24-1.5)** with a list of real property:

(1) included on the list prepared under IC 6-1.1-24-1.5;

(2) for which a certificate of sale has been issued; and

(3) for which the holder of the certificate has not requested the county auditor to execute and deliver a deed.

(c) **This subsection does not apply to property described under subsection (b) that the redevelopment commission desires to acquire for redevelopment purposes under IC 36-7-17.5.** The ~~metropolitan development~~ commission shall, within a reasonable time after receiving a list under subsection (b), identify any property described under subsection (b) that the ~~metropolitan development~~ commission desires to acquire for urban homesteading under IC 36-7-17 or redevelopment purposes under **IC 36-7-14 or** IC 36-7-15.1. The ~~metropolitan development~~ commission shall then provide the county auditor with a list of the properties identified under this subsection.

(d) This subsection applies only to property described under subsection (b) that the redevelopment commission desires to acquire for redevelopment purposes under IC 36-7-17.5. The redevelopment commission shall, within a reasonable time after receiving the list under subsection (b), identify any property described in subsection (b) that the redevelopment commission desires to acquire for redevelopment purposes under IC 36-7-17.5. The redevelopment commission shall then provide the county auditor with a list of the properties identified under this subsection.

~~(d)~~ **(e)** The county auditor shall execute and deliver a deed for any property identified under subsection (c) **or (d)** to the ~~metropolitan development~~ commission.

~~(e)~~ **(f)** The county auditor shall execute and deliver a deed to the county for any property:

(1) included in the notice prepared under subsection (b); and

(2) not identified under subsection (c) **or (d).**

~~(f)~~ **(g)** The ~~metropolitan development~~ commission and the county may not pay for any property acquired under subsection ~~(d) or~~ (e) **or (f).** However, a taxing unit having an interest in the taxes on the real property shall be credited with the full amount of the delinquent tax due to that unit.

SECTION 34. IC 6-1.1-25-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. Each county auditor shall maintain a tax sale record on the form prescribed by the state board of accounts. The record shall contain:

(1) **the parcel number and** a description of each parcel of real property:

(A) that is sold under IC 6-1.1-24;

(B) on which a county acquires a lien under IC 6-1.1-24-6; or

(C) for which a certificate of sale is ~~purchased~~ **sold** under ~~IC 6-1.1-24;~~ **IC 6-1.1-24-6.1.**

(2) the name of the owner of ~~the~~ **record of** real property **with a single owner, or at least one (1) of the owners of record of real property with multiple owners,** at the time of the:

(A) sale;

(B) lien acquisition; or

(C) **sale of the** certificate of sale; ~~purchase;~~

(3) the date of the:

(A) sale;

(B) lien acquisition; or

(C) **sale of the** certificate of sale; ~~purchase;~~

(4) the name and mailing address of the:

(A) purchaser of the property and, **if the purchaser assigned the property,** the purchaser's assignee; or

(B) purchaser of the certificate of sale **and, if the purchaser assigned the certificate of sale, the purchaser's assignee;**

(5) the amount of the minimum bid **under IC 6-1.1-24-5(e);**

(6) the amount for which the:

(A) real property; or

(B) certificate of sale;

is sold;

(7) the amount of any taxes **or special assessments** paid **after the sale** by the:

(A) purchaser of the real property or the purchaser's assignee; or

(B) purchaser of the certificate of sale;

and the date of the payment;

(8) the amount of any costs certified to the county auditor under section 2(e) of this chapter and the date of the certification;

(9) the name of the person, if any, who redeems the property;

(10) the date of redemption;

(11) the amount for which the property is redeemed;

(12) the date a deed, if any, to the real property is executed; ~~and~~

(13) the name of the grantee in the deed; **and**

(14) for each sale of a certificate of sale under IC 6-1.1-24-6.1, the amount referred to in IC 6-1.1-24-6.1(a)(3).

SECTION 35. IC 6-1.1-25-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) When a county acquires title to real property under IC 6-1.1-24 and this chapter, the county may dispose of the real property under IC 36-1-11 or subsection (e). The proceeds of any sale under IC 36-1-11 shall be applied as follows:

(1) First, to the cost of the sale or offering for sale of the real property, including the cost of:

(A) maintenance;

(B) preservation;

(C) administration of the property before the sale or offering for sale of the property;

(D) unpaid costs of the sale or offering for sale of the property;

(E) preparation of the property for sale;

(F) advertising; and

(G) appraisal.

(2) Second, to any unrecovered cost of the sale or offering for sale of other real property in the same taxing district acquired by the county under IC 6-1.1-24 and this chapter, including the cost of:

(A) maintenance;

(B) preservation;

(C) administration of the property before the sale or offering for sale of the property;

(D) unpaid costs of the sale or offering for sale of the property;

(E) preparation of the property for sale;

(F) advertising; and

(G) appraisal.

(3) Third, to the payment of the taxes on the real property that were removed from the tax duplicate under section 4(c) of this chapter.

(4) Fourth, any surplus remaining into the county general fund.

(b) The county auditor shall file a report with the board of commissioners before January 31 of each year. The report must:

(1) list the real property acquired under IC 6-1.1-24 and this chapter; and

(2) indicate if any person resides or conducts a business on the property.

(c) **Subject to subsection (f),** the county auditor shall mail a notice by certified mail before March 31 of each year to each person listed in subsection (b)(2). The notice must state that the county has acquired title to the tract the person occupies.

(d) If the county determines under IC 36-1-11 that any real property so acquired should be retained by the county, then the county shall not dispose of the real property. The county executive may repair, maintain, equip, alter, and construct buildings upon the real property so retained in the same manner prescribed for other county buildings.

(e) The county may transfer title to real property described in subsection (a) to the redevelopment commission at no cost to the commission for sale or grant under IC 36-7-14-22.2, IC 36-7-15.1-15.1, or IC 36-7-15.1-15.2.

(f) The county auditor is not required to mail the notice referred to in subsection (c) by certified mail to a person with a mailing address outside the United States.

SECTION 36. IC 7.1-3-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. ~~Ordinance Sent to Commission.~~ The city clerk**, city clerk-treasurer,** or town ~~clerk~~ **clerk-treasurer** of a city or town in which an ordinance proscribed by ~~IC 1971, 7.1-3-9-6,~~ **IC 7.1-3-9-6** has been enacted, shall, immediately upon the enactment, certify a copy of the ordinance and mail it by registered mail to the commission. The commission, out of its expenses, shall pay the clerk one dollar ~~($1.00),~~ **($1)** for ~~his~~ **the clerk's** services in the matter.

SECTION 37. IC 8-1.5-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. "Fiscal officer" means:

(1) controller **or clerk-treasurer,** for a second class city;

(2) clerk-treasurer, for a third class city; or

(3) clerk-treasurer, for a town.

SECTION 38. IC 8-22-3-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 30. (a) All expenses incurred by the board that must be paid prior to the collection of taxes levied under this chapter shall be met and paid in the following manner. The board shall from time to time certify the items of expense to the **city** controller, ~~of the city,~~ **city clerk-treasurer, town** clerk-treasurer, ~~of the town,~~ or **county** auditor ~~of the county~~ in which the district is located, directing ~~him~~ **the city controller, city clerk-treasurer, town clerk-treasurer, or county auditor** to pay the amounts. ~~and~~ The fiscal officer shall draw ~~his~~ **a** warrant or warrants upon the treasurer of the city, town, or county, as applicable, which warrant or warrants shall be paid out of the general funds of the city, town, or county not already appropriated, without special appropriations being made by the fiscal body or approval by any other body.

(b) In case there are no unappropriated general funds of the city, town, or county, the fiscal officer shall recommend to the fiscal body the temporary transfer, from other funds of the city, town, or county, of a sufficient amount to meet the items of expense or the making of a temporary loan for the purpose. The fiscal body affected shall immediately make the transfer of funds or authorize the temporary loans in the same manner that other transfers and temporary loans are made by the city, town, or county. The total amount to be advanced may not exceed fifty thousand dollars ($50,000) and the fund or funds of the city, town, county, or other entity from which the advancement is made shall be fully reimbursed and repaid by the authority out of the first proceeds of the special taxes levied under this chapter. No part of the funds advanced may be used in the acquisition of real property.

SECTION 39. IC 8-22-3.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: 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 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) Except in a county described in section 1(5) of this chapter, 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 in a county described in section 1(5) of this chapter, and 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) Except in a county described in section 1(5) of this chapter, 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) ~~Except as provided in subsection (f), all remaining~~ **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 of the airport authority for a qualified airport development project, ~~or~~ 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) Except as provided in subsection (f), all remaining tax proceeds after allocations are made under subdivisions (1) and (2) 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) Except in a county described in section 1(5) of this chapter, if the tax proceeds allocated to the ~~debt service~~ **project** fund **in subsection (e)(3)** exceed the amount necessary to

~~(1) pay principal and interest on airport authority revenue bonds;~~

~~(2) pay lease rentals on leases of a qualified airport development project; or~~

~~(3) create, maintain, or restore a reserve for airport authority revenue bonds or for lease rentals or leases of a qualified airport development project;~~

satisfy amounts required under subsection (e), the excess **in the project fund** over that amount shall be paid to the respective taxing units in the manner prescribed by subsection (d).

(g) Except in a county described in section 1(5) of this chapter, 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 airport authority for the financing of qualified airport development projects, ~~and~~ 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 ~~that amount~~ **those amounts** shall be paid to the respective taxing units in the manner prescribed by subsection (d).

(h) Except in a county described in section 1(5) of this chapter, 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) Except in a county described in section 1(5) of this chapter, and 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) Except in a county described in section 1(5) of this chapter, and 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 40. IC 9-21-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Except as provided in subsection (e), whenever a local authority in the authority's jurisdiction determines ~~on the basis of an engineering and traffic investigation~~ 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) 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.

(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.

SECTION 41. IC 9-22-1-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) This section applies to sales of abandoned vehicles or parts by local units.

(b) The proceeds from the sale of abandoned vehicles or parts, including:

(1) charges for bills of sale; and

(2) money received from persons who own or hold liens on vehicles for the cost of removal or storage of vehicles;

shall be deposited with the county treasurer, ~~or~~ **the** city controller, **or the city clerk-treasurer of a second class city,** and placed by the **county** treasurer, ~~or~~ **city** controller, **or city clerk-treasurer** in the unit's abandoned vehicle fund.

(c) The costs incurred by a public agency in administering this chapter shall be paid from the abandoned vehicle fund.

(d) The fiscal body shall annually appropriate sufficient money to the fund to carry out this chapter. Money remaining in the fund at the end of a year remains in the fund and does not revert to the general

fund.

(e) Notwithstanding subsection (d), the fiscal body of a consolidated city may transfer money from the fund.

SECTION 42. IC 10-18-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The legislative body of a city may, upon recommendation of the mayor and city controller **or city clerk-treasurer,** if applicable, by ordinance adopted and approved as provided in section 22 of this chapter, appropriate for the use of the board of public works of the city money of the city for World War memorial and other public purposes.

(b) Any money and the total of all money appropriated under this chapter may not exceed six-tenths of one percent (0.6%) of the adjusted value of the taxable property of the city as determined under IC 36-1-15.

(c) The board of public works, with the approval of the mayor, may use the funds so appropriated for any of the purposes described in section 2 of this chapter.

SECTION 43. IC 10-18-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A city may appropriate money for use of the board of public works of the city for any of the purposes provided in this chapter, either out of the general funds of the city or from the proceeds of a bond issue for those purposes.

(b) A city may sell bonds for the purpose of raising funds to comply with this chapter.

(c) Except as provided in this chapter, the appropriation of money and the sale of bonds by a city is governed by the law relating to the appropriation of money and the sale of bonds by the city for other city purposes.

(d) The legislative body of a city may, by ordinance adopted and approved as provided in section 22 of this chapter, do any of the following:

(1) Authorize the city controller **or city clerk-treasurer,** if applicable, and the mayor, in the name of the city, to make permanent loans of money for any of the purposes of this chapter of any amount not more than six-tenths of one percent (0.6%) of the adjusted value of taxable property of the city as determined under IC 36-1-15.

(2) Authorize the city controller **or city clerk-treasurer,** if applicable, and mayor of the city to issue bonds for the purpose of funding or refunding loans made by the city under this chapter. Except as provided in this chapter, any loans must be made and governed by the law concerning permanent loans by cities. Any bonds must satisfy all of the following:

(A) The bonds may be issued in any denomination of not more than one thousand dollars ($1,000) each and in not less than twenty (20) or more than fifty (50) series. Each series must be for the amount as provided by the ordinance.

(B) The bonds must be payable one (1) series each year, beginning on July 1 of the fifth year after the issue of the bonds.

(C) The bonds must be negotiable as inland bills of exchange.

(D) The bonds must bear interest at the rate of not more than six percent (6%) a year, payable semiannually on July 1 and January 1 of each year.

(3) Authorize the city controller **or the city clerk-treasurer,** if applicable, and mayor, in advertising for the sale of bonds, to ask for competitive bids on the bonds on any series of not less than twenty (20) nor more than fifty (50). The city controller **or the city clerk-treasurer,** if applicable, and mayor may accept the bid that, in their judgment, is the most advantageous bid to the city.

(e) Bonds issued under this chapter are exempt from taxation for all purposes.

(f) A series of bonds issued under this chapter may not be for less than two percent (2%) of the total amount of bonds issued.

(g) The proceeds of bonds sold under this chapter by the city, including any premium on the bonds, must be kept as a separate and specific fund, to be known as the World War memorial fund. Money in the fund may be used only for any of the purposes described in section 2 of this chapter.

