



# Journal of the House

State of Indiana

114th General Assembly

First Regular Session

Thirty-fifth Meeting Day

Monday Afternoon

March 28, 2005

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

The invocation was offered by Dr. Sam Young, Senior Minister of Central Christian Church, Huntington, the guest of Representative Daniel J. Leonard.

The Pledge of Allegiance to the Flag was led by Representative Leonard.

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	VanHaften
E. Harris	Walorski
T. Harris	Welch
Heim	Whetstone
Hinkle	Wolkins
Hoffman	Woodruff
Hoy	Yount
Kersey	Mr. Speaker

Roll Call 282: 98 present; 2 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

The House welcomed back the Minority Leader, B. Patrick Bauer, who had surgery recently.

## HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, March 29, 2005 at 1:30 p.m.

LEONARD

Motion prevailed.

The House recessed until the fall of the gavel.

## RECESS

The House reconvened at 2:55 p.m. with the Speaker in the Chair.

## ENGROSSED SENATE BILLS ON THIRD READING

### Engrossed Senate Bill 12

Representative Walorski called down Engrossed Senate Bill 12 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 283: yeas 93, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### Engrossed Senate Bill 44

Representative Wolkins called down Engrossed Senate Bill 44 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 284: yeas 97, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### Engrossed Senate Bill 56

Representative Ruppel called down Engrossed Senate Bill 56 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 285: yeas 98, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### Engrossed Senate Bill 79

Representative Duncan called down Engrossed Senate Bill 79 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 286: yeas 97, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Representative McClain, who had been excused, was present.

**Engrossed Senate Bill 89**

Representative Cherry called down Engrossed Senate Bill 89 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 287: yeas 98, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

**Engrossed Senate Bill 95**

Representative Messer called down Engrossed Senate Bill 95 for third reading:

A BILL FOR AN ACT concerning criminal law and procedure.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 288: yeas 98, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

**Engrossed Senate Bill 98**

Representative Messer called down Engrossed Senate Bill 98 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 289: yeas 95, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

**Engrossed Senate Bill 101**

Representative Messer called down Engrossed Senate Bill 101 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 290: yeas 95, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

**Engrossed Senate Bill 149**

Representative Torr called down Engrossed Senate Bill 149 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

The bill was read a third time by sections and placed upon its passage.

HOUSE MOTION  
(Amendment 149-3)

Mr. Speaker: I move that Engrossed Senate Bill 149 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

Page 5, between lines 19 and 20, begin a new paragraph and insert: "SECTION 3. IC 5-10.2-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) As used in this section, "exempt amount" means, in the case of a member who has not attained the Social Security normal retirement age for unreduced benefits, ~~twenty-five thousand dollars (\$25,000);~~ **thirty-five thousand dollars (\$35,000)**, computed for the calendar year in which a retired public employees' retirement fund member is reemployed and computed for the fiscal year in which a retired teachers' retirement fund member is reemployed.

(b) This subsection does not apply to a member who is employed by the department of education. If a member who is receiving retirement benefits and who has not attained the Social Security normal retirement age for unreduced benefits:

- (1) becomes reemployed in a position covered by this article; and
- (2) earns in that position more than the exempt amount;

his retirement benefit payments shall stop, and the member shall begin making contributions as required in IC 5-10.2-3-2. However, employer contributions shall be made throughout the period of reemployment. The earnings limitation under this subsection does not apply to a member who has attained the Social Security normal retirement age for unreduced benefits.

(c) If a member who is receiving retirement benefits is reemployed in a position covered by this article not more than ninety (90) days after the member's retirement, the member's retirement benefits shall stop, the member shall begin making contributions as required by IC 5-10.2-3-2, and employer contributions shall be made throughout the period of reemployment.

(d) If a retired member is reemployed in a position covered by this article, section 10 of this chapter applies to the member upon the member's retirement from reemployment.

Page 7, after line 17, begin a new paragraph and insert:

"SECTION 9. [EFFECTIVE JULY 1, 2005] IC 5-10.2-4-8, as amended by this act, applies to:

- (1) fiscal years that begin after June 30, 2005, for teachers' retirement fund members; and
- (2) calendar years that begin after December 31, 2005, for public employees' retirement fund members.

SECTION 10. [EFFECTIVE JULY 1, 2005] Interest credited prior to July 1, 2005, in the annuity savings account of the public employees' retirement fund to suspended members participating in the guaranteed fund under IC 5-10.2-2-3 shall be treated as properly credited.

Renumber all SECTIONS consecutively.

(Reference is to Engrossed Senate Bill 149 as reprinted March 25, 2005.)

TORR

There being a two-thirds vote in favor of the motion, the motion prevailed.

COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed Senate Bill 149, begs leave to report that said bill has been amended as directed.

TORR

Report adopted.

The question then was, Shall the bill pass?

Roll Call 291: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

**Engrossed Senate Bill 193**

Representative Alderman called down Engrossed Senate Bill 193 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 292: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### **Engrossed Senate Bill 206**

Representative Lehe called down Engrossed Senate Bill 206 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 293: yeas 97, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### **Engrossed Senate Bill 209**

Representative Hinkle called down Engrossed Senate Bill 209 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 294: yeas 98, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### **Engrossed Senate Bill 213**

Representative Friend called down Engrossed Senate Bill 213 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 295: yeas 98, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

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

#### **Engrossed Senate Bill 218**

Representative Whetstone called down Engrossed Senate Bill 218 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. After discussion, Representative Whetstone withdrew the call of Engrossed Senate Bill 218.

The Speaker Pro Tempore yielded the gavel to the Speaker.

#### **Engrossed Senate Bill 225**

Representative Becker called down Engrossed Senate Bill 225 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 296: yeas 94, nays 2. The bill was declared passed. The

question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### **Engrossed Senate Bill 227**

Representative Buell called down Engrossed Senate Bill 227 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 297: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### **Engrossed Senate Bill 242**

Representative Messer called down Engrossed Senate Bill 242 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 298: yeas 98, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### **Engrossed Senate Bill 265**

Representative Duncan called down Engrossed Senate Bill 265 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 299: yeas 98, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### **Engrossed Senate Bill 266**

Representative Hoffman called down Engrossed Senate Bill 266 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

On the motion of Representative Yount the previous question was called. Roll Call 300: yeas 68, nays 28. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Representative Bauer was excused for the rest of the day.

#### **Engrossed Senate Bill 267**

Representative Gutwein called down Engrossed Senate Bill 267 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning property.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

On the motion of Representative Kromkowski the previous question was called. Roll Call 301: yeas 55, nays 40. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

**Engrossed Senate Bill 285**

Representative Behning called down Engrossed Senate Bill 285 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning education.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

On the motion of Representative Yount the previous question was called. Roll Call 302: yeas 67, nays 30. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

**Engrossed Senate Bill 298**

Representative Hinkle called down Engrossed Senate Bill 298 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 303: yeas 91, nays 2. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Representative Dvorak was excused.

**Engrossed Senate Bill 301**

Representative Hinkle called down Engrossed Senate Bill 301 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning education.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 304: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

**Engrossed Senate Bill 306**

Representative Neese called down Engrossed Senate Bill 306 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 305: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

**Engrossed Senate Bill 327**

Representative Espich called down Engrossed Senate Bill 327 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage.

HOUSE MOTION  
(Amendment 327-4)

Mr. Speaker: I move that Engrossed Senate Bill 327 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

Page 43, line 14, delete "An" and insert "(a) Subject to subsection (b), an".

Page 43, between lines 21 and 22, begin a new paragraph and insert:

"(b) Subsection (a) does not apply to tax representation in a county with respect to an issue of a taxpayer if:

- (1) the individual or firm representing the taxpayer is no longer under contract as an appraiser or a technical advisor in the county as described in subsection (a); and
- (2) the individual or firm was not directly involved with the issue of the taxpayer while under contract."

(Reference is to ESB 327 as reprinted March 25, 2005.)

ESPICH

There being a two-thirds vote in favor of the motion, the motion prevailed.

COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed Senate Bill 327, begs leave to report that said bill has been amended as directed.

ESPICH

Report adopted.

The question then was, Shall the bill pass?

Roll Call 306: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Representative Saunders, who had been excused, was present.

**Engrossed Senate Bill 332**

Representative Ruppel called down Engrossed Senate Bill 332 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning education.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 307: yeas 86, nays 6. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

**Engrossed Senate Bill 335**

Representative Espich called down Engrossed Senate Bill 335 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 308: yeas 94, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

**Engrossed Senate Bill 378**

Representative Woodruff called down Engrossed Senate Bill 378 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 309: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

**REPORTS FROM COMMITTEES**

COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred Engrossed Senate Bill 139, 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 professions and occupations and to make an appropriation.

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

"SECTION 1. IC 10-13-3-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 37. (a) Under Public Law 92-544 (86 Stat. 1115), a local law enforcement agency may use fingerprints submitted for the purpose of identification in a request related to the following:

(1) A taxicab driver's license application.

~~(2) An application for a license for a massage therapist.~~

~~(3) (2) Reinstatement or renewal of a taxicab driver's license. described in subdivisions (1) and (2).~~

(b) An applicant shall submit the fingerprints on forms provided for the license application.

(c) The local law enforcement agency shall charge each applicant the fees set by the department and federal authorities to defray the costs associated with a search for and classification of the applicant's fingerprints.

(d) The local law enforcement agency may:

(1) forward for processing to the Federal Bureau of Investigation or any other agency fingerprints submitted by a license applicant; and

(2) receive the results of all fingerprint investigations.

SECTION 2. 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) Massage therapists.**

**(32) Interior designers.**

SECTION 3. 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) State board of massage therapy.**

~~(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 2, between lines 27 and 28, begin a new line block indented and insert:

**"(16) State board of massage therapy (IC 25-21.8-3-1)."**

Page 6, between lines 11 and 12, begin a new paragraph and insert: "SECTION 9. 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) State board of massage therapy (IC 25-21.8-3-1).**
  - (38) Office of the secretary of state for purposes of registering interior designers (IC 25-20.7).**
  - ~~(37)~~ **(39) Any other occupational or professional agency created after June 30, 1981.**
- SECTION 10. 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) State board of massage therapy (IC 25-21.8-3-1).**
- (39) Office of the secretary of state for purposes of registering interior designers (IC 25-20.7).**
- ~~(38)~~ **(40) Any other occupational or professional agency created after June 30, 1981."**

Page 6, between lines 37 and 38, begin a new paragraph and insert: "SECTION 12. IC 25-1-11-1 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) State board of cosmetology examiners (IC 25-8-3-1).
- (7) State board of registration of land surveyors (IC 25-21.5-2-1).
- (8) State board of funeral and cemetery service (IC 25-15-9).
- (9) State board of registration for professional engineers (IC 25-31-1-3).
- (10) Indiana plumbing commission (IC 25-28.5-1-3).
- (11) Indiana real estate commission (IC 25-34.1-2-1).
- (12) Real estate appraiser licensure certification board (IC 25-34.1-8).
- (13) Private detectives licensing board (IC 25-30-1-5.1).
- (14) Manufactured home installer licensing board (IC 25-23.7).
- (15) Home inspectors licensing board (IC 25-20.2-3-1).
- (16) State board of massage therapy (IC 25-21.8-3-1).**
- (17) Office of the secretary of state (IC 25-20.7)."**

Page 8, between lines 10 and 11, begin a new paragraph and insert: "SECTION 17. IC 25-4-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The board shall organize by the election of a chairman and vice chairman, each of whom shall serve for a term of one (1) year. The first meeting of the board shall be held within thirty (30) days after the members thereof shall have been appointed, on call of the chairman of the board.

Thereafter, the board shall hold at least two (2) regular meetings each year and may hold such special meetings, as the board in its discretion ~~may deem~~ **deems** necessary or advisable. The time for holding the regular meetings, the method of calling special meetings and the manner of giving notice of all meetings shall be prescribed in the bylaws of the board. Five (5) members of the board shall constitute a quorum for the transaction of any and all business which may come before the board. Approval by a majority of all members of the board shall be required for action to be taken. The board shall adopt official seals representing the different professions that shall be affixed to all certificates of registration granted and issued as provided in this chapter. Subject to the approval of the governor, the board is hereby authorized to make ~~such~~ bylaws and prescribe and promulgate ~~such~~ rules as ~~may be deemed~~ necessary in the performance of its duty. The board shall adopt rules establishing standards for the competent practice of architecture and landscape architecture, **and for the administration of the registered architects and registered landscape architects investigative fund established by section 32 of this chapter.** Suitable office quarters shall be provided for the use of the board in the city of Indianapolis.

SECTION 18. IC 25-4-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The board shall be entitled to the services of the attorney general in connection with any of the business of the board. The board shall have the power to administer oaths and take testimony and proofs concerning any matter which may come within its jurisdiction. The attorney general, the prosecuting attorney of any county, the board, ~~of registration for architects and landscape architects;~~ or any a citizen of any a county wherein any person, not herein exempted, shall engage in the practice of architecture or landscape architecture, as herein defined, without first having obtained a certificate of registration, or without first having renewed an expired certificate of registration, so to practice, may, in accordance with the provisions of the laws of this state governing injunctions, maintain an action, in the name of the state of Indiana, to enjoin such person from engaging in the practice of architecture or landscape architecture, as herein defined, until a certificate of registration is secured, or renewed, in accordance with the provisions of this chapter. Any person who has been so enjoined and who ~~shall violate such~~ **violates the** injunction shall be punished for contempt of court. ~~Such~~ **The** injunction shall not relieve such person so practicing architecture or landscape architecture without a certificate of registration, or without first having renewed an expired certificate of registration, from a criminal prosecution therefor, as is provided by this chapter, but such remedy by injunction shall be in addition to any remedy provided for herein for the criminal prosecution of such offender. In charging any person in a complaint for an injunction, or in an affidavit, information or indictment, with the violation of the provisions of this chapter, by practicing architecture or landscape architecture without a certificate of registration or without having renewed an expired certificate of registration, it shall be sufficient to charge that the person did upon a certain day and in a certain county engage in the practice of architecture or landscape architecture, without having a certificate of registration or without having renewed an expired certificate of registration, to so practice, without averring any further or more particular facts concerning the same. **The attorney general and the Indiana professional licensing agency may use the investigative fund to hire investigators and other employees to enforce the provisions of this article and to investigate and prosecute violations of this article."**

Page 10, between lines 8 and 9, begin a new paragraph and insert:  
**"(f) In addition to the registration fees established under this section, the board shall establish a fee of not more than twenty dollars (\$20) for registered architects or registered landscape architects to provide funds for the purpose of administering and enforcing the provisions of this article, including investigating and taking action against persons violating this article. All funds collected under this subsection shall be deposited into the registered architects and registered landscape architects investigative fund established by section 32 of this chapter.**

SECTION 23. IC 25-4-1-32 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 32. (a) The registered architects**

**and registered landscape architects investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against violators of this article. The fund shall be administered by the attorney general and the board.**

**(b) The expenses of administering the fund shall be paid from the money in the fund. The fund consists of money from a fee imposed upon registered architects and registered landscape architects under section 16(f) of this chapter.**

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

**(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. If the total amount in the fund exceeds five hundred thousand dollars (\$500,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds five hundred thousand dollars (\$500,000) reverts to the state general fund.**

**(e) Money in the fund is continually appropriated for use by the attorney general and the professional licensing agency to administer and enforce the provisions of this article and to conduct investigations and take enforcement action against persons violating the provision of this article."**

Page 10, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 24. IC 25-4-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The board shall set the fees for issuance of a certificate of registration to a landscape architect and for the biennial renewal of registration. The fee for registration and for renewal of registration must be based upon the administrative costs of registering and regulating landscape architects. This fee must include the costs for:

(1) office facilities, supplies, and equipment; ~~and~~

(2) clerical assistance; ~~and~~

**(3) the fee for administering and enforcing the provisions of this article as set forth in IC 24-4-1-16(f).**

**(b) Except as provided in IC 25-4-1-32, all fees collected under this chapter shall be paid by the Indiana professional licensing agency to the treasurer of state who shall deposit them in the general fund of the state."**

Page 27, between lines 5 and 6, begin a new paragraph and insert:  
 "SECTION 67. IC 25-20.7 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

## **ARTICLE 20.7. INTERIOR DESIGNERS**

### **Chapter 1. Application**

**Sec. 1. This article applies to a person who practices interior design after December 31, 2005.**

**Sec. 2. This article does not apply to an owner or employee of a retail establishment who provides consultation regarding interior decoration or furnishing:**

**(1) on the premises of the retail establishment; or**

**(2) for the purposes of an actual or prospective retail sale.**

**Sec. 3. This article does not apply to a person who:**

**(1) does not profess to be a registered interior designer; and**

**(2) is:**

**(A) an architect licensed under IC 25-4; or**

**(B) a professional engineer licensed under IC 25-31.**

### **Chapter 2. Definitions**

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

**Sec. 2. "ARE" refers to the Architectural Registration Exam.**

**Sec. 3. "Interior design" means client consultation and preparation and administration of design documents that include:**

**(1) design studies;**

**(2) drawings;**

**(3) schedules;**

**(4) specifications; and**

**(5) contracts;**

**relating to nonstructural and nonseismic interior elements of a building or structure. The term includes design documents for space plans, reflected ceiling plans, fire codes, permits, entrances,**

gress, ergonomics, and the design or specification of fixtures, furnishings, equipment, cabinetry, lighting, materials, finishes, and interior construction that does not materially affect the building system. The term does not include the architectural and engineering design of interior construction.

Sec. 4. "Interior designer" means a person who practices interior design.

Sec. 5. "NCIDQ" refers to the National Council for Interior Design Qualification.

Sec. 6. "Nonstructural or nonseismic" means interior elements or components that:

- (1) are not load bearing or do not assist in the seismic design;
- (2) do not require design computations for the structure of a building; and
- (3) do not include the structural frame system supporting a building.

This term includes ceiling and partition systems that employ normal and typical bracing conventions and are not part of the structural integrity of the building.

Sec. 7. "Out-of-state applicant" means an individual who is:

- (1) an interior designer registered or licensed under the laws of another state, a foreign country, or a province in a foreign country; and
- (2) an applicant for a certificate of registration under this article.

Sec. 8. "Reflected ceiling plan" means a ceiling design that illustrates a ceiling as if the ceiling was projected downward and may include lighting elements.

Sec. 9. "Registered interior designer" means a person registered under this article.

Sec. 10. "Secretary of state" means the office of the secretary of state.

Sec. 11. "Space planning" means the analysis of design of spatial and occupancy requirements, including space layouts and final planning.

### Chapter 3. Registration Requirements

Sec. 1. (a) The secretary of state shall maintain a registry of all interior designers who:

- (1) apply for and meet the registration requirements under this article; and
- (2) pay the annual registration fee.

(b) The registry shall:

- (1) be maintained in an electronic format; and
- (2) include the:
  - (A) name of each registered interior designer; and
  - (B) date that the interior designer registered with the secretary of state.

Sec. 2. The secretary of state shall issue a certificate of registration to an interior designer who does the following:

- (1) Applies for the registration on a form prescribed by the secretary of state.
- (2) Meets the requirements of this article.
- (3) Pays the registration fee under section 5 of this chapter.

Sec. 3. The secretary of state shall issue a certificate of registration to an applicant who satisfies section 2 of this chapter and the following:

- (1) Meets one (1) of the following requirements:
  - (A) Completes a degree in interior design or similar discipline from an accredited college or university.
  - (B) Obtains:
    - (i) four (4) years of interior design higher education and two (2) years of full-time work experience;
    - (ii) three (3) years of interior design higher education and three (3) years of full-time work experience in interior design; or
    - (iii) two (2) years of interior design education and four (4) years of full-time work experience in interior design.
- (2) Except as provided in section 4 of this chapter, an applicant must pass the examination administered by the NCIDQ or the ARE.