(h) The city legislative body may, by ordinance, transfer to the World War memorial bond fund any surplus finally remaining in the World War memorial fund, after all the demands on the city for money in the World War memorial fund have been paid and discharged.

(i) A suit to question the validity of any bond issued under this chapter may not be instituted after the date set for the sale of the bonds. All bonds, beginning on the date set for the sale of the bonds, are incontestable for any cause.

SECTION 45. IC 10-18-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) The legislative body of a city may, upon the recommendation of the mayor and city controller **or city clerk-treasurer,** if applicable, of the city, instead of selling bonds as provided in section 5 of this chapter, sell bonds:

(1) with a maturity of not more than ten (10) years;

(2) for any of the purposes authorized by this chapter;

(3) at a rate of interest not more than six percent (6%) a year, payable semiannually; and

(4) payable at their maturity, but not later than ten (10) years after the date of the issuance of the bonds.

If the bonds are issued for a period longer than five (5) years, at least two percent (2%) of the total issue of the bonds must mature each year after the fifth year, and the balance must mature and be paid or refunded not later than ten (10) years after the date of issuance.

(b) Bonds issued under this section, the taxes to pay the bonds as they mature, and interest accruing on the bonds must be levied in accordance with sections 5 and 6 of this chapter.

(c) The city's legislative body may refund bonds sold under this section with other bond issues in accordance with section 5 and other provisions of this chapter relating to the sale of bonds. The city's legislative body may name the date when the first series of refunding bonds is due. However, the due date of the first series due may not be more than five (5) years from the date of issue.

SECTION 46. IC 11-13-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A court or division of a court authorized to impose probation shall appoint one (1) or more probation officers, depending on the needs of the court, except that two (2) or more divisions within a court, two (2) or more courts within a county, or two (2) or more courts not in the same county may jointly appoint and employ one (1) or more probation officers for the purpose of meeting the requirements of this section.

(b) A person may be appointed as a probation officer after the effective date established by the judicial conference of Indiana only if that person meets the minimum employment qualifications adopted by the conference, except that this requirement does not apply to any person certified as a qualified probation officer before that effective date. Any uncertified person appointed as a probation officer after the effective date who fails to successfully complete the written examination established under section 8 of this chapter within six (6) months after the date of the person's appointment is prohibited from exercising the powers of a probation officer as granted by law.

(c) Probation officers shall serve at the pleasure of the appointing court and are directly responsible to and subject to the orders of the court. The amount and time of payment of salaries of probation officers shall be fixed by the county, city, or town fiscal body in accordance with the salary schedule adopted by the county, city, or town fiscal body under IC 36-2-16.5. The salary of a probation officer shall be paid out of the county, city, or town treasury by the county auditor, ~~or~~ city controller, **or city clerk-treasurer.** Probation officers are entitled to their actual expenses necessarily incurred in the performance of their duties. Probation officers shall give a bond if the court so directs in a sum to be fixed by the court.

(d) A court, or two (2) or more courts acting jointly, may designate a probation officer to direct and supervise the work of the probation department.

SECTION 47. IC 32-21-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. 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 **or clerk-treasurer** 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.

SECTION 48. IC 32-24-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter, "fiscal officer" means:

(1) the city controller of a consolidated city; ~~or~~
(2) the city controller or the city clerk-treasurer of a second class city;
~~(2)~~ **(3)** the city clerk-treasurer of a third class city; or
~~(3)~~ **(4)** the town clerk-treasurer of a town.

SECTION 49. IC 33-35-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The officers of a city court are a:

(1) judge;
(2) clerk; and
(3) bailiff.

However, in third class cities **and in second class cities that elect a clerk-treasurer,** the judge may act as clerk and perform all duties of the clerk of the court or appoint a clerk of the court. If the judge does not act as clerk of the court or appoint a clerk of the court, the city clerk-treasurer elected under IC 3-10-6 shall perform the duties of the clerk of the city court.

(b) The clerk is an officer of a town court. The judge of a town court may act as clerk and perform all duties of the clerk of the court or appoint a clerk of the court. If the judge does not act as a clerk of the court or appoint a clerk of the court, the town clerk-treasurer elected under IC 3-10-6 or IC 3-10-7 shall perform the duties of the clerk of the town court.

(c) The clerk and bailiff may not receive any fees or compensation other than their salaries.

SECTION 50. IC 33-35-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) In **a** second class ~~cities,~~ **city that does not elect a clerk-treasurer,** the city clerk is the clerk of the city court.

(b) In a second class city that is not described in subsection (a) and ~~the city clerk of~~ **in** a third class city, **the clerk-treasurer** is the clerk of the city court if the judge does not serve as clerk or appoint a clerk under section 1 of this chapter.

~~(b)~~ **(c)** A city clerk **or city clerk-treasurer** of a second class city, a city clerk-treasurer of a third class city, or an appointed clerk in a third class city who serves as the clerk of the city court shall give bond as prescribed in this chapter.

~~(c)~~ **(d)** The clerk may administer oaths.

~~(d)~~ **(e)** The clerk of a city or town court shall:

(1) issue all process of the court, affix the seal of the court to the process, and attest to the process;
(2) keep a complete record and docket of all cases showing:
(A) the name of a person who was arrested and brought before the court;
(B) the disposition of the case; and
(C) an account of the:
(i) fees;
(ii) fines;
(iii) penalties;
(iv) forfeitures;
(v) judgments;
(vi) executions;
(vii) decrees; and
(viii) orders;
in as near to the same manner as the records are kept by the clerk of the circuit court; and
(3) collect all:
(A) fees;
(B) fines;
(C) penalties and forfeitures;
(D) judgments;
(E) executions; and
(F) money;
accruing to the city or town from the enforcement of ordinances.

~~(e)~~ **(f)** At the close of each week, the clerk shall make and deliver to the city controller of a second class city, **clerk-treasurer of a second class city,** clerk-treasurer of a third class city, or clerk-treasurer of a town a written report of all cases in which the clerk has received or collected any fines or forfeitures due the city or town. The clerk shall then pay over the money to the controller or clerk-treasurer and take a receipt for the payment.

~~(f)~~ **(g)** At the end of each month, the clerk shall make out and deliver to the county treasurer of the county in which the city or town is located a written report of all cases in which the clerk has received or collected any fines or forfeitures due the state during the month and pay to the county treasurer all fines or forfeitures collected, taking a receipt for the payment.

~~(g)~~ **(h)** In cities in which the county treasurer rather than the city controller receives city money for deposit, the clerk shall report and deliver the money to the county treasurer.

~~(h)~~ **(i)** The clerk shall deposit all court costs collected by the clerk in accordance with IC 33-37-7-12. The clerk shall distribute the state and county share of court costs collected in accordance with IC 33-37-7-7 or IC 33-37-7-8.

SECTION 51. IC 33-35-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) This section applies after June 30, 2005.

(b) A clerk of a city court in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall deposit all court costs collected by the clerk in accordance with IC 33-37-7-12.

(c) The fees received by the controller ~~from the clerk~~ **or the city clerk-treasurer** shall be paid into the city treasury at the time of the semiannual settlement for city revenue.

~~(c)~~ **(d)** If the party instituting an action or a proceeding recovers judgment, the judgment must also include as costs an amount equal to the small claims costs fee and the small claims service fee prescribed under IC 33-37-4-5 or IC 33-37-4-6.

~~(d)~~ **(e)** Money paid in advance for costs remaining unexpended at the time a civil action or proceeding is terminated, whether by reason of dismissal or otherwise, must be returned to the party or parties making payment. However, this section does not apply to civil actions or proceedings instituted by or on behalf of the state or any of the state's political subdivisions.

SECTION 52. IC 36-1-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. "Clerk" means:

(1) clerk of the circuit court, for a county;
(2) county auditor, for a board of county commissioners or county council;
(3) clerk of the city-county council, for a consolidated city;
(4) city clerk **or city clerk-treasurer** for a second class city;
(5) clerk-treasurer, for a third class city; or
(6) clerk-treasurer, for a town.

SECTION 53. IC 36-1-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. "Fiscal officer" means:

(1) auditor, for a county;
(2) controller, for a consolidated city; ~~or~~
(3) controller or clerk-treasurer for a second class city;
~~(3)~~ **(4)** clerk-treasurer, for a third class city;
~~(4)~~ **(5)** clerk-treasurer, for a town; or
~~(5)~~ **(6)** trustee, for a township.

SECTION 54. IC 36-2-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 13. **(a) Except as provided in subsection (b),** the compensation of an elected county officer may not be changed in the year for which it is fixed. The compensation of other county officers, deputies, and employees or the number of each may be changed at any time on:

(1) the application of the county fiscal body or the affected officer, department, commission, or agency; and
(2) a majority vote of the county fiscal body.

(b) In the year in which a newly elected county officer takes office, the county fiscal body may at any time change the compensation for holding the county office for that year if:

(1) the county officer requests the compensation change or, in the case of the county executive body, a majority of the county executive body requests the change; and

(2) the county fiscal body votes to approve the change.

SECTION 55. IC 36-4-1-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.1. (a) Except as provided in subsection (b), a third class city remains a third class city even though the city attains a population of at least thirty-five thousand (35,000) at a federal decennial census.

(b) The legislative body of a city to which subsection (a) applies may, by ordinance, adopt second class city status.

(c) After June 30, 2005, a third class city may, in the ordinance adopting second class status, choose to elect a city clerk-treasurer of the second class city. A city that adopts an ordinance to elect a city clerk-treasurer of the second class city under this subsection may not elect or appoint the following:

(1) A city clerk.

(2) A city controller.

SECTION 56. IC 36-4-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The legislative body shall hold its first regular meeting ~~in its chamber at 7:30 p.m. on the first Monday~~ in January after its election. In subsequent months, the legislative body shall hold regular meetings at least once a month, unless its rules require more frequent meetings.

(b) A special meeting of the legislative body shall be held when called by the city executive or when called under the rules of the legislative body.

SECTION 57. IC 36-4-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) This subsection applies only to second class cities. At its first regular meeting under section 7 of this chapter, and ~~on the first Monday of~~ each succeeding January, the legislative body shall choose from its members a president and a vice president.

(b) This subsection applies only to third class cities. The city executive shall preside at all meetings of the legislative body, but may vote only in order to break a tie. At its first regular meeting under section 7 of this chapter, and ~~on the first Monday of~~ each succeeding January, the legislative body shall choose from its members a president pro tempore to preside whenever the executive is absent.

SECTION 58. IC 36-4-6-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. (a) The legislative body may, by ordinance, make loans of money for not more than ~~five (5)~~ **ten (10)** years and issue notes for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the city, and the total amount of outstanding loans under this subsection may not exceed five percent (5%) of the city's total tax levy in the current year (excluding amounts levied to pay debt service and lease rentals). Loans under this subsection shall be made in the same manner as loans made under section 19 of this chapter, except that:

(1) the ordinance authorizing the loans must pledge to their payment a sufficient amount of tax revenues over the ensuing ~~five (5)~~ **ten (10)** years to provide for refunding the loans; and

(2) the loans must be evidenced by notes of the city in terms designating the nature of the consideration, the time and place payable, and the revenues out of which they will be payable.

Notes issued under this subsection are not bonded indebtedness for purposes of IC 6-1.1-18.5.

(b) The legislative body may, by ordinance, make loans and issue notes for the purpose of refunding those loans in anticipation of revenues of the city that are anticipated to be levied and collected during the term of the loans. The term of a loan made under this subsection may not be more than ~~five (5)~~ **ten (10)** years. Loans under this subsection shall be made in the same manner as loans made under section 19 of this chapter, except that:

(1) the ordinance authorizing the loans must appropriate and pledge to their payment a sufficient amount of the revenues in anticipation of which they are issued and out of which they are payable; and

(2) the loans must be evidenced by time warrants of the city in terms designating the nature of the consideration, the time and place payable, and the revenues in anticipation of which they are issued and out of which they are payable.

(c) An action to contest the validity of a loan made under this section must be brought within fifteen (15) days from the day on which the ordinance is adopted.

SECTION 59. IC 36-4-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) This section does not apply to compensation paid by a city to members of its police and fire departments.

(b) Subject to the approval of the city legislative body, the city executive shall fix the compensation of each appointive officer, deputy, and other employee of the city. The legislative body may reduce but may not increase any compensation fixed by the executive. Compensation must be fixed under this section ~~before~~

~~(1) September 20 for a third class city; and~~

~~(2) September 30 for a second class city;~~

not later than September 30 of each year for the ensuing budget year.

(c) Compensation fixed under this section may not be increased during the budget year for which it is fixed, but may be reduced by the executive.

(d) Notwithstanding subsection (b), the city clerk may, with the approval of the legislative body, fix the salaries of deputies and employees appointed under IC 36-4-11-4.

SECTION 60. IC 36-4-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. If the city legislative body does not pass the ~~ordinances~~ **ordinance** required by section 7 of this chapter ~~on or before~~

~~(1) September 20 for a third class city; and~~

~~(2) September 30 for a second class city;~~

before October 1 of each year, the most recent annual appropriations and annual tax levy are continued for the ensuing budget year.

SECTION 61. IC 36-4-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) This section applies only to second class cities.

(b) The city executive shall appoint:

(1) a city controller, **if the city does not elect a city clerk-treasurer;**

(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.

SECTION 62. IC 36-4-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A city clerk shall be elected under IC 3-10-6 by the voters of each second class city ~~and~~ **if the city does not elect a city clerk-treasurer.** A city clerk-treasurer shall be elected under IC 3-10-6 by the voters of each:

(1) second class city that establishes the office of city clerk-treasurer under IC 36-4-1-1.1; and

(2) third class city.