Sec. 4. The examination requirement under section 3(2) of this chapter is waived if the applicant holds:

- (1) a valid license or certificate in interior design from an authority in another jurisdiction that has standards substantially equivalent to this article; and
- (2) a current certificate issued by the NCIDQ or documentation of the successful completion of the ARE.

Sec. 5. (a) The secretary of state shall collect the following fees under this article:

- (1) An initial registration fee of one hundred dollars (\$100).
- (2) A biennial renewal fee of one hundred dollars (\$100).
- (3) A restoration fee of three hundred dollars (\$300).

(b) The fees collected by the secretary of state under this article shall be deposited into the electronic and enhanced access fund established by IC 4-5-10-5.

Sec. 6. To qualify for registration under this article, the applicant must not have a conviction for:

- (1) an act that would constitute a ground for disciplinary sanction under IC 25-1-11; or
- (2) a felony that has a direct bearing on the applicant's ability to practice competently.

Sec. 7. (a) This section applies only to an out-of-state applicant.

(b) The secretary of state shall grant a certificate of registration to an out-of-state applicant upon the following conditions:

- (1) The applicant must be at least eighteen (18) years of age and must not have been convicted of:
  - (A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11; or
  - (B) a felony that has a direct bearing on the applicant's ability to practice competently.
- (2) The applicant must:
  - (A) pass the examination administered by the NCIDQ or the ARE; or
  - (B) hold a current valid license or certificate of registration in interior design from an authority in another jurisdiction that has standards substantially equivalent to this article.
- (3) The applicant must pay fees established by the board.

Sec. 8. A registered interior designer shall display the certificate of registration in a conspicuous place:

- (1) in the principal office;
- (2) of business; or
- (3) of employment;

of the registered interior designer.

Sec. 9. (a) A registered interior designer shall have a seal or design authorized by the secretary of state, the impression of which must contain:

- (1) the name of the interior designer;
- (2) the words, "registered interior designer" and "state of Indiana"; and
- (3) the expiration date of the certification.

(b) A registered interior designer must place the seal described in subsection (a) and signature of the registered interior designer on any interior design construction documents issued by the registered interior designer and filed for public record for purposes of obtaining a building permit, including:

- (1) drawings;
- (2) plans;
- (3) specifications; and
- (4) reports.

(c) If a certificate of registration is suspended or revoked, the interior designer shall return the seal to the secretary of state not later than thirty (30) days after the date the certificate was revoked or suspended. The secretary of state shall return the seal to the interior designer if the suspension is removed.

Sec. 10. Notwithstanding section 3 of this chapter, a person may be registered with the secretary of state and issued a certificate of registration after completion of the requirements of section 2 of this chapter if the person provides proof to the secretary of state that:

- (1) the person has:
  - (A) received two (2) to four (4) years of education in interior design; and
  - (B) practiced in the field of interior design for at least ten (10) years; or

(2) the person has practiced interior design for at least fifteen (15) years.

However, a person registered under this section may not place a seal and signature on interior design construction documents as set forth in section 9(b) of this chapter for the purpose of obtaining a building permit unless the person has passed the examination administered by the NCIDQ or the ARE.

#### Chapter 4. Renewal of Certification

Sec. 1. An individual who applies to renew a certificate of registration as an interior designer must:

(1) furnish evidence showing successful completion of the continuing education requirements under section 3 of this chapter; and

(2) pay the renewal fee established under IC 25-20.7-3-5.

Sec. 2. (a) Renewal notices must be sent in accordance with IC 25-1-2-6(c).

(b) The renewal fee must be paid in accordance with IC 25-1-8-2(d).

Sec. 3. Each registered interior designer must complete at least twelve (12) hours of continuing education in interior design or a discipline related to the practice of interior design for the renewal of a certificate under this chapter.

Sec. 4. (a) A registered interior designer who continues to actively practice interior design shall:

(1) renew the certification within ninety (90) days before the expiration of the certificate; and

(2) pay the renewal fee under IC 25-20.7-3-5.

(b) A registered interior designer whose certificate has expired may have the certificate restored only upon payment of the restoration fee under IC 25-20.7-3-5.

(c) Subject to subsection (d), an interior designer registered under this article who has failed to renew the interior designer's certificate for a period of not more than five (5) years from the date the certificate expired may have the certificate renewed at any time within the five (5) year period after the certification expired upon:

(1) making application to the board for renewal of the certification; and

(2) paying a renewal fee equal to the sum of the renewal fees that the applicant would have paid if the applicant had regularly renewed the certification during the period that the certification lapsed.

(d) If a registered interior designer desires to retire from the practice of interior design in Indiana, the interior designer may submit to the secretary of state a verified statement of intention to withdraw from practice. The statement shall be entered in the records of the secretary of state. During the period of the interior designer's retirement, the interior designer is not liable for any renewal or restoration fees. If a retired interior designer desires to return to the practice of interior design in Indiana not later than a period of five (5) years after the date that the interior designer files a statement under this subsection, the retired interior designer must:

(1) file with the secretary of state a verified statement indicating the interior designer's desire to return to the practice of interior design; and

(2) pay:

(A) the renewal fee under IC 25-20.7-3-5 to renew an unexpired certification under this chapter, if the retired interior designer's certification is renewed for one (1) year or more in a biennial renewal cycle; or

(B) a renewal fee equal to one-half (½) the fee under IC 25-20.7-3-5 to renew an unexpired certification under this chapter, if the retired interior designer's certification is renewed for less than one (1) year in a biennial renewal cycle.

Sec. 5. The secretary of state shall keep a register of all applicants for certification showing for each applicant:

(1) the dates of application;

(2) the name, age, and other qualifications;

(3) the place of business;

(4) the place of residence;

(5) whether the applicant was denied or granted a certificate of registration under this article; and

(6) the date the applicant was denied or granted a certificate of registration.

Sec. 6. (a) A person may not use the title "registered interior designer" in Indiana or any title designation sign, card, or device indicating that the person is a registered interior designer unless the person has registered with the secretary of state under this article.

(b) A person may not:

(1) present as the person's own the certificate of registration or the seal of another;

(2) give any false or forged evidence of any kind to the secretary of state or in obtaining a certificate of registration;

(3) impersonate any other registrant;

(4) use an expired, suspended, or revoked certificate of registration.

(c) A violation of this section is a Class B misdemeanor.

Sec. 7. The secretary of state may suspend or revoke a certificate of registration for a violation under section 6(b) of this chapter.

Sec. 8. This article does not prevent an interior designer from practicing interior design if the person does not use the designation under section 6 of this chapter.

Sec. 9. (a) If an interior designer has a civil judgment entered against the interior designer by a court of competent jurisdiction in a civil judicial proceeding for negligence, recklessness, willful misconduct, or other breach of standard of care in the practice of interior design, the secretary of state shall immediately withdraw the interior designer's certificate of registration under this article.

(b) An interior designer who has a civil judgment described in subsection (a) entered against the interior designer is ineligible to be registered under this article.

SECTION 68. IC 25-21.5-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) The board shall enforce and administer this article.

(b) The board shall adopt rules under IC 4-22-2 that are reasonably necessary to implement this article, including for the administration of the registered land surveyor and registered land surveyor in training investigative fund established under IC 25-21.5-11-4, and establish standards for the competent practice of land surveying.

SECTION 69. IC 25-21.5-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Except as provided in subsection (b), the secretary shall receive and account for all money collected under this article and deposit the money in the state general fund with the treasurer of state. All expenses incurred in the administration of this article shall be paid from the state general fund.

(b) In addition to a registration fee determined under IC 25-21.5-7-5, the board shall establish a fee of not more than twenty dollars (\$20) for a registered land surveyor or a registered land surveyor in training to provide funds for the purpose of administering and enforcing the provision of this article, including investigating and taking action against persons violating this article. All funds collected under this subsection shall be deposited in the registered land surveyor and registered land surveyor in training investigative fund established by IC 25-21.5-11-4."

Page 27, line 13, delete "The" and insert "Except as provided in IC 25-21.5-3-4(b), the".

Page 28, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 73. IC 25-21.5-11-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The registered land surveyor and registered land surveyor in training investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against violators of this article. The fund shall be administered by the attorney general and the licensing agency.

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

imposed upon registered land surveyors and registered land surveyors in training under IC 25-21.5-3-4(b).

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

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. If the total amount in the fund exceeds five hundred thousand dollars (\$500,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds five hundred thousand dollars (\$500,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated for use by the attorney general and the Indiana professional licensing agency to administer and enforce the provisions of this article and to conduct investigations and take enforcement action against persons violating the provision of this article.

SECTION 74. IC 25-21.5-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The attorney general shall act as the legal advisor for the board and provide any legal assistance necessary to carry out this article.

(b) The attorney general and the licensing agency may use the registered land surveyor and registered land surveyor in training investigative fund established under IC 25-21.5-11-4 to hire investigators and other employees to enforce the provisions of this article and to investigate and prosecute violations of this article.

SECTION 75. IC 25-21.8 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

**ARTICLE 21.8. MASSAGE THERAPISTS**

**Chapter 1. Application of Article**

Sec. 1. (a) This article applies to an individual who practices or offers to practice massage therapy.