(b) The city clerk or clerk-treasurer is the clerk of each city.

(c) The city controller appointed under IC 36-4-9-6 is the fiscal officer of each second class city ~~and~~ **that does not elect a city clerk-treasurer.** The city clerk-treasurer is the fiscal officer of each:

(1) second class city that establishes the office of clerk-treasurer under IC 36-4-1-1.1; and

(2) third class city.

(d) The city controller of a second class city is not liable, in an

individual capacity, for any act or omission occurring in connection with the performance of the city controller's duty as fiscal officer of the second class city, unless the act or omission constitutes gross negligence or an intentional disregard of the controller's duty.

(e) The term of office of a city clerk or clerk-treasurer is four (4) years, beginning at noon on January 1 after election and continuing until a successor is elected and qualified.

SECTION 63. IC 36-4-10-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. (a) This section applies to:

(1) third class cities; **and**

(2) second class cities that elect a city clerk-treasurer.

(b) The fiscal officer is the head of the city department of finance. The fiscal officer shall do the following:

(1) Receive and care for all city money and pay the money out only on order of the approving body.

(2) Keep accounts showing when and from what sources the fiscal officer has received city money and when and to whom the fiscal officer has paid out city money.

(3) Prescribe payroll and account forms for all city offices.

(4) Prescribe the manner in which creditors, officers, and employees shall be paid.

(5) Manage the finances and accounts of the city and make investments of city money.

(6) Prepare for the legislative body the budget estimates of miscellaneous revenue financial statements and the proposed tax rate.

(7) Issue all licenses authorized by statute and collect the fees fixed by ordinance.

(8) Serve as clerk of the board of public works by attending meetings, preparing agendas, and recording proceedings.

(9) Perform all other duties prescribed by statute.

(c) A fiscal officer is not liable in an individual capacity for an act or omission occurring in connection with the performance of the duties prescribed by subsection (b), unless the act or omission constitutes gross negligence or an intentional disregard of the fiscal officer's duties.

SECTION 64. IC 36-4-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) This section applies to ~~second class cities.~~ **a second class city that has a city controller.**

(b) The fiscal officer is the head of the city department of finance. The fiscal officer shall do the following:

(1) Prescribe the form of reports and accounts to be submitted to the department.

(2) Sign and issue all warrants on the city treasury.

(3) Audit and revise all accounts and trusts in which the city is concerned.

(4) Keep separate accounts for each item of appropriation made for each city department, including a statement showing the amount drawn on each appropriation, the unpaid contracts charged against it, and the balance remaining.

(5) At the end of each fiscal year, submit under oath to the city legislative body a report of the accounts of the city published in pamphlet form and showing revenues, receipts, expenditures, and the sources of revenues.

(6) Maintain custody of the records of the department and turn them over to the fiscal officer's successor in office.

(7) Perform duties prescribed by statute concerning the negotiation of city bonds, notes, and warrants.

(8) Keep a register of bonds of the city and of transfers of those bonds.

(9) Manage the finances and accounts of the city and make investments of city money, subject to the ordinances of the legislative body.

(10) Issue city licenses on payment of the license fee.

(11) Collect fees as fixed by ordinance.

(12) Pay into the city treasury, once each week, all fees and other city money collected by the department during the preceding week, specifying the source of each item.

(13) Prescribe payroll and account forms for all city offices.

(14) Prescribe the manner in which salaries shall be drawn.

(15) Prescribe the manner in which creditors, officers, and employees shall be paid.

(16) Provide that all salaries are payable monthly, unless the legislative body establishes more frequent payments.

(17) Notify the city executive of the failure of any city officer to collect money due the city or to pay city money into the city treasury.

(18) Draw warrants on the city treasury for miscellaneous city expenditures not made under the direction of a department and not specifically fixed by statute.

SECTION 65. IC 36-4-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) This section applies to third class cities **and to second class cities that elect a city clerk-treasurer.**

(b) The clerk shall appoint the number of deputies and employees needed for the effective operation of the office, with the approval of the city legislative body. The clerk's deputies and employees serve at the clerk's pleasure.

(c) If a city owns a utility and the clerk is directly responsible for the billing and collection of that utility's rates and charges, the clerk shall appoint those employees who are also responsible for that billing and collection. These employees serve at the clerk's pleasure.

(d) Whenever the city court judge does not serve as clerk of the city court or appoint a clerk to serve as clerk of the city court under IC 33-35-3-1, the clerk shall serve as clerk of the city court.

SECTION 66. IC 36-5-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) The legislative body may issue bonds for the purpose of procuring money to be used in the exercise of the powers of the town and for the payment of town debts. However, a town may not issue bonds to procure money to pay current expenses.

(b) Bonds issued under this section are payable in the amounts and at the times determined by the legislative body.

(c) Bonds issued under this section are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to the filing of a petition requesting the issuance of bonds and giving notice of the petition, the giving of notice of a hearing on the appropriation of the proceeds of bonds, the right of taxpayers to appear and be heard on the proposed appropriation, the approval of the appropriation by the department of local government finance, the right of taxpayers to remonstrate against the issuance of bonds, and the sale of bonds at public sale for not less than their par value.

(d) The legislative body may, by ordinance, make loans of money for not more than ~~five (5)~~ **ten (10)** years and issue notes for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the town, and the total amount of outstanding loans under this subsection may not exceed five percent (5%) of the town's total tax levy in the current year (excluding amounts levied to pay debt service and lease rentals). Loans under this subsection shall be made as follows:

(1) The ordinance authorizing the loans must pledge to their payment a sufficient amount of tax revenues over the ensuing ~~five (5)~~ **ten (10)** years to provide for refunding the loans.

(2) The loans must be evidenced by notes of the town in terms designating the nature of the consideration, the time and place payable, and the revenues out of which they will be payable.

(3) The interest accruing on the notes to the date of maturity may be added to and included in their face value or be made payable periodically, as provided in the ordinance.

Notes issued under this subsection are not bonded indebtedness for purposes of IC 6-1.1-18.5.

SECTION 67. IC 36-5-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) The legislative body may, by ordinance, make loans and issue notes for the purpose of refunding those loans in anticipation of revenues of the town that are anticipated to be levied and collected during the term of the loans. The term of a loan made under this subsection may not be more than ~~five (5)~~ **ten (10)** years. Loans under this section shall be made in the same manner as loans made under section 11(b) and 11(c) of this chapter, except that:

(1) the ordinance authorizing the loans must appropriate and pledge to the payment of the loans a sufficient amount of the revenues in anticipation of which the loans are issued and out of

which the loans are payable; and

(2) the loans must be evidenced by time warrants of the town in terms designating the nature of the consideration, the time and place payable, and the revenues in anticipation of which the loans are issued and out of which the loans are payable.

(b) An action to contest the validity of a loan made under this section must be brought within fifteen (15) days from the day on which the ordinance is adopted.

SECTION 68. IC 36-6-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) This section does not apply to the appropriation of money to pay a deputy, an employee, or a technical adviser that assists a township assessor with assessment duties or to an elected township assessor.

(b) The township legislative body shall fix the:

(1) salaries;

(2) wages;

(3) rates of hourly pay; and

(4) remuneration other than statutory allowances;

of all officers and employees of the township.

(c) Subject to subsection (d), the township legislative body may reduce the salary of an elected or appointed official. However, **except as provided in subsection (i),** the official is entitled to a salary that is not less than the salary fixed for the first year of the term of office that immediately preceded the current term of office.

(d) Except as provided in ~~subsection~~ **subsections** (e) **and (i),** the township legislative body may not alter the salaries of elected or appointed officers during the fiscal year for which they are fixed, but it may add or eliminate any other position and change the salary of any other employee, if the necessary funds and appropriations are available.

(e) In a township that does not elect a township assessor under IC 36-6-5-1, the township legislative body may appropriate available township funds to supplement the salaries of elected or appointed officers to compensate them for performing assessing duties. However, in any calendar year no officer or employee may receive a salary and additional salary supplements which exceed the salary fixed for that officer or employee under subsection (b).

(f) If a change in the mileage allowance paid to state officers and employees is established by July 1 of any year, that change shall be included in the compensation fixed for the township executive and assessor under this section, to take effect January 1 of the next year. However, the township legislative body may by ordinance provide for the change in the sum per mile to take effect before January 1 of the next year.

(g) The township legislative body may not reduce the salary of the township executive without the consent of the township executive during the term of office of the township executive as set forth in IC 36-6-4-2.

(h) This subsection applies when a township executive dies or resigns from office. The person filling the vacancy of the township executive shall receive at least the same salary the previous township executive received for the remainder of the unexpired term of office of the township executive (as set forth in IC 36-6-4-2), unless the person consents to a reduction in salary.

(i) In a year in which there is not an election of members to the township legislative body, the township legislative body may by unanimous vote reduce the salaries of the members of the township legislative body by any amount.".

Page 10, delete lines 1 through 21.

Page 16, after line 5, begin a new paragraph and insert:

"SECTION 74. IC 36-7-17-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) A property for which no one applies in two (2) successive drawings held under this chapter may be sold at public auction to the highest bidder.

(b) The proceeds of the sale of real property acquired under IC 6-1.1-24-6.5 or IC 6-1.1-25-7.5 shall be applied to the cost of the sale, including advertising and appraisal.

(c) If any proceeds remain after payment of the costs under subsection (b), the proceeds shall be applied to the payment of taxes removed from the tax duplicate under IC 6-1.1-24-6.5(e) or ~~IC 6-1.1-25-7.5(e).~~ **IC 6-1.1-25-7.5.**

(d) If any proceeds remain after payment of the taxes under subsection (c), the proceeds shall be deposited in the county general fund.

SECTION 75. IC 36-7-17.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 17.5. Residential Redevelopment Areas

Sec. 1. This chapter applies to:

(1) a consolidated city; and

(2) a second class city.

Sec. 2. As used in this chapter, "affordable housing" means residential property that is affordable for individuals or families earning not more than eighty percent (80%) of the area's median income, as determined by the United States Department of Housing and Urban Development.

Sec. 3. As used in this chapter, "authority" refers to the Indiana housing finance authority.

Sec. 4. As used in this chapter, "city" means a consolidated city or a second class city.

Sec. 5. As used in this chapter, "commission" means:

(1) the metropolitan development commission in a consolidated city; or

(2) a redevelopment commission established by a second class city under IC 36-7-14-3.

Sec. 6. As used in this chapter, "rehabilitation" means the remodeling, repair, or betterment of real property in any manner or any enlargement or extension of real property in which depreciable rehabilitation expenditures of at least twenty-five thousand dollars ($25,000) are incurred.

Sec. 7. As used in this chapter, "residential redevelopment area" means a geographic area of a city that meets the following criteria:

(1) The area is zoned primarily for residential development.

(2) The area suffers from deteriorated housing stock or environmental contamination.

(3) The area is unlikely to be developed by the ordinary operation of private enterprise under the normal regulatory scheme without resorting to the powers allowed under this chapter.

(4) The redevelopment of the area would benefit the health, welfare, and safety of the residents of the city.

Sec. 8. (a) A commission may designate a geographic area of the city as a residential redevelopment area if the proposed area was previously developed as a residential or commercial area and the commission finds the following:

(1) That at least twenty percent (20%) of the real estate parcels in the area are vacant or contain buildings requiring rehabilitation.

(2) That at least fifty percent (50%) of the families and individuals living in the proposed residential redevelopment area earn less than the area's median income, as determined by the United States Department of Housing and Urban Development.

(3) That there is a documented need for affordable housing in the city.

(b) To designate an area as a residential redevelopment area, the commission must also find at least two (2) of the following:

(1) That the rate of residential investment in the area has been minimal in recent years.

(2) That the growth rate of the property tax base in the area is less than the growth rate of the property tax base of the city.

(3) That there is a significant number of parcels in the area with respect to which there are delinquent property tax bills.

(4) That the number of building and safety code citations issued in the area is proportionately greater than the number of citations issued in the remainder of the city.

(5) That there is a documented need for environmental or other site remediation in the area, including the existence of old utility lines and underground storage tanks.

Sec. 9. (a) To designate a residential redevelopment area, a commission must adopt a plan for the redevelopment of the area. The plan must include the following:

(1) A specific description of the geographic area, including street boundaries and other pertinent landmarks.

(2) A general description of the types of investment in new or rehabilitated structures and the general location of the structures within the area.

(3) A requirement that at least forty percent (40%) of the housing in the area will be leased or sold to individuals earning not more than eighty percent (80%) of the area's median income as determined by the United States Department of Housing and Urban Development.

(4) A list of the incentives specified in section 10(d) of this chapter.

(5) Any restrictions imposed on assessed valuation deductions granted under IC 6-1.1-12.4.

(b) The plan may permit the commission to waive a development requirement specified within a zoning ordinance applying to the area if the commission determines that compliance with the development requirement would impede the redevelopment of the area.

Sec. 10. (a) As used in this section, "residential redevelopment area" means a residential redevelopment area that:

(1) is designated in the resolution under section 12 of this chapter; and

(2) is administered under a redevelopment plan approved by the authority under section 11 of this chapter.

(b) A commission may include any of the following incentives in the redevelopment plan:

(1) An assessed valuation deduction for the redevelopment or rehabilitation of residential property located in the residential redevelopment area granted under IC 6-1.1-12.4.

(2) An assessed value deduction, as determined by the commission, to limit the increase in the property tax liability on a resident of a residential redevelopment area who meets all of the following criteria:

(A) The resident owns and has continuously lived in a residence within a area designated as a residential redevelopment area for at least five (5) years before the designation of the area.

(B) The resident has income that does not exceed eighty percent (80%) of the area median income, as determined by the United States Department of Housing and Urban Development.

(C) The resident is eligible to receive social security benefits under 42 U.S.C. 402, 42 U.S.C. 423, and 42 U.S.C. 1382.

(c) The commission may impose either of the following restrictions upon an assessed valuation deduction granted under IC 6-1.1-12.4:

(1) A limitation on the dollar amount of the deductions granted in the residential redevelopment area.

(2) Any reasonable condition related to the purposes of this chapter.

A restriction described in this subsection must be included in a redevelopment plan adopted under section 9 of this chapter.

Sec. 11. (a) If a commission wishes to include a tax incentive described in section 10(d) of this chapter in the commission's redevelopment plan for the proposed residential redevelopment area, the commission must send the redevelopment plan to the city's legislative body for approval. The legislative body may adopt a resolution approving the proposed redevelopment plan. Upon obtaining the approval of the legislative body, the commission must send the redevelopment plan to the authority for approval before adopting a declaratory resolution designating the area under section 12 of this chapter.

(b) The authority shall review a redevelopment plan received under subsection (a) for compliance with this chapter.

(c) Not more than sixty (60) days after receiving the plan, the authority shall issue an order either accepting or rejecting the plan based on whether or not the plan complies with this chapter.

(d) An order rejecting the redevelopment plan issued under subsection (c) must include the reasons that the plan does not comply with this chapter.

(e) If a redevelopment plan is rejected under this section, the commission may amend the plan and resubmit the plan to the authority. The authority shall review a resubmitted plan and either accept or reject the resubmitted plan not more than thirty (30) days after receiving the resubmitted plan.

(f) If the authority accepts a plan under this section, the authority shall certify the plan's compliance with this chapter to the commission. The authority shall send a copy of the certification to the department of state revenue.

Sec. 12. To designate a residential redevelopment area, a commission must adopt a declaratory resolution that includes a plan for the redevelopment of the area under section 9 of this chapter.

Sec. 13. (a) The commission shall publish notice of a public hearing on the declaratory resolution to designate a residential redevelopment area in the manner prescribed by IC 5-3-1. The notice must include a copy of the declaratory resolution.

(b) At the hearing required by this section, the commission shall hear oral testimony and accept the written testimony of persons affected by the designation of the area.

Sec. 14. (a) After the hearing on the declaratory resolution, the commission must adopt a resolution that rescinds, amends, or confirms the declaratory resolution.

(b) After the commission adopts a resolution confirming or amending the declaratory resolution, the commission must publish notice of the resolution in accordance with IC 5-3-1.

(c) Not more than ten (10) days after the publication of the resolution under subsection (b), an aggrieved party may appeal the designation of the area by filing a petition with a circuit or superior court in the county where the area is located.

Sec. 15. A commission may exercise the following powers under this chapter:

(1) Apply for state and federal grants to be used for the redevelopment of the area.

(2) Acquire property in the same manner as an agency may acquire property under IC 36-7-17-3.

(3) Transfer property to an eligible entity under IC 6-1.1-24.

(4) Exercise the power of eminent domain within a residential redevelopment area:

(A) in accordance with IC 36-7-14-20 and IC 36-7-14-32.5, for a redevelopment commission; or

(B) in accordance with IC 36-7-15.1-13 and IC 36-7-15.1-22.5, for a metropolitan development commission.

Sec. 16. The maximum number of areas that a commission may designate is:

(1) two (2) in the case of a consolidated city;

(2) two (2) in the case of a second class city in which at least twenty percent (20%) of the households in the city are below the poverty level as established by the most recent United States census; or

(3) one (1) in the case of all other second class cities.

SECTION 76. IC 36-8-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A majority of the members of the safety board constitutes a quorum. The board shall adopt rules concerning the time of holding regular and special meetings and of giving notice of them. The board shall elect one (1) of its members chairman, who holds the position as long as prescribed by the rules of the board. The board shall record all of its proceedings.

(b) The members of the safety board may act only as a board. No member may bind the board or the city except by resolution entered in the records of the board authorizing ~~him~~ **the member** to act in its behalf as its authorized agent.

(c) The safety board shall appoint:

(1) the members and other employees of the police department other than those in an upper level policymaking position;

(2) the members and other employees of the fire department other than those in an upper level policymaking position;

(3) a market master; and

(4) other officials that are necessary for public safety purposes.

(d) The annual compensation of all members of the police and fire departments and other appointees shall be fixed by ordinance of the legislative body ~~before~~

~~(1) September 20 for a second class city; and~~

~~(2) September 20 for a third class city;~~

not later than September 30 of each year for the ensuing budget

year. The ordinance may grade the members of the departments and regulate their pay by rank as well as by length of service. If the legislative body fails to adopt an ordinance fixing the compensation of members of the police or fire department, the safety board may fix their compensation, subject to change by ordinance.

(e) The safety board, subject to ordinance, may also fix the number of members of the police and fire departments and the number of appointees for other purposes and may, subject to law, adopt rules for the appointment of members of the departments and for their government.

(f) The safety board shall divide the city into police precincts and fire districts.

(g) The police chief has exclusive control of the police department, and the fire chief has exclusive control of the fire department, subject to the rules and orders of the safety board. In time of emergency, the police chief and the fire chief are, for the time being, subordinate to the city executive and shall obey ~~his~~ **the city executive's** orders and directions, notwithstanding any law or rule to the contrary.

SECTION 77. IC 36-9-36-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The following improvements may be made under this chapter by a county:

(1) Sanitary sewers and sanitary sewer tap-ins.
(2) Sidewalks.
(3) Curbs.
(4) Streets.
(5) Storm sewers.
(6) Lighting.
(7) Emergency warning sirens.
~~(7)~~ **(8)** Any other structures necessary or useful for the collection, treatment, purification, and sanitary disposal of the liquid waste, sewage, storm drainage, and other drainage of a municipality.

(b) The following improvements may be made under this chapter by a municipality:

(1) Sidewalks.
(2) Curbs.
(3) Streets.
(4) Alleys.
(5) Paved public places.
(6) Lighting.
(7) A water main extension for a municipality that owns and operates a water utility.
(8) Emergency warning sirens.

SECTION 78. IC 32-21-8 IS REPEALED [EFFECTIVE JULY 1, 2005].

SECTION 79. [EFFECTIVE JULY 1, 2005] **IC 6-1.1-12.4, as added by this act, applies to property tax assessments made after December 31, 2005, for property taxes first due and payable after December 31, 2006.**

SECTION 80. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to SB 524 as reprinted March 1, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

HINKLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Small Business, to which was referred Engrossed Senate Bill 536, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 2. IC 6-3.1-29 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 29. Life Long Learning Tax Credit

Sec. 1. As used in this chapter, "account" refers to an account that qualifies as a life long learning account under this chapter.

Sec. 2. As used in this chapter, "credit" refers to a life long learning tax credit granted under this chapter against state tax liability.

Sec. 3. As used in this chapter, "department" refers to the department of workforce development.

Sec. 4. As used in this chapter, "eligible education expense" means a payment for education, including tuition and fees and similar payments, books, supplies, equipment, and tools or supplies that may be retained by the employee after completion of a course of instruction, other than the following:

(1) Meals, lodging, or transportation.
(2) Any course or other education involving sports, games, or hobbies.

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

(1) A full-time employee of a participating employer.
(2) A part-time employee of a participating employer, if the part-time employee has the part-time employee's principal place of business with the participating employer in Indiana and the participating employer elects in the participating employer's application to the department under this chapter to include part-time employees in the participating employer's plan.

Sec. 6. As used in this chapter, "full-time employee" means an individual who:

(1) is employed for consideration for at least thirty-five (35) hours each week or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment; and
(2) has the individual's principal place of employment in Indiana with a participating employer.

Sec. 7. As used in this chapter, "participating employer" means a corporation, person, or pass through entity that:

(1) employs at least one (1) eligible employee; and
(2) is selected under this chapter to participate in a pilot life long learning tax credit program under this chapter.

Sec. 8. As used in this chapter, "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.

Sec. 9. As used in this chapter, "plan" refers to a life long learning plan that provides for the payment of eligible education expenses through an account.

Sec. 10. 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 27-1-18-2 (the insurance premiums tax); 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 chapter.

Sec. 11. The pilot life long learning tax credit program is established to encourage life long learning practices by eligible employees. The department shall administer the program.

Sec. 12. (a) An eligible employee that makes an employee contribution to an account is eligible for a credit in a taxable year against the employee's state tax liability in the taxable year.

(b) The amount of the credit is equal to the least of the following:

(1) The employee contribution made by an eligible employee to the account in the taxable year.
(2) Five hundred dollars ($500).
(3) The amount of the credits allocated by the department to the eligible employee for the taxable year.

Sec. 13. (a) A participating employer that makes an employer matching contribution to an account is eligible for a credit in a taxable year against the participating employer's state tax liability in the taxable year.

(b) The amount of the credit is equal to the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the lesser of the following for each account:

(A) The participating employer contribution made to the account of an eligible employee in the taxable year.
(B) Five hundred dollars ($500).
STEP TWO: Determine the sum of the STEP ONE amounts.
STEP THREE: Determine the lesser of the following:
(A) The STEP TWO amount.
(B) The amount of the credit allocated by the department to the participating employer for the taxable year.

Sec. 14. (a) If:
(1) a pass through entity does not have state income tax liability against which the credit provided by this chapter may be applied; and
(2) the pass through entity would be eligible for a credit under this chapter if the pass through entity were a taxpayer;
a shareholder, partner, or member of the pass through entity is entitled to a credit under this chapter.

(b) Subject to this chapter, the amount of the credit to which a shareholder, partner, or member is entitled is equal to:
(1) the credit determined for the pass through entity for the taxable year as if the pass through entity were a taxpayer with state tax liability in the amount of the credit; multiplied by
(2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 15. (a) If the amount of the credit provided under this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to subsequent taxable years until the entire credit is used. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit.

Sec. 16. To receive the credit, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department of state revenue. The taxpayer shall submit to the department of state revenue the information that the department of state revenue determines is necessary for the department of state revenue to determine whether the taxpayer is eligible for the credit.

Sec. 17. To qualify as a life long learning plan under this chapter, the plan must meet all of the following criteria:
(1) Be in writing.
(2) Cover at least all full-time employees of the participating employer and, if the participating employer elects to cover part-time employees under the plan, all part-time employees.
(3) Provide for the establishment of an account for each eligible employee to which:
(A) an eligible employee makes contributions for the payment of eligible education expenses; and
(B) the participating employer makes matching contributions on a dollar for dollar basis for the purpose of paying eligible education expenses.
However, the plan may limit the maximum amount that the participating employer must match. The limitation must uniformly apply to all full-time employees of the employer. If the participating employer elects to have part-time employees participate in the plan, the participating employer may impose a different uniform limitation for part-time employees.
(4) Subject to section 18 of this chapter, provide that the account may be used only to pay eligible education expenses incurred by or on behalf of an eligible employee for education selected at the sole discretion of the eligible employee.
(5) Provide that the availability of the plan does not reduce or substitute for any other education program provided by the participating employer, including the provision, by a participating employer, of courses of instruction for the participating employer's eligible employees (including books, supplies, and equipment).
(6) Provide procedures for dissemination of information about the plan, including the federal and state income tax consequences of the plan.
(7) Provide for reporting to the department of state revenue of the information prescribed by the department of state revenue.
(8) Provide procedures for the allocation of credits certified by the department for the participating employer's eligible employees among the participating employer's eligible employees.
(9) Be certified by the department as a plan.

Sec. 18. (a) To qualify as a life long learning account under this chapter, the account must meet all the following criteria:
(1) Be established and administered in accordance with a plan.
(2) Subject to this section, be used only to pay eligible education expenses incurred by or on behalf of an eligible employee for education selected at the sole discretion of the eligible employee.
(3) Be held by a trustee or fiduciary, including the treasurer of state, approved by the department.

(b) Money in an account that is contributed by an eligible employee is held in trust for the eligible employee. An eligible employee may withdraw the eligible employee's contribution to the account at any time for any purpose. However, if the amount is not withdrawn to:
(1) pay eligible education expenses; or
(2) transfer the money in the manner prescribed by the department of state revenue to the account of another participating employer;
the individual forfeits any tax benefit that the individual received under this chapter for the amount withdrawn. The department of state revenue shall prescribe a method for recovery of the tax benefit in the taxable year in which the event causing the forfeiture of the tax benefit occurs.

(c) An account may consist of gifts to an account in addition to contributions by an eligible employee or a participating employer. However, a gift to an account may be used only to pay eligible education expenses.

(d) Transfer of an unused employer contribution as an employer contribution to another account does not result in forfeiture of a tax benefit received under this chapter. However, the employer is not eligible for an additional credit for the amount transferred.

Sec. 19. A taxpayer that receives a credit for a contribution to an account is not entitled to a separate deduction for an eligible education expense in the taxable year that the eligible education expense is paid from the account. If the taxpayer deducted the eligible education expense in computing for federal income tax purposes:
(1) federal adjusted gross income in the case of an individual; or
(2) in the case of taxpayers other than an individual:
(A) federal taxable income (as defined in Section 63 of the Internal Revenue Code) in the case of corporations;
(B) federal life insurance company taxable income (as defined in Section 801 of the Internal Revenue Code) in the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law;
(C) federal taxable income (as defined in Section 832 of the Internal Revenue Code) in the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law; or
(D) federal taxable income (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) in the case of trusts and estates;
the taxpayer shall add the amount of the deduction back in determining state adjusted gross income under IC 6-3-1-3.5 and IC 6-5.5-1-2.