(b) This article does not apply to the following:

- (1) An individual who:
  - (A) does not profess to be a massage therapist or use a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3); and
  - (B) engages in the practice for which the person holds a license, certification, or registration under Indiana law, including a physician, a chiropractor, a podiatrist, or a physical therapist.
- (2) An individual who:
  - (A) does not profess to be a massage therapist or use a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3); and
  - (B) is a qualified member of a professional group and performs massage in a manner consistent with the individual's training and code of ethics of the profession, including a chiropractor, an occupational therapist, a cosmetologist, or a nurse.
- (3) A massage therapy student who performs massage or massage therapy in the course of the student's studies and who:
  - (A) does not profess to be a massage therapist or use a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3); and
  - (B) does not receive or request compensation for the massage or massage therapy.
- (4) An individual who:
  - (A) does not profess to be a massage therapist or use a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3) and whose services are not designated or implied to be massage or massage therapy;
  - (B) is engaged within the scope of practice of a profession with established standards and ethics; and
  - (C) uses:
    - (i) touch, words, and direct movements to deepen awareness of existing patterns of movement in the body and to suggest new possibilities of movement; or
    - (ii) touch that is essential for effectual palpation of the human energy system.
- (5) An individual who:
  - (A) does not profess to be a massage therapist or use a

title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3); and

(B) treats soft tissue above the neck, below the elbow, or below the knee on a client who is not disrobed.

**Chapter 2. Definitions**

Sec. 1. Definitions in this chapter apply throughout this article.

Sec. 2. "Board" means the state board of massage therapy established by IC 25-21.8-3-1.

Sec. 3. "Licensing agency" means the Indiana professional licensing agency established under IC 25-1-6.

Sec. 4. "Massage", "massage therapy", or "bodywork":

- (1) means the therapeutic application of massage techniques on the human body;
- (2) includes:
  - (A) the use of touch, pressure, percussion, kneading, movement, positioning, nonspecific stretching, stretching within the normal anatomical range of movement, and holding, with or without the use of massage devices that mimic or enhance manual measures; and
  - (B) the external application of heat, cold, water, ice, stones, thermal therapy, lubricants, abrasives, and topical preparations that are not classified as prescription drugs; and
- (3) does not include:
  - (A) joint manipulation or spinal adjustment; and
  - (B) diagnosis or prescribing drugs for which a license is required.

Sec. 5. "Massage therapist" means an individual who practices massage or massage therapy.

Sec. 6. "NCCA" refers to the National Commission for Certifying Agencies.

Sec. 7. "Practice of massage", "practice of massage therapy", or "practice of bodywork" means:

- (1) the performance of massage or massage therapy;
- (2) professing to be a massage therapist; or
- (3) implying in any manner to the public that an individual performs massage or massage therapy.

Sec. 8. "Professional massage and bodywork therapy association" means a state or nationally chartered organization that is devoted to the massage specialty and therapeutic approach and that meets the following requirements:

- (1) The organization requires that its members meet minimum educational requirements. The educational requirements must include anatomy, physiology, hygiene, sanitation, ethics, technical theory, and application of techniques.
- (2) The organization has an established code of ethics and has procedures for the suspension and revocation of membership of persons violating the code of ethics.

**Chapter 3. State Board of Massage Therapy**

Sec. 1. The state board of massage therapy is established.

Sec. 2. The board consists of five (5) members appointed by the governor as follows:

- (1) Three (3) massage therapists, each of whom:
  - (A) is licensed under this article; and
  - (B) has been actively practicing massage therapy for at least three (3) of the five (5) years immediately preceding the individual's appointment.

The board members appointed under this subdivision may continue to practice massage or massage therapy while serving on the board.

(2) Two (2) members of the general public. A board member appointed under this subdivision must not:

- (A) be licensed under this article;
- (B) be the spouse of an individual who is licensed or intends to be licensed under this article; or
- (C) have a direct or an indirect financial interest in the profession regulated under this article.

Only one (1) of the two (2) members appointed under this subdivision may hold a license in another health care profession under this title.

Sec. 3. Each member of the board shall serve a term of three (3) years and until the member's successor is appointed and qualified.

Sec. 4. (a) A vacancy in the membership of the board shall be filled by an individual appointed by the governor for the unexpired term.

(b) A member may not serve more than two (2) consecutive terms in addition to any unexpired term to which the individual was appointed.

(c) A member of the board may be removed for cause by the governor.

Sec. 5. (a) Each year the board shall elect from its members the following officers:

- (1) A chairperson.
- (2) A vice chairperson.
- (3) A secretary.

(b) A member serving as chairperson, vice chairperson, or secretary shall serve until the member's successor as chairperson, vice chairperson, or secretary is elected.

Sec. 6. The board shall meet at least two (2) times each calendar year upon the call of the chairperson or the written request of a majority of the members of the board.

Sec. 7. (a) Three (3) members of the board constitute a quorum.

(b) An affirmative vote of three (3) members of the board is necessary for the board to take official action.

Sec. 8. A member of the board is not entitled to a per diem allowance or any other compensation for the performance of the member's duties.

#### Chapter 4. Powers and Duties of the Board

Sec. 1. (a) The board shall do the following:

- (1) Administer, coordinate, and enforce this article.
- (2) Adopt rules under IC 4-22-2 for the administration and enforcement of this article.
- (3) Judge the qualifications of applicants for licensing under this article.
- (4) Issue, deny, renew, suspend, or revoke licenses under this article.
- (5) Discipline licensees for violations of this article.
- (6) Establish reasonable fees for examination, license applications, renewal of licenses, and other services.
- (7) Maintain a record of all proceedings.
- (8) Establish a system for grievances to be addressed and resolved.
- (9) Maintain a list of licensed massage therapists.

(b) The board is authorized to do the following:

- (1) Rescind or modify a disciplinary action taken under IC 25-21.8-8.
- (2) Conduct investigations to determine whether violations of this article exist and constitute grounds for disciplinary action against licensees under this article.
- (3) Conduct administrative hearings.

Sec. 2. The licensing agency shall do the following:

- (1) Carry out the administrative functions of the board.
- (2) Provide necessary personnel to carry out the duties of this article.
- (3) Receive and account for all fees required under this article.
- (4) Deposit fees collected with the treasurer of state for deposit in the state general fund.

Sec. 3. Expenses incurred in the administration of this article must be paid from the state general fund.

#### Chapter 5. Issuance of License

Sec. 1. An individual may not practice or offer to practice massage therapy without a license issued by the board.

Sec. 2. An application for a massage therapist license must be:

- (1) made to the board on forms provided by the board; and
- (2) accompanied by an application fee in the amount set by the board.

Sec. 3. An individual who applies for a license as a massage therapist must do the following:

- (1) Furnish evidence satisfactory to the board showing that the individual:
  - (A) is at least eighteen (18) years of age;
  - (B) has a high school diploma or the equivalent of a high school diploma;
  - (C) has successfully completed a massage school or

program that:

- (i) requires at least five hundred (500) hours of supervised classroom instruction on massage therapy;
- (ii) is in good standing with any state, regional, or national agency of government charged with regulating massage therapy schools or programs; and
- (iii) is accredited by the Indiana commission on proprietary education established by IC 20-1-19-2 or accredited by another state where the standards for massage therapy education are substantially the same as the standards in Indiana, or is a program at an institution of higher learning that is approved by the board; and

(D) has taken and passed one (1) of the following:

- (i) The National Certification Examination for Therapeutic Massage and Bodywork (NCETMB), if the exam is recognized or accredited by the NCCA.
- (ii) An examination created or approved by the board.
- (iii) An equivalent massage examination accredited by the NCCA.

(2) Provide a history of any criminal convictions the individual has, including any convictions related to the practice of the profession. A criminal conviction may not operate as a complete bar to a license, unless:

- (A) the conviction is for:
  - (i) prostitution;
  - (ii) rape; or
  - (iii) sexual misconduct; or
- (B) the applicant is a registered sex offender.

(3) Verify the information submitted on the application form.

(4) Pay fees established by the board.

Sec. 4. An individual who is not licensed under this article may not:

- (1) profess to be a massage therapist;
- (2) practice massage or massage therapy; or
- (3) use:
  - (A) the title "Licensed Massage Therapist", "Massage Therapist", "Licensed Massage Practitioner", "Massage Practitioner", "Masseur", "Masseuse", "Myotherapist", or "Body Worker";
  - (B) the abbreviation "LMT", "MT", "LMP", or "MP"; or
  - (C) other words, initials, letters, abbreviations, or insignia indicating or implying that the individual is a massage therapist licensed under this article.

#### Chapter 6. Licensure by Endorsement

Sec. 1. (a) Subject to section 2 of this chapter, the board may grant a license by endorsement to an individual who:

- (1) is licensed, certified, or registered in another state or country having credentialing standards that are at least as strict as the credentialing standards specified under this article;
- (2) is in good standing with the standards of the other state or country;
- (3) pays an application fee established by the board; and
- (4) provides a history of the individual's criminal convictions, if any, including any criminal convictions relating to the practice of the profession. A criminal conviction may not operate as a complete bar to a license, unless:

- (A) the conviction is for:
  - (i) prostitution;
  - (ii) rape; or
  - (iii) sexual misconduct; or
- (B) the applicant is a registered sex offender.

(b) Upon receipt of an application for a license by endorsement under this chapter, the board shall contact each jurisdiction that previously credentialed the applicant to determine the applicant's current status in each jurisdiction.

Sec. 2. The board shall issue a license to an applicant if:

- (1) the applicant has been credentialed by another state within the five (5) years immediately preceding the submission of the application to the board under this

chapter and the state has credentialing standards for massage therapists that are substantially equivalent to the credentialing standards that must be met under this article; or

(2) the applicant:

(A) holds a current certification from the National Certification Board for Therapeutic Massage and Bodywork (NCETMB) or another agency that meets standards set by the NCCA; and

(B) is a current member of a professional massage and bodywork therapy association;

and the applicant meets other requirements established by the board.

#### Chapter 7. License Renewal

Sec. 1. A license issued by the board is valid for four (4) years.

Sec. 2. (a) An individual who applies to renew a license as a massage therapist must:

(1) file a renewal application with the board;

(2) pay a renewal fee established by the board; and

(3) provide a history of any of the individual's criminal convictions, including any criminal convictions relating to the practice of the profession. A criminal conviction may not operate as a complete bar to the renewal of a license, unless:

(A) the conviction is for:

(i) prostitution;

(ii) rape; or

(iii) sexual misconduct; or

(B) the applicant is a registered sex offender.

(b) An application for license renewal must include proof of current membership in a professional massage and bodywork therapy association.