Sec. 20. The department shall establish a program to provide information to participating employers and eligible employees

about the life long learning tax credit program established by this chapter.

Sec. 21. (a) The department shall establish a program to certify participating employer and eligible employee contributions to an account as eligible for a credit. The program must provide that the participating employer applies for the credits on behalf of the participating employer and the participating employer's eligible employees. The program may permit an application to be made that covers more than one (1) taxable year.

(b) The total amount of credits approved in a state fiscal year may not exceed the amount transferred in the state fiscal year from the skills 2016 training fund to the state general fund under IC 22-4-24.5-1(c), less any administrative fees retained by the department under subsection (e). Qualifying applicants for a credit that apply to the department in the manner and in the form prescribed by the department shall be certified for a credit in the amount that the applicant estimates will be contributed to the accounts of eligible employees by lottery conducted by the department until the maximum amount of credits allowed under this section for a state fiscal year has been allocated among qualifying applicants. The certification may cover more than one (1) taxable year and need not match the state fiscal year of the transfer from the skills 2016 training fund to the year the credit is taken. However, the department may provide a procedure for an applicant that is denied a tax credit solely as a result of the cap imposed by this subsection to be given priority in the award of a credit in a subsequent state fiscal year. An award of the credit must indicate the part of the award that is for participating employer contributions and the part of the award that is available to eligible employees for eligible employee contributions.

(c) The certification of a credit under this section applies only to contributions made after the date of the certification.

(d) If the credits allocated to a participating employer or an eligible employee are not used as provided in the certification, the department may reallocate the unused credits to another qualified applicant in the order determined by the department.

(e) The department may retain from the amount transferred in a state fiscal year from the skills 2016 training fund to the state general fund under IC 22-4-24.5-1(c) an administrative allowance to reimburse the department for administering the pilot life long learning tax credit program.

Sec. 22. (a) The department shall provide for a study of the pilot life long learning tax credit program established by this chapter. The evaluation must include a fiscal analysis of the program, including an assessment of the effectiveness of the provisions of this chapter to:

(1) retain jobs;

(2) increase income; and

(3) increase the tax base.

The study must measure the extent to which life long learning practices are increased. The analysis may include a review of the practices and experiences of other states or political subdivisions with laws similar to this chapter.

(b) The department shall require employers applying for a credit under this chapter to provide the information that the department determines is necessary to carry out the study required by this section.

(c) The department shall report to the legislative council, not later than November 1 of each year in an electronic format under IC 5-14-6, on the progress of its study.

Sec. 23. Subject to the approval of the budget agency, the department may receive and accept gifts and other donations from any public or private source in its administration of the program.".

Page 3, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 6. IC 22-4-24.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The skills 2016 training fund is established to do the following:

(1) Administer the costs of the skills 2016 training program established by IC 22-4-10.5.

(2) Undertake any program or activity that furthers the purposes of IC 22-4-10.5.

(3) Refund skills 2016 training assessments erroneously collected and deposited in the fund.

(b) ~~Fifty-five~~ **Fifty-four** percent ~~(55%)~~ **(54%)** of the money in the fund shall be allocated to the state educational institution established under IC 20-12-61. The money so allocated to that state educational institution shall be used as follows:

(1) An amount to be determined annually shall be allocated to the state educational institution established under IC 20-12-61 for its costs in administering the training programs described in subsection (a). However, the amount so allocated may not exceed fifteen percent (15%) of the total amount of money allocated under this subsection.

(2) After the allocation made under subdivision (1), fifty percent (50%) shall be used to provide training to participants in joint labor and management building trades apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training.

(3) After the allocation made under subdivision (1), fifty percent (50%) shall be used to provide training to participants in joint labor and management industrial apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training.

(c) One percent (1%) of the money in the fund shall be transferred to the state general fund to replace revenue lost as the result of life long learning credits granted under IC 6-3.1-29 plus any administrative fees retained by the department of workforce development under IC 6-3.1-29-21(e).

~~(c)~~ **(d)** The remainder of the money in the fund shall be allocated as follows:

(1) An amount to be determined annually shall be set aside for the payment of refunds from the fund.

(2) The remainder of the money in the fund after the allocations provided for in ~~subsection~~ **subsections** (b) **and (c)** and subdivision (1) shall be allocated to other incumbent worker training programs.

~~(d)~~ **(e)** The fund shall be administered by the board. However, all disbursements from the fund must be recommended by the incumbent workers training board and approved by the board as required by IC 22-4-18.3-6.

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

~~(g)~~ **(h)** The fund consists of the following:

(1) Assessments deposited in the fund.

(2) Earnings acquired through the use of money belonging to the fund.

(3) Money received from the fund from any other source.

(4) Interest earned from money in the fund.

(5) Interest and penalties collected.

~~(h)~~ **(i)** All money deposited or paid into the fund is appropriated annually for disbursements authorized by this section.

~~(i)~~ **(j)** Not later than April 30 each year, the department shall prepare an annual report that shows the amount of unobligated money in the fund on that date.

~~(j)~~ **(k)** The incumbent workers training board may reallocate the unobligated money shown in the annual report required by subsection ~~(i)~~ **(j)** in accordance with subsections (b) and ~~(c)(2).~~ **(d)(2).**

~~(k)~~ **(l)** Any balance in the fund does not lapse but is available continuously to the department for expenditures consistent with this chapter.".

Page 4, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 10. [EFFECTIVE JULY 1, 2005] **IC 6-3.1-29, as added by this act, applies only to taxable years beginning after December 31, 2005.**".

Renumber all SECTIONS consecutively.

(Reference is to SB 536 as reprinted March 1, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 6, nays 5.

BORROR, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Technology, Research and Development, to which was referred Engrossed Senate Bill 566, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

"A BILL FOR AN ACT to amend the Indiana Code concerning health."

Page 3, line 4, delete "IC 16-40-3," and insert "**IC 16-40-4,**".
Page 3, line 39, delete "IC 16-40-3," and insert "**IC 16-40-4,**".
Page 3, line 40, delete "IC 16-40-3-1." and insert "**IC 16-40-4-1.**".
Page 4, line 2, delete "IC 16-40-3," and insert "**IC 16-40-4,**".
Page 4, line 3, delete "IC 16-40-3-2." and insert "**IC 16-40-4-2.**".
Page 4, line 6, delete "IC 16-40-3," and insert "**IC 16-40-4,**".
Page 4, line 7, delete "IC 16-40-3-3." and insert "**IC 16-40-4-3.**".
Page 4, line 10, delete "IC 16-40-3" and insert "IC 16-40-4".
Page 4, line 13, delete "3." and insert "**4.**".
Page 4, line 41, delete "2006" and insert "**2006,**".
Page 6, line 3, after "7." insert "**(a)**".
Page 6, between lines 11 and 12, begin a new paragraph and insert:

"**(b) Communications, including printed documents, by:**
(1) an employee;
(2) an officer;
(3) a governing board member; or
(4) an agent;
of a hospital (licensed under IC 16-21) for the purpose of collecting, identifying, reviewing, or producing data for a health care quality indicator data program under this chapter are confidential.".

(Reference is to SB 566 as reprinted March 1, 2005.)
and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

MURPHY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred Engrossed Senate Bill 568, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 36, delete ":".
Page 2, line 37, delete "(1)".
Page 2, line 37, delete "center; or" and insert "**center.**".
Page 2, run in lines 36 through 37.
Page 2, delete lines 38 through 40.
Page 2, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 3. IC 16-18-2-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.5. (a) "Abortion clinic", for purposes of IC 16-21-2, means a freestanding entity that performs surgical abortion procedures.**

(b) The term does not include the following:
(1) A hospital that is licensed as a hospital under IC 16-21-2.
(2) An ambulatory outpatient surgical center that is licensed as an ambulatory outpatient surgical center under IC 16-21-2.
(3) A physician's office as long as the surgical procedures performed at the physician's office are not primarily surgical abortion procedures.".

Page 3, line 12, after "centers," insert "**abortion clinics,**".
Page 3, line 27, after "centers," insert "**abortion clinics,**".
Page 3, line 36, delete "and".
Page 3, line 37, delete "." and insert "**; and**
(4) abortion clinics.".
Page 3, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 7. IC 16-21-2-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2.5. (a) The state department shall adopt rules under IC 4-22-2 to do the following concerning birthing centers and abortion clinics:**
(1) Establish minimum license qualifications.
(2) Establish the following requirements:
(A) Sanitation standards.
(B) Staff qualifications.
(C) Necessary emergency equipment.
(D) Procedures to provide emergency care.
(E) Quality assurance standards.
(F) Infection control.
(3) Prescribe the operating policies, supervision, and maintenance of medical records.
(4) Establish procedures for the issuance, renewal, denial, and revocation of licenses under this chapter. The rules adopted under this subsection must address the following:
(A) The form and content of the license.
(B) The collection of an annual license fee.
(5) Prescribe the procedures and standards for inspections.

(b) A person who knowingly or intentionally:
(1) operates a birthing center or an abortion clinic that is not licensed under this chapter; or
(2) advertises the operation of a birthing center or an abortion clinic that is not licensed under this chapter;
commits a Class A misdemeanor.".

Page 4, line 4, after "center," insert "**an abortion clinic,**".
Page 4, line 12, after "center," insert "**an abortion clinic,**".
Page 4, line 28, after "center," insert "**an abortion clinic,**".
Page 4, line 38, after "center," insert "**an abortion clinic,**".
Page 5, line 6, after "center," insert "**an abortion clinic,**".
Page 5, line 9, after "surgical center," insert "**an abortion clinic,**".
Page 5, line 17, delete "IC 16-21-2-2, as amended" and insert "**IC 16-21-2-2.5, as added**".
Page 5, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 14. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "state department" refers to the state department of health.**

(b) The state department shall, not later than December 31, 2005, establish licensing procedures and requirements for the licensure of abortion clinics as required under IC 16-21-2-2.5, as added by this act.

(c) An abortion clinic shall, not later than July 1, 2006:
(1) obtain the license required; and
(2) meet the requirements established;
by the state department under IC 16-21-2-2.5, as added by this act.

(d) This SECTION expires December 31, 2006.".

Renumber all SECTIONS consecutively.

(Reference is to SB 568 as printed February 25, 2005.)
and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

ALDERMAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 607, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-46-11.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. For purposes of this chapter, "health care interpreter" means a professional interpreter who works primarily in the field of health care, facilitating the **bilingual** oral communication among a:

(1) provider;
(2) patient; and
(3) patient's family.

SECTION 2. IC 16-46-11.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The commission on health care interpreters and translators is established. The ~~state department~~ **Indiana professional licensing agency** shall provide staff for the commission.

SECTION 3. IC 16-46-11.1-5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The commission consists of the following ~~fifteen (15)~~ **eleven (11)** members:

~~(1) One (1) member representing the state department.~~

~~(2) One (1) member representing local health departments.~~

~~(3)~~ **(1)** One (1) member representing the medical profession.

~~(4)~~ **(2)** One (1) member representing institutions of higher education in Indiana.

~~(5)~~ **(3)** Two (2) members representing patient advocacy groups.

~~(6)~~ **(4)** One (1) member representing community organizations.

~~(7)~~ **(5)** One (1) member representing interpreter professional associations.

~~(8)~~ **(6)** One (1) member representing translator professional associations.

~~(9)~~ **(7)** One (1) member representing hospitals.

~~(10)~~ **(8)** One (1) member representing the interagency state council on black and minority health.

~~(11) One (1) member representing the department of correction who is nominated by the commissioner of the department of correction.~~

~~(12) One (1) member representing the department of education who is nominated by the state superintendent of public instruction.~~

~~(13) One (1) member representing the office of Medicaid policy and planning who is nominated by the director of the office of Medicaid policy and planning.~~

~~(14) The executive director of the health professions bureau or the executive director's designee.~~

(9) One (1) member representing organizations for the deaf and hard of hearing.

(10) One (1) member who is not a health care professional and is associated with the health care interpreters or translators profession other than as a consumer.

The ~~state health commissioner~~ **governor** shall appoint the members of the commission. ~~designated by subdivisions (1) through (13).~~ The appointments made under this subsection must be made in a manner to maintain cultural and language diversity.

(b) The ~~state health commissioner~~ **commission** shall ~~designate.~~ **annually elect:**

(1) one (1) member **of the commission** as chairperson of the commission; and

(2) one (1) member **of the commission** as vice chairperson of the commission.

(c) ~~Except for the member of the commission designated by subsection (a)(14),~~ A member is appointed to a term of two (2) years or until a successor is appointed. A member may be reappointed to an unlimited number of terms.

(d) ~~Except for the member of the commission designated by subsection (a)(14),~~ If a member:

(1) resigns;

(2) dies; or

(3) is removed from the commission;

before the expiration of the member's term, the ~~state health commissioner~~ **governor** shall appoint a new member to serve for the remainder of the term.

~~(e) The expenses of the commission shall be paid from funds appropriated to the state department.~~

(e) The governor may remove a member of the commission for cause.

(f) Each member of the commission who is **not** a state employee is entitled to **the minimum salary per diem as provided under IC 4-10-11-2.1(b) and** 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 affirmative votes of a majority of the members appointed to the commission are required for the commission to take action on any measure.

(h) The commission shall meet quarterly or on the call of the chairperson.