Sec. 3. (a) A renewal application must be submitted to the board at least fifteen (15) days before expiration of the license.

(b) If a renewal application is not submitted within the time set forth in subsection (a), the board may charge the applicant a delinquent fee in an amount established by the board.

#### Chapter 8. Discipline and Violations

Sec. 1. (a) This section does not apply to the violation of a rule adopted by the board.

(b) A person who knowingly or intentionally violates IC 25-21.8-5-1 or IC 25-21.8-5-4(3) commits a Class C misdemeanor.

Sec. 2. (a) The board shall follow the disciplinary procedures established under IC 25-1-7, IC 25-1-9-4, and IC 25-1-9-9.

(b) The board shall adopt rules under IC 4-22-2 regarding the discipline of a licensee for a violation of this article.

Sec. 3. (a) A person who practices, offers to practice, or attempts to practice massage therapy, or who holds himself or herself out to the public as a person able to practice massage therapy or as a massage therapist without being licensed under this article, in addition to any other penalty provided by law, shall pay a civil penalty to the board in an amount that does not exceed five thousand dollars (\$5,000) for each violation as determined by the board.

(b) A civil penalty imposed under this section shall be paid not later than sixty (60) days after the effective date of the order imposing the civil penalty. The order:

(1) constitutes a judgment; and

(2) may be filed and executed in the same manner as any judgment from any court of record.

#### Sec. 4. A person who knowingly:

(1) aids and abets another person in using a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3) when the other person is not authorized under this article to use the title, abbreviation, or other designation; or

(2) employs another person who uses but is not authorized to use the regulated professional title under this article in the course of the other person's employment;

shall pay a civil penalty to the board in an amount that does not exceed five thousand dollars (\$5,000) for each violation as determined by the board.

#### Chapter 9. Preemption of Local Ordinances, Resolutions,

#### Rules, and Policies

Sec. 1. Except as provided in section 2 of this chapter, this article supersedes any ordinances, resolutions, rules, and policies relating to the licensing, certification, or registration of massage therapists that are adopted by a municipality or county and that otherwise have the force and effect of law.

Sec. 2. This article does not affect local ordinances, resolutions, rules, and policies adopted by a municipality or county that have the force and effect of law and that relate to:

(1) zoning requirements; or

(2) occupational license fees."

Page 28, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 77. IC 25-28.5-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) Except as otherwise provided in this chapter, any a natural person over the age of eighteen (18) years who resides in Indiana and any corporation which satisfies the further requirements of this chapter may be licensed by the commission as a plumbing contractor. Except as otherwise provided by this chapter, any a natural person over the age of eighteen (18) years may be licensed by the commission as journeyman plumber.

(b) Any A person who desires to be licensed as a plumbing contractor or journeyman plumber is eligible for such a license upon the successful taking of the examination provided in section 15 of this chapter.

(c) To qualify for a journeyman plumber examination under subsection (b), an applicant who is an Indiana resident must provide evidence that the applicant has completed at least four (4) years in an apprenticeship program approved by the commission or present to the commission a notarized statement providing evidence that the applicant has at least four (4) years of experience in the plumbing trade in employment as set forth in IC 25-28.5-1-32(2), IC 25-28.5-1-32(6), or IC 25-28.5-1-32(7). To qualify for a plumbing contractor license examination under subsection (b), an applicant who is an Indiana resident must provide evidence that the applicant has completed at least four (4) years in an apprenticeship program approved by the commission or present to the commission a notarized statement providing evidence that the applicant has at least four (4) years of experience in the plumbing trade in employment as set forth in IC 25-28.5-1-32(2), IC 25-28.5-1-32(6), or IC 25-28.5-1-32(7), or has worked in a plumbing business under the direction of a licensed plumbing contractor for at least four (4) years.

(d) An applicant who is not an Indiana resident may qualify to take an examination under subsection (b) in the following manner:

(1) If the applicant holds a license in a state that does not have a reciprocity agreement with Indiana, the applicant must present the license to the commission to be eligible to take the examination.

(2) If the applicant resides in a state that does not have licensing requirements, the applicant before taking the examination must meet the appropriate requirements of subsection (b).

(e) If the applicant holds a license in a state that has a reciprocity agreement with Indiana, the appropriate license shall be issued automatically."

Page 30, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 85. IC 25-31-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The board shall enforce and administer the provisions of this chapter, and adopt rules, not inconsistent with the Constitution and laws of this state, as may be reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it. The board shall adopt rules establishing standards for the competent practice of engineering and for the administration of the registered professional engineers and registered engineering interns investigative fund established by section 35 of this chapter. Any rulemaking by the board shall be in accordance with IC 4-22-2.

(b) The board shall adopt and have an official seal.

SECTION 86. IC 25-31-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Except as provided in subsection (b), the licensing agency shall receive and

account for all money collected under the provisions of this chapter and shall deposit the money with the treasurer of state to be deposited by the treasurer of state in the general fund of the state.

(b) In addition to the registration fee established under section 13(c) of this chapter, the board shall establish a fee of not more than twenty dollars (\$20) for registered professional engineers or registered engineering interns to provide funds for the purpose of administering and enforcing the provisions of this article, including investigating and taking action against persons violating this article. All funds collected under this subsection shall be deposited into the registered professional engineers and registered engineering interns investigative fund established by section 35 of this chapter."

Page 34, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 91. IC 25-31-1-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. (a) It is the duty of all law enforcement officers of this state, or any political subdivision, to enforce the provisions of this chapter and to apprehend and prosecute any person who violates any of the provisions of this chapter.

(b) The attorney general shall act as the legal advisor of the board and render any legal assistance as may be necessary in carrying out the provisions of this chapter.

(c) The attorney general and the licensing agency may use the registered professional engineers and registered engineering interns investigative fund established by section 35 of this chapter to hire investigators and other employees to enforce the provision of this article and to investigate and prosecute violations of this article.

SECTION 92. IC 25-31-1-35 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 35. (a) The registered professional engineers and registered engineering interns investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against violators of this article. The fund shall be administered by the attorney general and the licensing agency.

(b) The expenses of administering the fund shall be paid from the money in the fund. The fund consists of money from a fee imposed upon registered professional engineers and registered engineering interns under section 9(b) of this chapter.

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

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. If the total amount in the fund exceeds five hundred thousand dollars (\$500,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds five hundred thousand dollars (\$500,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated for use by the attorney general and the professional licensing agency to administer and enforce the provisions of this article and to conduct investigations and take enforcement action against persons violating the provisions of this article."

Page 34, line 25, after "public" delete "." and insert ";".

Page 37, line 6, after "public" delete "." and insert ";".

Page 40, between lines 9 and 10, begin a new paragraph and insert:  
"SECTION 95. IC 27-16 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

## ARTICLE 16. PROFESSIONAL EMPLOYER ORGANIZATIONS

### Chapter 1. Applicability

Sec. 1. This article applies after December 31, 2005.

### Chapter 2. Definitions

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

Sec. 2. (a) "Administrative fee" means the fee charged to a client by a professional employer organization for professional employer services.

(b) The term does not include any amount charged to a client by a professional employer organization for wages and salaries, benefits, worker's compensation, payroll taxes, withholding, or other assessments paid by a professional employer organization to or on behalf of a covered employee.

Sec. 3. "Client" means a person that enters into a professional employer agreement with a professional employer organization.

Sec. 4. "Co-employed" means that an individual is contemporaneously employed by both a client and a professional employer organization.

Sec. 5. "Co-employer" refers to a client or a professional employer organization that has entered into a professional employer agreement and has a relationship with a co-employed individual.

Sec. 6. "Co-employment relationship" means a relationship:

(1) between a:

- (A) client and a professional employer organization; or
- (B) co-employer and a covered employee; and

(2) that results from the client and the professional employer organization entering into a professional employer agreement.

Sec. 7. "Commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

Sec. 8. (a) "Covered employee" means an individual who is co-employed.

(b) The term includes an individual who is an officer, a director, a shareholder, a partner, or a manager of a client to the extent the professional employer organization and the client expressly agree that the individual:

(1) is described in subsection (a); and

(2) acts as an operational manager or performs day to day operational services for the client;

as reflected in the professional employer agreement.

Sec. 9. "Department" refers to the department of insurance created by IC 27-1-1-1.

Sec. 10. "PEO group" means two (2) or more professional employer organizations that are majority owned or commonly controlled by the same entity, parent, or controlling person.

Sec. 11. "Person" means an individual, a partnership, a corporation, a limited liability company, an association, or another legally recognized entity.

Sec. 12. "Professional employer agreement" means a written contract between a person and a professional employer organization:

(1) under which all or a majority of the person's employees become covered employees;

(2) that provides for the allocation of employer rights and obligations between the person and the professional employer organization with respect to the covered employees; and

(3) that specifies the professional employer services that will be provided.

Sec. 13. (a) "Professional employer organization" or "PEO" means a person engaged in the business of providing professional employer services.

(b) The term does not include the following:

(1) An arrangement through which a person:

- (A) whose principal business activity is an activity other than entering into professional employer agreements; and
- (B) that does not hold the person out as a professional employer organization;

shares employees with a commonly owned company within the meaning of Section 414(b) and 414(c) of the Internal Revenue Code of 1986, as amended.

(2) An independent contractor arrangement through which a person:

- (A) assumes responsibility for a product produced or a service performed by the person or the person's agent; and
- (B) retains and exercises primary direction and control over the work performed by an individual whose services are supplied under the independent contractor arrangement.

(3) The provision of temporary help services.

Sec. 14. "Professional employer services" means the services that are provided to a client by a professional employer organization under a professional employer agreement.

Sec. 15. "Temporary help service" means a service consisting of a person that:

- (1) recruits and hires the person's own employees, not including an officer, a manager, or a controlling person of a client to which the person's own employee is assigned by the person;
- (2) identifies organizations that need the services of employees described in subdivision (1);
- (3) assigns employees described in subdivision (1) to:
  - (A) perform work or services for organizations described in subdivision (2);
  - (B) support or supplement the workforces of organizations described in subdivision (2); or
  - (C) provide assistance in special work situations, including employee absences, skill shortages, seasonal workloads, and special assignments or projects; and
- (4) customarily attempts to reassign the employees described in subdivision (1) to other organizations when an assignment described in subdivision (3) is completed.