SECTION 4. IC 16-46-11.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. **(a)** The commission shall **adopt rules under IC 4-22-2 to** do the following:

~~(1) Write bylaws concerning the operation of the commission.~~

~~(2) Define the terms "health care interpreter" and "health care translator".~~

~~(3) Review and determine the proper level of regulation or oversight that Indiana should have over health care interpreters and health care translators practicing in Indiana.~~

~~(4) Recommend the level and type of education necessary to perform the job of:~~

~~(A) a health interpreter; and~~

~~(B) a health care translator.~~

~~(5) Recommend standards that health care interpreters and health care translators should meet in order to practice in Indiana.~~

(1) Establish qualifications for certified health care interpreters, including proficiency standards in the following areas:

(A) Multiple languages.

(B) Ethics.

(C) Cultural competency.

(D) Knowledge of health care terminology and health care systems.

(2) Establish qualifications for registered qualified health care interpreters who meet basic competencies.

(3) Establish qualifications for certified health care translators, including proficiency standards in the following areas:

(A) Multiple languages.

(B) Ethics.

(C) Cultural competency.

(D) Knowledge of health care terminology and health care systems.

(E) Writing, proofreading, and editing skills.

(4) Establish qualifications for registered qualified health care translators who meet basic competencies.

(5) Establish a code of ethics for health care interpreters and translators.

(6) Provide examinations required for certification under this chapter.

(7) Establish renewal procedures.

(b) The commission shall establish fees for purposes of this chapter under IC 25-1-8-2.

SECTION 5. IC 16-46-11.1-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. (a) The hospital council established by IC 16-21-1-1 shall adopt criteria that allow a hospital licensed under IC 16-21-2 to provide a hospital in-service program to train health care interpreters and health care translators. The hospital council shall consider the qualifications established under section 6 of this chapter when determining the criteria for hospital in-service programs.**

(b) An individual who successfully completes a hospital health care interpreter or health care translator in-service program that:

(1) is administered by a hospital licensed under IC 16-21-2; and

(2) meets the requirements established by the hospital council;

meets the qualifications for registration and certification as a health care interpreter or a health care translator and is exempt from the examination provided under section 6(a) of this chapter.

SECTION 6. IC 16-46-11.1-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 8. An individual may not:**

(1) profess to be a:

(A) certified health care interpreter;

(B) certified health care translator;

(C) registered qualified health care interpreter; or

(D) registered qualified health care translator;

(2) use the title:

(A) certified health care interpreter;

(B) certified health care translator;

(C) registered qualified health care interpreter; or

(D) registered qualified health care translator; or

(3) use any other words, letters, abbreviations, or insignia indicating or implying that the individual is certified or registered under this chapter;

unless the individual is certified or registered under this chapter.

SECTION 7. IC 16-46-11.1-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9. An individual who violates this chapter commits a Class C infraction.**

SECTION 8. IC 25-1-2-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: 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 park 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) Health care interpreters and translators.

SECTION 9. IC 25-1-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) As used in this section, "license" includes all occupational and professional licenses, registrations, permits, and certificates issued under the Indiana Code, and "licensee" includes all occupational and professional licensees, registrants, permittees, and certificate holders regulated under the Indiana Code.

(b) This section applies to the following entities that regulate occupations or professions under the Indiana Code:

(1) Indiana board of accountancy.
(2) Indiana grain buyers and warehouse licensing agency.
(3) Indiana auctioneer commission.
(4) Board of registration for architects and landscape architects.
(5) State board of barber examiners.
(6) State board of cosmetology examiners.
(7) Medical licensing board of Indiana.
(8) Secretary of state.
(9) State board of dentistry.
(10) State board of funeral and cemetery service.
(11) Worker's compensation board of Indiana.
(12) Indiana state board of health facility administrators.
(13) Committee of hearing aid dealer examiners.
(14) Indiana state board of nursing.
(15) Indiana optometry board.
(16) Indiana board of pharmacy.
(17) Indiana plumbing commission.
(18) Board of podiatric medicine.
(19) Private detectives licensing board.
(20) State board of registration for professional engineers.
(21) Board of environmental health specialists.
(22) State psychology board.
(23) Indiana real estate commission.
(24) Speech-language pathology and audiology board.
(25) Department of natural resources.
(26) State boxing commission.
(27) Board of chiropractic examiners.
(28) Mining board.
(29) Indiana board of veterinary medical examiners.
(30) State department of health.
(31) Indiana physical therapy committee.
(32) Respiratory care committee.
(33) Occupational therapy committee.
(34) Social worker, marriage and family therapist, and mental health counselor board.
(35) Real estate appraiser licensure and certification board.
(36) State board of registration for land surveyors.
(37) Physician assistant committee.
(38) Indiana dietitians certification board.
(39) Indiana hypnotist committee.
(40) Attorney general (only for the regulation of athlete agents).
(41) Manufactured home installer licensing board.
(42) Home inspectors licensing board.
(43) Commission on health care interpreters and translators (IC 16-46-11.1-4).
~~(43)~~ **(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.".

Page 1, between lines 11 and 12, begin a new line block indented and insert:

"**(1) "Agency" means the Indiana professional licensing agency established by section 3 of this chapter.**".

Page 1, line 12, before "Board" begin a new line block indented and insert:

"**(2)**".

Page 1, line 14, delete ""Agency"".
Page 1, line 14, strike "means the".
Page 1, line 14, delete "Indiana professional".
Page 1, line 15, delete "licensing agency".
Page 1, line 15, strike "created by section 3 of this chapter.".

Page 2, between lines 29 and 30, begin a new line block indented and insert:

"**(23) Commission on health care interpreters and translators (IC 16-46-11.1-4).**".

Page 6, delete lines 19 through 32.

Page 7, line 39, strike "Access Indiana" and insert "**accessIndiana**".

Page 9, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 21. IC 25-1-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of

the attorney general.

"Licensee" means a person who is:

(1) licensed, certified, or registered by a board listed in this section; and

(2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects and landscape architects (IC 25-4-1-2).
(3) Indiana auctioneer commission (IC 25-6.1-2-1).
(4) State board of barber examiners (IC 25-7-5-1).
(5) State boxing commission (IC 25-9-1).
(6) Board of chiropractic examiners (IC 25-10-1).
(7) State board of cosmetology examiners (IC 25-8-3-1).
(8) State board of dentistry (IC 25-14-1).
(9) State board of funeral and cemetery service (IC 25-15-9).
(10) State board of registration for professional engineers (IC 25-31-1-3).
(11) Indiana state board of health facility administrators (IC 25-19-1).
(12) Medical licensing board of Indiana (IC 25-22.5-2).
(13) Indiana state board of nursing (IC 25-23-1).
(14) Indiana optometry board (IC 25-24).
(15) Indiana board of pharmacy (IC 25-26).
(16) Indiana plumbing commission (IC 25-28.5-1-3).
(17) Board of podiatric medicine (IC 25-29-2-1).
(18) Board of environmental health specialists (IC 25-32-1).
(19) State psychology board (IC 25-33).
(20) Speech-language pathology and audiology board (IC 25-35.6-2).
(21) Indiana real estate commission (IC 25-34.1-2).
(22) Indiana board of veterinary medical examiners (IC 15-5-1.1).
(23) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
(24) Respiratory care committee (IC 25-34.5).
(25) Private detectives licensing board (IC 25-30-1-5.1).
(26) Occupational therapy committee (IC 25-23.5).
(27) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
(28) Real estate appraiser licensure and certification board (IC 25-34.1-8).
(29) State board of registration for land surveyors (IC 25-21.5-2-1).
(30) Physician assistant committee (IC 25-27.5).
(31) Indiana athletic trainers board (IC 25-5.1-2-1).
(32) Indiana dietitians certification board (IC 25-14.5-2-1).
(33) Indiana hypnotist committee (IC 25-20.5-1-7).
(34) Indiana physical therapy committee (IC 25-27).
(35) Manufactured home installer licensing board (IC 25-23.7).
(36) Home inspectors licensing board (IC 25-20.2-3-1).
(37) Commission on health care interpreters and translators (IC 16-46-11.1-4).
~~(37)~~ **(38)** Any other occupational or professional agency created after June 30, 1981.".

Page 10, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 24. IC 25-1-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects and landscape architects (IC 25-4-1-2).
(3) Indiana auctioneer commission (IC 25-6.1-2-1).
(4) State board of barber examiners (IC 25-7-5-1).
(5) State boxing commission (IC 25-9-1).
(6) Board of chiropractic examiners (IC 25-10-1).
(7) State board of cosmetology examiners (IC 25-8-3-1).
(8) State board of dentistry (IC 25-14-1).
(9) State board of funeral and cemetery service (IC 25-15).
(10) State board of registration for professional engineers (IC 25-31-1-3).
(11) Indiana state board of health facility administrators (IC 25-19-1).
(12) Medical licensing board of Indiana (IC 25-22.5-2).
(13) Mining board (IC 22-10-1.5-2).
(14) Indiana state board of nursing (IC 25-23-1).
(15) Indiana optometry board (IC 25-24).
(16) Indiana board of pharmacy (IC 25-26).
(17) Indiana plumbing commission (IC 25-28.5-1-3).
(18) Board of environmental health specialists (IC 25-32-1).
(19) State psychology board (IC 25-33).
(20) Speech-language pathology and audiology board (IC 25-35.6-2).
(21) Indiana real estate commission (IC 25-34.1-2-1).
(22) Indiana board of veterinary medical examiners (IC 15-5-1.1-3).
(23) Department of insurance (IC 27-1).
(24) State police department (IC 10-11-2-4), 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 detectives licensing board (IC 25-30-1-5.1).
(27) Occupational therapy committee (IC 25-23.5-2-1).
(28) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6-2-1).
(29) Real estate appraiser licensure and certification board (IC 25-34.1-8).
(30) State board of registration for land surveyors (IC 25-21.5-2-1).
(31) Physician assistant committee (IC 25-27.5).
(32) Indiana athletic trainers board (IC 25-5.1-2-1).
(33) Board of podiatric medicine (IC 25-29-2-1).
(34) Indiana dietitians certification board (IC 25-14.5-2-1).
(35) Indiana physical therapy committee (IC 25-27).
(36) Manufactured home installer licensing board (IC 25-23.7).
(37) Home inspectors licensing board (IC 25-20.2-3-1).
(38) Commission on health care interpreters and translators (IC 16-46-11.1-4).
~~(38)~~ **(39)** Any other occupational or professional agency created after June 30, 1981.".

Page 11, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 26. IC 25-1-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: 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 15-5-1.1).
(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 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).
(21) Commission on health care interpreters and translators (IC 16-46-11.1-4).".

Page 11, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 29. IC 25-33-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The board shall issue a license to practice psychology to an individual who:

(1) applies in the manner required by the board;
(2) pays a fee;
(3) is at least eighteen (18) years of age;
(4) has not been convicted of a crime that has a direct bearing on the individual's ability to practice competently;
(5) holds, at the time of application, a valid license or certificate as a psychologist from another state;
(6) possesses a doctoral degree from a recognized institution of higher learning;
(7) has successfully completed:
(A) a degree program that would have been approved by the board at the time the individual was licensed or certified in the other state; or
(B) if the individual was licensed or certified in the other state before July 1, 1969, a degree program that satisfied the educational requirements of the board in effect January 4, 1971;
(8) has practiced psychology continuously since being licensed or certified;
(9) if the individual was licensed or certified by the other state:
(A) after September 30, 1972, has taken the Examination for the Professional Practice of Psychology and achieved the passing score required by the board at the time the examination was administered; **or**
(B) before January 1, 1990, and the other state required an examination other than the Examination for the Professional Practice of Psychology, achieved a passing score in the other state at the time of licensure or certification;
(10) has passed an examination administered by the board that covers Indiana law related to the practice of psychology; and
(11) is not in violation of this chapter or rules adopted under this chapter.

(b) The board may adopt rules under IC 4-22-2 concerning the issuance of a license under this section.".

Page 12, after line 10, begin a new paragraph and insert:

"SECTION 32. [EFFECTIVE JULY 1, 2005] **(a) As used in this SECTION, "commission" refers to the commission on health care interpreters and translators established by IC 16-46-11.1-4.**

(b) The following shall serve as technical advisers to the commission:

(1) One (1) member representing the department of correction who is appointed by the commissioner of the department of correction.
(2) One (1) member representing the department of education who is appointed by the state superintendent of public instruction.
(3) One (1) member representing the office of Medicaid policy and planning who is appointed by the director of the office of Medicaid policy and planning.
(4) One (1) member representing the state department of health appointed by the state health commissioner.
(5) One (1) member representing local health departments appointed by the state health commissioner.

(c) The commission may establish work groups to assist the commission in establishing qualifications for certified health care interpreters and certified health care translators under IC 16-46-11.1-6, as amended by this act.

(d) A person who continues to be a member of the commission according to the list set forth in IC 16-46-11.1-5, as amended by this act, and who was appointed as a member of the commission by the state health commissioner before July 1, 2005, continues to serve until the member's term expires.

(e) The commission is not required to certify health care interpreters and health care translators until after June 30, 2010.

(f) This SECTION expires July 1, 2010.".

Renumber all SECTIONS consecutively.

(Reference is to SB 607 as printed February 11, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

BECKER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred Engrossed Senate Bill 612, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 22-4-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: 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 seven thousand dollars ($7,000), has been paid in a calendar year to an individual by an employer or his predecessor with respect to employment during any calendar year subsequent to December 31, 1982, 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 ~~his~~ **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 ~~his~~ **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 ~~he~~ **the individual** attains the age of sixty-five (65) if ~~he~~ **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).".