**Chapter 3. Effect on Rights, Duties, and Obligations**

Sec. 1. This article and a professional employer agreement do not affect, modify, or amend:

- (1) a collective bargaining agreement; or
- (2) rights or obligations of a client, PEO, or covered employee under:
  - (A) the federal National Labor Relations Act (29 U.S.C. 151 et seq.);
  - (B) the federal Railway Labor Act (45 U.S.C. 151 et seq.); or
  - (C) IC 22-7.

Sec. 2. This article and a professional employer agreement do not do the following:

- (1) Diminish, abolish, or remove the obligations of a client to a covered employee that exist before the effective date of the professional employer agreement.
- (2) Affect, modify, or amend a contractual relationship or restrictive covenant:
  - (A) between a covered employee and a client that is in effect on the effective date of the professional employer agreement; or
  - (B) that is entered into between a client and a covered employee after the effective date of the professional employer agreement.

A PEO is not responsible or liable for a dispute in connection with or arising out of a contractual relationship or restrictive covenant described in this subdivision unless the PEO has otherwise specifically agreed in writing.

- (3) Create a new or additional enforceable right of a covered employee against a PEO that is not specifically provided by the professional employer agreement or this article.

Sec. 3. (a) This article and a professional employer agreement do not affect, modify, or amend a federal, state, or local:

- (1) license;
- (2) registration; or
- (3) certification;

requirement that applies to a client or covered employee.

(b) The following apply to a federal, state, or local requirement described in subsection (a):

- (1) A covered employee who is required to be licensed, registered, or certified is considered solely an employee of the client for purposes of a license, registration, or certification requirement.
- (2) A PEO is not considered to engage in an occupation, a trade, a profession, or another activity that is:
  - (A) subject to a license, registration, or certification requirement; or
  - (B) otherwise regulated by a governmental entity; solely because the PEO has entered into and maintained a co-employment relationship with a covered employee who

is subject to a requirement or regulation described in clause (A) or (B).

(3) A client has the sole right of direction and control of the professional or licensed activities of a covered employee and of the client's business.

(4) Only a:

- (A) covered employee; or
- (B) client;

that is subject to a requirement or regulation described in subdivision (2)(A) or (2)(B) is subject to the regulation by a regulatory or governmental entity responsible for licensing, registration, certification, or other regulation of the covered employee or client.

Sec. 4. (a) For purposes of determination of tax credits and other economic incentives:

- (1) provided by the state or another governmental entity; and
- (2) based on employment;

a covered employee is considered an employee solely of the client.

(b) A client is entitled to the benefit of any tax credit, economic incentive, or other benefit arising as the result of the employment of a covered employee of the client.

(c) If the grant or amount of an incentive is based on the number of employees a client employs:

- (1) each client must be treated as employing only the covered employees actually working in the client's business operations; and
- (2) covered employees working for other clients of the PEO must not be counted.

(d) A PEO shall provide, upon request by a client or an agency or a department of the state or of another governmental entity, employment information:

- (1) reasonably required by an agency or a department of the state or of another governmental entity that is responsible for administration of a tax credit or economic incentive described in this section; and
- (2) necessary;

to support a request, a claim, an application, or another action by a client seeking a tax credit or an economic incentive.

Sec. 5. With respect to a bid, a contract, a purchase order, or an agreement entered into with the state or a political subdivision of the state, a client's status or certification as a:

- (1) small, minority owned, disadvantaged, or woman owned business enterprise; or
- (2) historically underutilized business;

is not affected because the client has entered into the professional employment agreement.

**Chapter 4. Registration**

Sec. 1. (a) A person shall not:

- (1) provide professional employer services;
- (2) advertise that the person:
  - (A) is a professional employer organization; or
  - (B) provides professional employer services; or
- (3) otherwise hold the person out as a professional employer organization;

in Indiana unless the person is registered under this article.

(b) The registration requirement specified in subsection (a) applies to a person that performs any of the activities specified in subsection (a) regardless of the person's use of any of the following terms:

- (1) Professional employer organization.
- (2) PEO.
- (3) Staff leasing company.
- (4) Registered staff leasing company.
- (5) Employee leasing company.
- (6) Administrative employer.
- (7) Any other name.

Sec. 2. An applicant for registration under this article shall file with the department the following information:

- (1) The name or names under which the applicant conducts business.
- (2) The address of the principal place of business of the applicant and the address of each office the applicant maintains in Indiana.

(3) The applicant's taxpayer or employer identification number.

(4) A list by jurisdiction of each name under which the applicant has operated in the preceding five (5) years, including any alternative names, names of predecessors, and, if known, successor business entities.

(5) A statement of ownership that includes the name and evidence of the business experience of any person that, individually or acting in concert with one (1) or more other persons, owns or controls, directly or indirectly, twenty-five percent (25%) or more of the equity interests of the applicant.

(6) A statement of management that includes the name and evidence of the business experience of any individual who serves as president, chief executive officer, or otherwise has the authority to act as senior executive officer of the applicant.

(7) A financial statement:

(A) setting forth the financial condition of the applicant as of a date not earlier than one hundred eighty (180) days before the date the financial statement is submitted to the department;

(B) prepared in accordance with generally accepted accounting principles; and

(C) reviewed by an independent certified public accountant licensed to practice in the jurisdiction in which the accountant is located.

Sec. 3. (a) A PEO that is operating in Indiana on January 1, 2006, shall complete the PEO's initial registration not later than July 1, 2006.

(b) An initial registration under subsection (a) is valid until the end of the PEO's first fiscal year end that occurs after December 31, 2006.

(c) A PEO that is not operating in Indiana on December 31, 2005, shall complete the PEO's initial registration before commencement of operations in Indiana.

Sec. 4. A PEO shall, not more than one hundred eighty (180) days after the end of the PEO's fiscal year, renew the PEO's registration by filing a statement notifying the department of any changes in the information provided in the PEO's most recent registration or renewal.

Sec. 5. A PEO group may satisfy the reporting and financial requirements of this chapter on a combined or consolidated basis if each member of the PEO group guarantees the obligations under this article of each other member of the PEO group.

Sec. 6. (a) A PEO that is not domiciled in Indiana is eligible for a limited registration under this article if the PEO:

(1) submits a properly executed request for limited registration on a form prescribed by the department;

(2) is licensed or registered as a professional employer organization in another state that has licensure or registration requirements that are:

(A) substantially the same as; or

(B) more restrictive than;

the requirements of this article;

(3) does not:

(A) maintain an office; or

(B) directly solicit clients located or domiciled; in Indiana; and

(4) does not have more than fifty (50) covered employees who are employed or domiciled in Indiana on any day.

(b) A limited registration is valid for one (1) year and may be renewed.

(c) A PEO that seeks limited registration under this section shall provide to the department information and documentation necessary to show that the PEO qualifies for a limited registration.

(d) IC 27-16-6-1(1) does not apply to a PEO that applies for limited registration under this section.

Sec. 7. The department shall adopt rules under IC 4-22-2 to provide for registration of a PEO without compliance with this chapter and IC 27-16-6 by the commissioner's acceptance of an affidavit or a certification:

(1) provided by a bonded, independent, and qualified

assurance organization that has been approved by the commissioner; and

(2) that certifies the qualifications of a professional employer organization.

Sec. 8. The department shall maintain a list of PEOs that are registered under this article.

Sec. 9. The department may prescribe forms necessary to promote the efficient administration of this chapter.

Sec. 10. All records, reports, and other information obtained from a PEO under this chapter, except to the extent necessary for the proper administration of this chapter by the department, are confidential.

#### Chapter 5. Fees

Sec. 1. Upon filing an initial registration application under IC 27-16-4-2, a PEO shall pay an initial registration fee not to exceed five hundred dollars (\$500).

Sec. 2. Upon the filing of an annual renewal of a registration under IC 27-16-4-4, a PEO shall pay a renewal fee not to exceed two hundred fifty dollars (\$250).

Sec. 3. Upon initial application for limited registration under IC 27-16-4-6 and upon each annual renewal of the limited registration, a PEO shall pay a fee not to exceed two hundred fifty dollars (\$250).

Sec. 4. The department shall adopt rules under IC 4-22-2 to specify any fee to be charged for a PEO group registration.

Sec. 5. A PEO seeking registration under IC 27-16-4-7 shall pay an initial and annual fee not to exceed two hundred fifty dollars (\$250).

Sec. 6. (a) The department shall adopt rules under IC 4-22-2 to specify any other fee to be charged under this article.

(b) A fee:

(1) for which the amount is not specified in; and

(2) that is charged under;

this article must not exceed the amount reasonably necessary for the administration of this article.

Sec. 7. Fees collected under this chapter shall be deposited in the department of insurance fund established by IC 27-1-3-28.

#### Chapter 6. Financial Requirements

Sec. 1. (a) A PEO shall maintain either:

(1) subject to section 2 of this chapter, a minimum net worth of fifty thousand dollars (\$50,000); or

(2) subject to subsection (b), a bond with a market value of at least fifty thousand dollars (\$50,000).

(b) A bond described in subsection (a)(2) must be held by a depository designated by the department, securing payment by the PEO of all taxes, wages, benefits, or other entitlement due to or with respect to covered employees in the event that the PEO does not make the payments when due.

Sec. 2. A bond described in section 1(a)(2) of this chapter must not be included in the calculation of the minimum net worth described in section 1(a)(1) of this chapter.

#### Chapter 7. General Requirements and Provisions

Sec. 1. Except as provided in a professional employer agreement, the following apply to a co-employment relationship:

(1) The client:

(A) may exercise and enforce all rights; and

(B) is obligated to perform all duties and responsibilities; that otherwise apply to an employer in an employment relationship, that are allocated to the client by the professional employer agreement and this article, and that are not specifically allocated to the PEO by the professional employer agreement and this article.

(2) The PEO:

(A) may exercise and enforce only the rights; and

(B) is obligated to perform only the duties and responsibilities;

that are required of the PEO or specifically allocated to the PEO by this article and the professional employer agreement.

(3) Unless otherwise expressly agreed by the PEO and the client in the professional employer agreement, the client retains the exclusive right to direct and control the covered employees as necessary to:

(A) conduct the client's business;

- (B) discharge the client's fiduciary responsibilities; or
- (C) comply with licensure requirements that apply to the client or the covered employees.

Sec. 2. (a) Except as provided in this article, the co-employment relationship between a client and a PEO, and between a co-employer and a covered employee, is governed by the professional employer agreement.

(b) A professional employer agreement must specify the following:

- (1) The allocation of rights, duties, and responsibilities described in section 1 of this chapter.
- (2) Except as provided in subsection (c), that the PEO is responsible for:
  - (A) payment of wages to covered employees;
  - (B) withholding, collection, reporting, and remittance of payroll related and unemployment taxes; and
  - (C) to the extent the PEO has assumed responsibility in the professional employer agreement, making payments for employee benefits for covered employees.
- (3) The allocation, to either the client or the PEO, of the responsibility to obtain worker's compensation coverage for covered employees from a worker's compensation insurer that is authorized under this title to conduct the business of insurance in Indiana.
- (4) If the professional employer agreement allocates the responsibility under subdivision (3) to the PEO, a requirement that the PEO maintain and provide to the client, at the client's request at the termination of the professional employer agreement, records regarding loss experience related to the worker's compensation insurance coverage.

(c) A PEO is not responsible for an obligation between a client and a covered employee for payments in addition to the covered employee's salary, draw, or regular rate of pay, including bonuses, commissions, severance pay, deferred compensation, profit sharing, or vacation, sick, or other paid time off, unless the PEO has expressly agreed to assume liability for the payments in the professional employer agreement.

Sec. 3. A PEO shall provide written notice to each covered employee who is affected by a professional employer agreement entered into by the PEO concerning the general nature of the co-employment relationship between and among the PEO, the client, and the covered employee.

Sec. 4. (a) Except as expressly provided by the professional employer agreement:

- (1) a client:
  - (A) is solely responsible for:
    - (i) the quality, adequacy, or safety of goods or services produced or sold in the client's business;
    - (ii) directing, supervising, training, and controlling the work of a covered employee with respect to the business activities of the client; and
    - (iii) the acts, errors, or omissions of a covered employee with respect to activities described in item (ii); and
  - (B) is not liable for the acts, errors, or omissions of:
    - (i) the PEO; or
    - (ii) a covered employee of the client and a PEO when the covered employee is acting under the express direction and control of the PEO.
- (2) A PEO is not liable for the acts, errors, or omissions of a client or a covered employee of the client when the covered employee is acting under the express direction and control of the client.
- (3) A covered employee is not, solely as the result of being a covered employee of a PEO, an employee of the PEO for purposes of:
  - (A) general liability insurance;
  - (B) fidelity bonds;
  - (C) surety bonds;
  - (D) employer's liability that is not covered by worker's compensation; or
  - (E) liquor liability insurance;
 carried by the PEO unless the covered employee is specified

as an employee of the PEO by specific reference in the professional employer agreement and any applicable prearranged employment contract, insurance contract, or bond.

(b) This section does not limit:

- (1) a contractual liability or obligation specified in a professional employer agreement; or
- (2) the liabilities and obligations of a PEO or client as specified in this article.

Sec. 5. A PEO that offers, markets, sells, administers, or provides professional employer services under a professional employer agreement as provided in this article is not:

- (1) engaged in the business of insurance; or
- (2) acting as an administrator (as defined in IC 27-1-25-1).

Sec. 6. (a) A business license fee or other fee that is based upon gross receipts must, in the case of a PEO, be based upon the administrative fee of the PEO.

(b) A tax assessed on a per capita or per employee basis must be assessed against a:

- (1) client for covered employees; and
- (2) PEO for the PEO's employees who are not covered employees.

(c) In the case of tax imposed or calculated upon the basis of total payroll, a PEO is eligible to apply a small business allowance or exemption available to the client for covered employees for the purpose of computing the tax.

#### Chapter 8. Benefit Plans

Sec. 1. A client and a PEO are each considered to be an employer for purposes of sponsoring retirement and welfare benefit plans for covered employees.

Sec. 2. A fully insured welfare benefit plan offered to covered employees of a single PEO is:

- (1) considered to be a single employer welfare benefit plan; and
- (2) not a multiple employer welfare arrangement (as defined in IC 27-1-34-1(b)) and is not required to comply with IC 27-1-34.

Sec. 3. For purposes of IC 27-8-15, all covered employees of a PEO participating in a group health benefit plan sponsored by the PEO are considered to be:

- (1) employees of the PEO; and
- (2) participating in a single employer plan.

Sec. 4. If a PEO offers to the PEO's covered employees a health benefit plan that is not fully insured by an insurer authorized under this title to conduct the business of insurance in Indiana, the health benefit plan must:

- (1) be administered by an administrator licensed under IC 27-1-25;
- (2) hold all plan assets, including participant contributions, in a trust account;
- (3) provide sound reserves for the health benefit plan as determined using generally accepted actuarial standards as set forth in an actuarial opinion filed with the commissioner and prepared and signed by a qualified actuary who:
  - (A) is a member in good standing of the American Academy of Actuaries; and
  - (B) meets the requirements established by the commissioner in rules adopted under IC 4-22-2;
- (4) annually submit current audited financial statements to the commissioner;
- (5) at the discretion of the commissioner, possess a written commitment, binder, or policy for stop-loss insurance:
  - (A) issued by an insurer authorized to conduct the business of insurance in Indiana; and
  - (B) that meets any specific and total coverage requirements established by the commissioner in rules adopted under IC 4-22-2;
- (6) be subject to audit for compliance with the requirements of this section by the department on a random basis or upon a finding of reasonable need; and
- (7) provide written notice to each covered employee participating in the health benefit plan that the health benefit plan is:
  - (A) self-insured or not fully insured; and

(B) subject to the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

#### Chapter 9. Worker's Compensation

Sec. 1. Subject to the specification required under IC 27-16-7-2(b)(3), a client and a PEO are both considered the employer of a covered employee for purposes of coverage under IC 22-3-2 through IC 22-3-7.

Sec. 2. The protection of the exclusive remedy provisions of IC 22-3-2-6 and IC 22-3-7-6 apply to the PEO, the client, and each covered employee and other employee of the client regardless of whether the PEO or the client is responsible to obtain the worker's compensation coverage for the covered employees under the professional employer agreement.

#### Chapter 10. Unemployment Compensation Insurance

Sec. 1. (a) For purposes of IC 22-4, a covered employee of a PEO is an employee of the PEO.

(b) A PEO is responsible for the payment of contributions, penalties, and interest on wages paid by the PEO to the PEO's covered employees during the term of the professional employer agreement.

Sec. 2. A PEO shall report and pay all required contributions to the unemployment compensation fund as required by IC 22-4-10 using the state employer account number and the contribution rate of the PEO.

#### Sec. 3. Upon the:

- (1) termination of a professional employer agreement; or
- (2) failure by a PEO to submit reports or make tax payments as required under this article;

the client must be treated by the department of workforce development as a new employer without a previous experience record unless the client is otherwise eligible for an experience rating.

SECTION 96. IC 34-30-2-119.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 119.7. IC 27-16-3-2(2) (Concerning a dispute involving a professional employer organization)."

Page 40, after line 20, begin a new paragraph and insert:

"SECTION 99. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 27-16-4-7, as added by this act, the department of insurance shall carry out the duties imposed upon it under IC 27-16-4-7 under interim written guidelines approved by the insurance commissioner.

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

- (1) The date rules are adopted under IC 27-16-4-7.
- (2) December 31, 2006.

SECTION 100. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 27-16-5-4, as added by this act, the department of insurance shall carry out the duties imposed upon it under IC 27-16-5-4 under interim written guidelines approved by the insurance commissioner.

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

- (1) The date rules are adopted under IC 27-16-5-4.
- (2) December 31, 2006.

SECTION 101. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 27-16-5-6, as added by this act, the department of insurance shall carry out the duties imposed upon it under IC 27-16-5-6 under interim written guidelines approved by the insurance commissioner.

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

- (1) The date rules are adopted under IC 27-16-5-6.
- (2) December 31, 2006.

SECTION 102. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 25-4-1-3, as amended by this act, the board of registration for architects and landscape architects shall carry out the duties imposed upon it by IC 25-4-1-3, as amended by this act, under interim written guidelines approved by the executive director of the Indiana professional licensing agency.

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

- (1) The date rules are adopted by the board of registration for architects and landscape architects.
- (2) December 31, 2006.

SECTION 103. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 25-21.5-2-14(b), as amended by this act, the

state board of registration for land surveyors shall carry out the duties imposed upon it by IC 25-21.5-2-14(b), as amended by this act, under interim written guidelines approved by the executive director of the Indiana professional licensing agency.

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

- (1) The date rules are adopted by the state board of registration for land surveyors.
- (2) December 31, 2006.

SECTION 104. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 25-31-1-7(a), as amended by this act, the state board of registration for professional engineers shall carry out the duties imposed upon it by IC 25-31-1-7(a), as amended by this act, under interim written guidelines approved by the executive director of the Indiana professional licensing agency.

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

- (1) The date rules are adopted by the state board of registration for professional engineers.
- (2) December 31, 2006.

SECTION 105. [EFFECTIVE JUNE 1, 2005] (a) As used in this SECTION, "board" refers to the state board of massage therapy established by IC 25-21.8-3-1, as added by this act.

(b) The governor shall make initial appointments to the board not later than July 1, 2005. The initial members of the board shall serve for the following terms:

- (1) The three (3) members appointed under IC 25-21.8-3-2(1), as added by this act, serve for two (2) years.
- (2) The two (2) members appointed under IC 25-21.8-3-2(2), as added by this act, serve for three (3) years.