Page 2, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 5. IC 22-4-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. An employing unit for which services, as specifically excluded by IC 22-4-8-3 **or IC 22-4-8-3.5,** are performed, may file with the commissioner its written election to consider all such services for such employing unit in one (1) or more distinct establishments, as employment for all purposes of this article for not less than two (2) calendar years. Upon written approval of such election by the commissioner, such services shall be deemed to constitute employment subject to this article as of the date stated in such approval and shall cease to be deemed employment subject hereto as of January 1 of any calendar year subsequent to such two (2) calendar years only if prior to January 31 it has filed with the commissioner a written notice to that effect.".

Page 2, line 41, strike "Effective July 1, 1975,".

Page 2, line 41, delete "and except" and insert "**Except**".

Page 4, line 27, after "3" insert "**or 3.3**".

Page 6, line 23, delete "chapter," and insert "**chapter:**

(1)".

Page 6, line 24, delete "IC 35-41-2-2(b)." and insert "**IC 35-41-2-2(b); and**

(2) "recklessly" has the meaning set forth in IC 35-41-2-2(c).".

Page 7, line 14, delete "IC 22-4-7-1 or" and insert "**IC 22-4-7**".

Page 7, line 15, delete "IC 22-4-7-2".

Page 8, line 1, delete "knowingly:" and insert "**knowingly or recklessly:**".

Page 8, line 17, delete "IC 22-4-7-1 or IC 22-4-7-2)." and insert "**IC 22-4-7).**".

Page 8, line 17, delete "the" and insert "**an**".

Page 8, line 35, delete "the" and insert "**an**".

Page 9, line 11, delete "for" and insert "**concerning**".

Renumber all SECTIONS consecutively.

(Reference is to SB 612 as printed February 4, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

TORR, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred Engrossed Senate Bill 626, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-33-2-11.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 11.6. "Law enforcement agency" means any of the following:**

(1) The gaming agents of the Indiana gaming commission.

(2) The state police department.

(3) The conservation officers of the department of natural resources.

(4) The state excise police of the alcohol and tobacco commission.

SECTION 2. IC 4-33-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The commission consists of seven (7) members appointed by the governor.

(b) Each member of the commission must:

(1) be a resident of Indiana; and

(2) have a reasonable knowledge of the practice, procedures, and principles of gambling operations.

(c) At least one (1) member of the commission must be experienced in law enforcement and criminal investigation.

(d) At least one (1) member of the commission must be a certified public accountant experienced in accounting and auditing.

(e) At least one (1) member of the commission must be an attorney admitted to the practice of law in Indiana.

(f) ~~Three (3) members~~ **One (1) member** of the commission must be ~~residents~~ **a resident** of a county described in IC 4-33-1-1(1).

(g) ~~Three (3) members~~ **One (1) member** of the commission must be ~~residents~~ **a resident** of a county described in IC 4-33-1-1(2).

~~(h) One (1) member of the commission must be a resident of a county not described in IC 4-33-1-1(1) or IC 4-33-1-1(2).~~

~~(i)~~ **(h)** Not more than four (4) members may be affiliated with the same political party.

~~(j) The governor shall appoint each of the initial members of the commission not later than September 1, 1993.~~

SECTION 3. IC 4-33-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: 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 ~~inspectors and~~ **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).

(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 4. IC 4-33-4-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. The commission ~~may~~ **shall** employ ~~or contract for inspectors and~~ **gaming** agents ~~required under section 3(7)~~ **to perform the duties imposed by** ~~of~~ this chapter. The licensed owners and operating agents shall, in the manner prescribed by the rules of the commission, reimburse the commission for:

(1) the training expenses incurred to train gaming agents;
(2) the salaries and other expenses of staff required to support the gaming agents; and
(3) the salaries and other expenses of the ~~inspectors and~~ **gaming** agents required to be present during the time gambling operations are conducted on a riverboat.

SECTION 5. IC 4-33-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. **(a)** The state police department ~~shall~~ **may** assist the commission in conducting background investigations of applicants. The commission may forward all fingerprints required to be submitted by license applicants under IC 4-33 to the Federal Bureau of Investigation or any other agency for the purpose of screening applicants. The commission shall reimburse the state police department for the costs incurred by the state police department as a result of the assistance. The commission shall make the payment from fees collected from applicants.

(b) The commission through its gaming agents shall conduct background investigations of applicants. Costs incurred conducting the investigations must be paid from fees collected from applicants.

SECTION 6. IC 4-33-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 4.5. Gaming Commission Gaming Agents

Sec. 1. (a) A gaming agent is vested with full police powers and duties to enforce this article.

(b) A gaming agent may issue a summons for an infraction or a misdemeanor violation if the defendant promises to appear by signing the summons. A defendant who signs a summons issued under this subsection but fails to appear is subject to the penalties provided by IC 35-44-3-6.5. Upon the defendant's failure to appear, the court shall issue a warrant for the arrest of the defendant.

(c) In addition to the powers and duties vested under subsection (a), a gaming agent may act as an officer for the arrest of offenders who violate the laws of Indiana if the gaming agent reasonably believes that a crime has been, is being, or is about to be committed or attempted in the gaming agent's presence.

Sec. 2. Each gaming agent shall execute a surety bond in the amount of one thousand dollars ($1,000), with surety approved by the commission, and an oath of office, both of which must be filed with the executive director.

Sec. 3. (a) The injury to, injury to the health of, or death of a gaming agent is compensable under the appropriate provisions of IC 22-3-2 through IC 22-3-7 if the injury, injury to the health of, or death arises out of and in the course of the performance of the agent's duties as a gaming agent.

(b) For purposes of subsection (a) and IC 22-3-2 through IC 22-3-7, a gaming agent is conclusively presumed to have accepted the compensation provisions included in the parts of the Indiana Code referred to in this subsection.

Sec. 4. An eligible gaming agent who retires with at least twenty (20) years of service as a gaming agent:

(1) may retain the agent's service weapon;
(2) may receive, in recognition of the agent's service to the commission and to the public, a badge that indicates that the agent is retired; and
(3) shall be issued by the commission an identification card stating the agent's name and rank, signifying that the agent is retired, and noting the agent's authority to retain the service weapon.

Sec. 5. The commission shall create a matrix for salary ranges for gaming agents, which must be reviewed and approved by the budget agency before implementation.".

Page 1, line 8, delete "issued by the" and insert "**with marine structural and life safety standards determined by the commission;** and".

Page 1, delete lines 9 through 11.

Page 1, after line 17, begin a new paragraph and insert:

"SECTION 8. IC 5-2-1-9, AS AMENDED BY P.L.62-2004, SECTION 1, AND AS AMENDED BY P.L.85-2004, SECTION 40, IS CORRECTED AND 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. Such rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.
(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, the northwest Indiana law enforcement training center, agencies, or departments of the state.
(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.
(4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.
(5) Minimum qualifications for instructors at approved law enforcement training schools.
(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 not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.
(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 law enforcement training board.

(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 in such cases shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), ~~and~~ (l), **and (n),** 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, *at the southwest Indiana law enforcement training academy under section 10.5 of this chapter,* or at the northwest Indiana law enforcement training center under section 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) **This subsection does not apply to a gaming agent employed as a law enforcement officer by the Indiana gaming commission.** Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

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

(1) law enforcement officers;

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

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

regarding the subjects of arrest, search and seizure, use of force, and firearm qualification. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of forty (40) hours of course work. The board may prepare a pre-basic course on videotape that must be used in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including colleges and universities.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed the basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes a minimum of sixteen (16) hours each year of inservice training in any subject area included in the law enforcement academy's basic training course or other job related subjects that are approved by the board as determined by the law enforcement department's or agency's needs. *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 law enforcement training board.* In addition, a certified academy staff may develop and make available inservice training programs on a regional or local basis. The board may approve courses offered by other public or private training entities, including colleges and universities, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to any of the following:

(1) An emergency situation.

(2) The unavailability of courses.

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

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

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

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having ~~no~~ **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 a police chief executive training program. The program must include training in the following areas:

(1) Liability.

(2) Media relations.

(3) Accounting and administration.

(4) Discipline.

(5) Department policy making.

(6) Firearm policies.

(7) Department programs.

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

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

(1) the police chief of any city; and

(2) the police chief of any town having a metropolitan police department.

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

(l) An investigator in the arson division of the office of the state fire marshal appointed:

(1) before January 1, 1994, is not required; or

(2) after December 31, 1993, is required;

to comply with the basic training standards established under this section.

(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) 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.

SECTION 9. IC 5-10-1.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Each retirement plan for employees of the state or of a political subdivision shall report annually on September 1 to the public employees' retirement fund the information from the preceding fiscal year necessary for the actuary of the fund to perform an actuarial valuation of each plan. Where the director and actuary of the fund consider it appropriate, the actuary may combine one (1) retirement plan with another or with the public employees' retirement fund for the purposes of the actuarial valuation. The retirement plans covered by this chapter are the following:

(1) The state excise police, **gaming agent,** and conservation enforcement officers' retirement plan established under IC 5-10-5.5.

(2) The "trust fund" and "pension trust" of the state police department established under IC 10-12-2.

(3) Each of the police pension funds established or covered under IC 19-1-18, IC 19-1-30, IC 19-1-25-4, or IC 36-8.

(4) Each of the firemen's pension funds established or covered under IC 19-1-37, IC 18-1-12, IC 19-1-44, or IC 36-8.

(5) Each of the retirement funds for utility employees authorized under IC 19-3-22 or IC 36-9 or established under IC 19-3-31.

(6) Each county police force pension trust and trust fund authorized under IC 17-3-14 or IC 36-8.

(7) The Indiana judges' retirement fund established under IC 33-38-6.

(8) Each retirement program adopted by a board of a local health department as authorized under IC 16-1-4-25 (before its repeal) or IC 16-20-1-3.

(9) Each retirement benefit program of a joint city-county health department under IC 16-1-7-16 (before its repeal).

(10) Each pension and retirement plan adopted by the board of trustees or governing body of a county hospital as authorized under IC 16-12.1-3-8 (before its repeal) or IC 16-22-3-11.

(11) Each pension or retirement plan and program for hospital personnel in certain city hospitals as authorized under IC 16-12.2-5 (before its repeal) or IC 16-23-1.

(12) Each retirement program of the health and hospital corporation of a county as authorized under IC 16-12-21-27 (before its repeal) or IC 16-22-8-34.

(13) Each pension plan provided by a city, town, or county housing authority as authorized under IC 36-7.

(14) Each pension and retirement program adopted by a public transportation corporation as authorized under IC 36-9.

(15) Each system of pensions and retirement benefits of a regional transportation authority as authorized or required by IC 36-9.

(16) Each employee pension plan adopted by the board of an airport authority under IC 8-22-3.

(17) The pension benefit paid for the national guard by the state as established under IC 10-16-7.

(18) The pension fund allowed employees of the Wabash Valley interstate commission as authorized under IC 13-5-1-3.

(19) Each system of pensions and retirement provided by a unit under IC 36-1-3.

SECTION 10. IC 5-10-1.7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The retirement plans covered by this chapter are:

(1) The state excise police, **gaming agent,** and conservation officers' retirement plan, established under IC 5-10-5.5.

(2) The public employees' retirement fund, established under IC 5-10.3-2.

(3) The trust fund and pension trust of the department of state police, established under IC 10-12-2.

(4) The Indiana state teachers' retirement fund, established under IC 21-6.1-2.

(5) The Indiana judges' retirement fund, established under IC 33-38-6.

(6) The police officers' and firefighters' pension and disability fund established under IC 36-8-8-4.

(b) As used in this chapter:

"Board" means the board of trustees of a retirement plan covered by this chapter.

SECTION 11. IC 5-10-5.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter and unless the context clearly denotes otherwise:

(a) "Department" means the Indiana department of natural resources.

(b) "Commission" means the alcohol and tobacco commission.

(c) "Officer" means any Indiana state excise police officer, ~~or~~ any Indiana state conservation enforcement officer, **or any gaming agent.**

(d) "Participant" means any officer who has elected to participate in the retirement plan created by this chapter.

(e) "Salary" means the total compensation, exclusive of expense allowances, paid to any officer by the department or the commission, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

(f) "Average annual salary" means the average annual salary of an officer during the five (5) years of highest annual salary in the ten (10) years immediately preceding an officer's retirement date, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

(g) "Public employees' retirement act" means IC 5-10.3.

(h) "Public employees' retirement fund" means the public employees' retirement fund created by IC 5-10.3-2.

(i) "Interest" means the same rate of interest as is specified under the public employees' retirement law.

(j) "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

(k) Other words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them as set forth in IC 5-10.3-1.

SECTION 12. IC 5-10-5.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. There is hereby created a state excise police, **gaming agent,** and conservation enforcement officers' retirement plan to establish a means of providing special retirement, disability and survivor benefits to employees of the department, **the Indiana gaming commission,** and the commission who are engaged exclusively in the performance of law enforcement duties.

SECTION 13. IC 5-10-5.5-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.5. (a) As used in this chapter, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

(b) The state excise police, **gaming agent,** and conservation officers' retirement plan shall satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to the retirement plan. In order to meet those requirements, the retirement plan is subject to the following provisions, notwithstanding any other provision of this chapter:

(1) The board shall distribute the corpus and income of the retirement plan to participants and their beneficiaries in accordance with this chapter.

(2) No part of the corpus or income of the retirement plan may be used or diverted to any purpose other than the exclusive benefit of the participants and their beneficiaries.

(3) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits any participant would otherwise receive under this chapter.

(4) If the retirement plan is terminated, or if all contributions to the retirement plan are completely discontinued, the rights of each affected participant to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from the retirement plan shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, the retirement plan is subject to the following provisions:

(A) The life expectancy of a participant, the participant's spouse, or the participant's beneficiary shall not be recalculated after the initial determination, for purposes of determining benefits.

(B) If a participant dies before the distribution of the participant's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the participant died.

(C) The amount of an annuity paid to a participant's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Internal Revenue Code.

(6) The board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of participants or beneficiaries;

in a manner that discriminates in favor of participants who are considered officers, supervisors, or highly compensated, as prohibited under Section 401(a)(4) of the Internal Revenue Code.

(7) Benefits paid under this chapter may not exceed the maximum benefit specified by Section 415 of the Internal Revenue Code.

(8) The salary taken into account under this chapter may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

(9) The board may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.

SECTION 14. IC 5-10-5.5-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. The state excise police, **gaming agent,** and conservation enforcement officers' retirement plan shall be administered in a manner that is consistent with the Americans with Disabilities Act, to the extent required by the Act.

SECTION 15. IC 5-10-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The state police department, conservation officers of the department of natural resources, **gaming agents of the Indiana gaming commission,** and the state excise police may establish common and unified plans of self-insurance for their employees, including retired employees, as separate entities of state government. These plans may be administered by a private agency, business firm, limited liability company, or corporation.

(b) The state agencies listed in subsection (a) may not pay as the employer portion of benefits for any employee or retiree an amount greater than that paid for other state employees for group insurance.

SECTION 16. IC 5-10-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. As used in this chapter, "public safety officer" means any of the following:

(1) A state police officer.

(2) A county sheriff.

(3) A county police officer.

(4) A correctional officer.

(5) An excise police officer.

(6) A county police reserve officer.

(7) A city police reserve officer.

(8) A conservation enforcement officer.

(9) A town marshal.

(10) A deputy town marshal.

(11) A probation officer.

(12) A state university police officer appointed under IC 20-12-3.5.

(13) An emergency medical services provider (as defined in IC 16-41-10-1) who is:

(A) employed by a political subdivision (as defined in IC 36-1-2-13); and

(B) not eligible for a special death benefit under IC 36-8-6-20, IC 36-8-7-26, IC 36-8-7.5-22, or IC 36-8-8-20.

(14) A firefighter who is employed by the fire department of a state university.

(15) A gaming agent of the Indiana gaming commission.

SECTION 17. IC 5-14-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this chapter:

"Copy" includes transcribing by handwriting, photocopying, xerography, duplicating machine, duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage, and reproducing by any other means.

"Direct cost" means one hundred five percent (105%) of the sum of the cost of:

(1) the initial development of a program, if any;

(2) the labor required to retrieve electronically stored data; and

(3) any medium used for electronic output;

for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval under section 8(g) of this chapter, or for reprogramming a computer system under section 6(c) of this chapter.

"Electronic map" means copyrighted data provided by a public agency from an electronic geographic information system.

"Enhanced access" means the inspection of a public record by a person other than a governmental entity and that:

(1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or

(2) requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information.

"Facsimile machine" means a machine that electronically transmits exact images through connection with a telephone network.

"Inspect" includes the right to do the following:

(1) Manually transcribe and make notes, abstracts, or memoranda.

(2) In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.

(3) In the case of public records available:

(A) by enhanced access under section 3.5 of this chapter; or

(B) to a governmental entity under section 3(c)(2) of this chapter;

to examine and copy the public records by use of an electronic device.

(4) In the case of electronically stored data, to manually transcribe and make notes, abstracts, or memoranda or to duplicate the data onto a disk, tape, drum, or any other medium of electronic storage.

"Investigatory record" means information compiled in the course of the investigation of a crime.

"Patient" has the meaning set out in IC 16-18-2-272(d).

"Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

"Provider" has the meaning set out in IC 16-18-2-295(a) and includes employees of the state department of health or local boards of health who create patient records at the request of another provider or who are social workers and create records concerning the family background of children who may need assistance.

"Public agency" means the following:

(1) Any board, commission, department, division, bureau, committee, agency, office, instrumentality, or authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state.

(2) Any:

(A) county, township, school corporation, city, or town, or any board, commission, department, division, bureau, committee, office, instrumentality, or authority of any county, township, school corporation, city, or town;

(B) political subdivision (as defined by IC 36-1-2-13); or

(C) other entity, or any office thereof, by whatever name designated, exercising in a limited geographical area the

executive, administrative, judicial, or legislative power of the state or a delegated local governmental power.

(3) Any entity or office that is subject to:

(A) budget review by either the department of local government finance or the governing body of a county, city, town, township, or school corporation; or

(B) an audit by the state board of accounts.

(4) Any building corporation of a political subdivision that issues bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) Any law enforcement agency, which means an agency or a department of any level of government that engages in the investigation, apprehension, arrest, or prosecution of alleged criminal offenders, such as the state police department, the police or sheriff's department of a political subdivision, prosecuting attorneys, members of the excise police division of the alcohol and tobacco commission, conservation officers of the department of natural resources, **gaming agents of the Indiana gaming commission,** and the security division of the state lottery commission.

(7) Any license branch staffed by employees of the bureau of motor vehicles commission under IC 9-16.

(8) The state lottery commission, including any department, division, or office of the commission.

(9) The Indiana gaming commission established under IC 4-33, including any department, division, or office of the commission.

(10) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

"Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

"Standard-sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper sized eight and one-half (8 1/2) inches by eleven (11) inches or eight and one-half (8 1/2) inches by fourteen (14) inches.

"Trade secret" has the meaning set forth in IC 24-2-3-2.

"Work product of an attorney" means information compiled by an attorney in reasonable anticipation of litigation and includes the attorney's:

(1) notes and statements taken during interviews of prospective witnesses; and

(2) legal research or records, correspondence, reports, or memoranda to the extent that each contains the attorney's opinions, theories, or conclusions.

This definition does not restrict the application of any exception under section 4 of this chapter.

SECTION 18. IC 35-47-4.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this chapter, "public safety officer" means:

(1) a state police officer;

(2) a county sheriff;

(3) a county police officer;

(4) a correctional officer;

(5) an excise police officer;

(6) a county police reserve officer;

(7) a city police officer;

(8) a city police reserve officer;

(9) a conservation enforcement officer;

(10) a gaming agent;

~~(10)~~ **(11)** a town marshal;

~~(11)~~ **(12)** a deputy town marshal;

~~(12)~~ **(13)** a state university police officer appointed under IC 20-12-3.5;

~~(13)~~ **(14)** a probation officer;

~~(14)~~ **(15)** a firefighter (as defined in IC 9-18-34-1);

~~(15)~~ **(16)** an emergency medical technician; or

~~(16)~~ **(17)** a paramedic.

SECTION 19. IC 36-7-11.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) An ordinance establishing an interlocal agreement under section 2 of this chapter:

(1) must provide for the establishment of a historic hotel preservation commission in the same manner as IC 36-7-11;

(2) shall specify which powers under IC 36-7-11 the commission may exercise in administering the historic hotel district; and

(3) may not conflict with a requirement of this chapter.

If any provision in IC 36-7-11 conflicts with this chapter, the provisions of this chapter control.

(b) The ordinance must provide for the following membership on the historic hotel preservation commission:

(1) An individual appointed by the legislative body of the county in which the towns are located.

~~(2) An individual appointed by the convention and visitor's bureau of the county in which the towns are located.~~

(2) An individual appointed by the executive body of the county in which the towns are located.

(3) An individual appointed by the town council of a town meeting the criteria set forth in section 2(a)(1) of this chapter.

(4) An individual appointed by the town council of a town meeting the criteria set forth in section 2(a)(2) of this chapter.

(5) An individual appointed by the Historic Landmarks Foundation of Indiana.

(6) An individual appointed by the town council of a town described in IC 4-33-12-6(c)(1)(C)(i).

(7) An individual appointed by the town council of a town described in IC 4-33-12-6(c)(1)(C)(ii).

~~(6)~~ **(8)** The owner of a qualified historic hotel or the owner's designee.

~~(7)~~ **(9)** The owner of a historic hotel located in a town meeting the criteria set forth in section 2(a)(2) of this chapter or the owner's designee.

~~(8)~~ **(10)** A nonvoting member appointed by the governor.

(c) The members described in subsection (b)(1) through ~~(b)(5)~~ **(b)(7)** shall each serve for a term of three (3) years. However, the terms of the original voting members may be for one (1) year, two (2) years, or three (3) years in order for the terms to be staggered, as provided by the ordinance. A vacancy shall be filled for the duration of the term by the original appointing authority.

(d) The ordinance may provide qualifications for members of the commission described in subsection (b)(1) through ~~(b)(4).~~ **(b)(7).** In addition: ~~the members~~

(1) a member appointed under subsection (b)(1) ~~through (b)(4)~~ **or (b)(2)** must be ~~residents~~ **a resident** of the county who ~~are~~ **is** interested in the preservation and development of historic areas; **and**

(2) a member appointed under subsection (b)(3), (b)(4), (b)(6), or (b)(7) must:

(A) be a resident of the town that appoints the member; and

(B) be interested in the preservation and development of historic areas.

The commission should include professionals in the tourism industry and professionals in the disciplines of architectural history, planning, and other disciplines related to historic preservation, to the extent that those professionals are available in the community. The ordinance may also provide for the appointment of advisory members that the legislative body considers appropriate.

(e) Each member of the commission must, before beginning the discharge of the duties of the member's office, do the following:

(1) Take an oath that the member will faithfully execute the duties of the member's office according to Indiana law and rules adopted under Indiana law.

(2) Provide a bond to the state that:

(A) is for twenty-five thousand dollars ($25,000); and

(B) is, after being executed and approved, recorded in the office of the secretary of state.

(f) A member of the commission is not entitled to a salary per diem or reimbursement for traveling expenses or other expenses incurred in connection with the member's duties.

SECTION 20. IC 36-7-11.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The commission shall elect from its membership a chairperson and vice chairperson, who shall serve for one (1) year and may be reelected.

(b) The commission shall adopt rules consistent with this chapter for the transaction of its business. The rules must include the time and place of regular meetings and a procedure for the calling of special meetings. ~~Four (4)~~ **Five (5)** voting members constitute a quorum of the commission. No action may be taken by the commission unless a majority of the voting members appointed to the commission vote in favor of taking the action.

(c) All meetings of the commission must be open to the public, and a public record of the commission's resolutions, proceedings, and actions must be kept.

(d) If the commission has an administrator, the administrator shall act as the commission's secretary. If the commission does not have an administrator, the commission shall elect a secretary from its membership.

(e) The commission shall hold regular meetings, at least monthly, except when it has no business pending.

SECTION 21. IC 36-7-11.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Except as otherwise specified in this chapter, the commission has all of the powers and responsibilities of a historic preservation commission established under IC 36-7-11.

(b) The commission shall do the following:

(1) Designate a fiscal agent who must be the fiscal officer of one (1) of the towns to which this chapter applies.

(2) Employ professional staff necessary to assist the commission in carrying out its duties.

(3) Engage consultants, attorneys, accountants, and other professionals necessary to carry out the commission's duties. **The commission may not engage more than one (1) attorney or firm of attorneys.**

(4) Jointly approve, with the Indiana gaming commission, the location and exterior design of a riverboat to be operated in the historic hotel district.

(5) Make recommendations to the Indiana gaming commission concerning the selection of an operating agent (as defined in IC 4-33-2-14.5) that the commission believes will:

(A) promote the most economic development in the area surrounding the historic hotel district; and

(B) best serve the interests of the residents of the county in which the historic hotel district is located and all other citizens of Indiana.

(6) Make recommendations to the Indiana gaming commission concerning the operation and management of the riverboat to be operated in the county.

(c) This section does not limit the powers of the Indiana gaming commission with respect to the administration and regulation of riverboat gaming under IC 4-33.

SECTION 22. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 4-33-3-2, as amended by this act, a member of the Indiana gaming commission who was appointed before the effective date of this act may continue to serve until the member's term expires.**

(b) This SECTION expires July 1, 2008.

SECTION 23. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 36-11-7.5-3(c), as amended by this act, the terms of members currently serving on the commission expire upon passage of this act.**

(b) The initial terms of the members appointed under IC 36-7-11.5-3, as amended by this act, may be for one (1) year, two (2) years, or three (3) years, as provided by ordinance.

(c) This SECTION expires January 1, 2006.".

SECTION 24. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to SB 626 as reprinted February 18, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

ALDERMAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred Senate Concurrent Resolution 31, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said resolution do pass.

Committee Vote: yeas 9, nays 0.

HOFFMAN, Chair

Report adopted.

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Turner.

OTHER BUSINESS ON THE SPEAKER'S TABLE

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1488.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed House Bill 1039 with amendments and the same is herewith returned to the House for concurrence.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolutions 28 and 29 and the same are herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Joint Resolution 7 for signature.

MARY C. MENDEL
Principal Secretary of the Senate

Reassignments

The Speaker announced the reassignment of Engrossed Senate Bill 106 from the Committee on Insurance to the Committee on Public Policy and Veterans Affairs.

HOUSE MOTION

Mr. Speaker: I move that Representative Yount be added as cosponsor of Engrossed Senate Bill 509.

KOCH

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Kuzman, the House adjourned at 5:10 p.m., this twenty-fourth day of March, 2005, until Monday, March 28, 2005, at 1:30 p.m.

BRIAN C. BOSMA
Speaker of the House of Representatives

M. CAROLINE SPOTTS
Principal Clerk of the House of Representatives