(c) An individual who does not meet the requirements of IC 25-21.8-3-2(1), as added by this act, may be appointed to the board if the individual:

- (1) substantially meets the requirements of licensure under IC 25-21.8, as added by this act;
- (2) currently practices massage or massage therapy in Indiana; and
- (3) has practiced massage or massage therapy in Indiana after June 1, 2002, for at least three (3) consecutive years.

(d) This SECTION expires July 1, 2009.

SECTION 106. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 25-21.8-5-3, as added by this act, the state board of massage therapy established by IC 25-21.8-3-1, as added by this act, may issue a license before July 1, 2007, to an applicant who practiced massage or massage therapy in Indiana after June 30, 2000, and before July 1, 2005, if the applicant meets the condition set forth in one (1) of the following subdivisions:

- (1) Provides the board with two (2) of the following:
  - (A) Letters of recommendation from three (3) of the following:
    - (i) A licensed physician.
    - (ii) A massage therapy client.
    - (iii) A member of the clergy.
    - (iv) An employer that employs the applicant in the practice of massage or massage therapy.
  - (B) Internal Revenue Service income tax return forms from two (2) consecutive years that reflect that the applicant has been employed in the practice of massage or massage therapy.
  - (C) A schedule book of massage or massage therapy clients from two (2) consecutive years.
- (2) Provides proof of current membership in good standing in a massage or massage therapy professional association that requires at least five hundred (500) hours of supervised classroom instruction as a condition of membership.
- (3) Provides a copy of a diploma, transcript, certificate, or another proof of completion of:
  - (A) a massage school accredited by:
    - (i) the Indiana commission on proprietary education established by IC 20-1-19-2; or
    - (ii) another state where the standards for massage therapy education are substantially equivalent to the standards in Indiana; or
  - (B) a program at an institution of higher learning that is

approved by the board.

(b) An applicant who begins practicing massage or massage therapy in Indiana after June 30, 2005, must meet the licensing requirements set forth in IC 25-21.8, as added by this act, to be licensed in Indiana.

(c) Notwithstanding IC 25-21.8-5-3 and IC 25-21.8-6, both as added by this act, the state board of massage therapy may issue a license to an applicant who:

- (1) before March 1, 2005, enrolled in a massage therapy school or program that required at least five hundred (500) hours of supervised classroom instruction if the school or program was in good standing with any state, regional, or national agency of government charged with regulating massage therapy or programs; and
- (2) before January 1, 2006, completes the requirements of the massage therapy school or program described in subdivision (1).

(d) This SECTION expires July 1, 2008.

SECTION 107. [EFFECTIVE JULY 1, 2005] (a) Before July 1, 2007, the state board of massage therapy established by IC 25-21.8-3-1, as added by this act, shall:

- (1) adopt a licensing examination;
- (2) approve an examination other than the National Certification Examination for Therapeutic Massage and Bodywork (NCETMB); or
- (3) approve an equivalent massage examination accredited by the National Commission for Certifying Agencies (NCCA);

that an individual may use as the basis for complying with IC 25-21.8-5-3(1)(D), as added by this act.

(b) This SECTION expires December 31, 2007.

SECTION 108. [EFFECTIVE JULY 1, 2005] IC 25-21.8-8-1(b), as added by this act, applies only to acts committed after June 30, 2005.

SECTION 109. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to SB 139 as printed February 11, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 1.

TORR, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 172, 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 8, nays 0.

T. BROWN, Vice Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 330, 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 7, nays 0.

T. BROWN, Vice Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred Engrossed Senate Bill 341, 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 3-5-4-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.7. Except as otherwise

expressly authorized or required under this title, a filing by a person with a commission, the election division, or an election board may not be made by fax or electronic mail.

SECTION 2. IC 3-5-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. Except as otherwise provided in this title, a reference to a federal statute or regulation in this title is a reference to the statute or regulation as in effect January 1, 2003-2005.

SECTION 3. IC 3-5-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) This section applies after December 31, 2003; whenever the individual who holds the office of circuit court clerk is a candidate on the ballot for any office.

(b) As used in this section, "ballot" refers to an absentee ballot, a ballot card, or any other form of ballot.

(c) Notwithstanding any law requiring the name or signature of the circuit court clerk to appear on a ballot for authentication or any other purpose, the name or signature of the individual who is circuit court clerk may not appear on the ballot except to indicate that the individual is a candidate for an office.

(d) The circuit court clerk shall substitute a uniform device or symbol prescribed by the commission for the circuit court clerk's printed name or signature to authenticate a ballot.

SECTION 4. IC 3-5-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The statement required by section 1 of this chapter must contain the following:

- (1) A statement of the qualifications that an individual must meet to vote in Indiana, including qualifications relating to registration.
- (2) A statement describing the circumstances that permit a voter who has moved from the precinct where the voter is registered to return to that precinct to vote.
- (3) A statement that an individual who meets the qualifications and circumstances listed in subdivisions (1) and (2) may vote in the election.
- (4) A statement describing how a voter who is challenged at the polls may be permitted to vote.
- (5) The date of the election and the hours during which the polls will be open, as required by 42 U.S.C. 15482.
- (6) Instructions on how to vote, including how to cast a vote and how to cast a provisional ballot, as required by 42 U.S.C. 15482.
- (7) Instructions for mail-in registrants and first time voters under IC 3-7-33-4.5 and 42 U.S.C. 15483, as required under 42 U.S.C. 15482.
- (8) General information on voting rights under applicable federal and state laws, including the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated, as required under 42 U.S.C. 15482.
- (9) General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation, as required under 42 U.S.C. 15482.
- (10) A statement informing the voter what assistance is available to assist the voter at the polls.
- (11) A statement informing the voter what circumstances will spoil the voter's ballot and the procedures available for the voter to request a new ballot.
- (12) A statement describing which voters will be permitted to vote at the closing of the polls.
- (13) Other information that the commission considers important for a voter to know.

(b) The voter's bill of rights is not required to contain the information described in subsection (a)(5); (a)(6); (a)(7); (a)(8); and (a)(9) before January 1, 2004.

SECTION 5. IC 3-5-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) As required by 42 U.S.C. 15483, and after December 31, 2003, the precinct election board shall post the voter's bill of rights in a public place in each polling place on election day.

(b) The commission may require a copy of the voter's bill of rights to be distributed with voter registration materials or other materials that are given to voters."

Page 2, between lines 36 and 37, begin a new paragraph and insert: "SECTION 10. IC 3-6-5.2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. ~~(a) As used in this section, before July 1, 1999, "board" refers to the combined county election board and board of registration.~~

~~(b) The board may, by a vote of a majority of the members of the board, hire attorneys to provide legal services for the board, as determined by the board."~~

Page 8, between lines 20 and 21, begin a new paragraph and insert: "SECTION 23. IC 3-8-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A declaration of candidacy for a primary election must be filed ~~no~~ **not** later than noon seventy-four (74) days and ~~no~~ **not** earlier than one hundred four (104) days before the primary election. The declaration must be subscribed and sworn to before a person authorized to administer oaths.

(b) A declaration of intent to be a write-in candidate must be filed:

**(1) not earlier than the first date specified in IC 3-8-6-10(b) for the timely filing of a petition of nomination; and**

**(2) not later than noon on the date specified by IC 3-13-1-15(c) for a major political party to file a certificate of candidate selection.**

The declaration must be subscribed and sworn to before a person authorized to administer oaths.

(c) During a year in which a federal decennial census, federal special census, special tabulation, or corrected population count becomes effective under IC 1-1-3.5, a declaration of:

(1) candidacy may be filed for an office that will appear on the primary election ballot; or

(2) intent to be a write-in candidate for an office that will appear on the general, municipal, or school board election ballot;

that year as a result of the new tabulation of population or corrected population count.

SECTION 24. IC 3-8-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) A declaration of candidacy may be made by mail and is considered filed as of the date and hour ~~it is received~~ **the filing occurs in the manner described by IC 3-5-2-24.5** in the office of the election division or circuit court clerk.

~~(b) A declaration of candidacy may not be made by telegraph or facsimile transmission.~~

~~(c) (b) A declaration is not valid unless received in the office of the election division or circuit court clerk by noon on the seventy-fourth day before a primary election.~~

~~(d) (c) An officer receiving a declaration may require information supporting the eligibility of the candidate and, where applicable, This subsection applies to a candidate required to file a statement of economic interest under IC 2-2.1-3-2 or IC 33-23-11-15 or a financial disclosure statement under IC 4-2-6-8. The election division shall require the candidate to produce a:~~

~~**(1) copy of the statement, file stamped by the office required to receive the statement of economic interests; or**~~

~~**(2) receipt showing that statements of economic interest or other prerequisite filings have the statement has been made filed;**~~

~~before the officer election division accepts the declaration for filing. The election division shall reject a filing that does not comply with this subsection.~~

SECTION 25. IC 3-8-2-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. (a) A person who files a declaration of candidacy under this chapter may, at any time not later than noon seventy-one (71) days before the date set for holding the primary election, file a statement with the same office where the person filed the declaration of candidacy, stating that the person is no longer a candidate and does not wish the person's name to appear on the primary election ballot as a candidate.

**(b) A candidate who is disqualified from being a candidate under IC 3-8-1-5 must file a notice of withdrawal immediately upon becoming disqualified. The filing requirements of subsection (a) do not apply to a notice of withdrawal filed under this subsection.**

**(c) A candidate who has moved from the election district the candidate sought to represent must file a notice of withdrawal immediately after changing the candidate's residence. The filing**

**requirements of subsection (a) do not apply to a notice of withdrawal filed under this subsection.**

SECTION 26. IC 3-8-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Each circuit court clerk shall, not later than noon Monday after the day the primary election is held, send to the election division by certified mail or hand delivery **a statement consisting of 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.

**(b) A statement described in subsection (a) may be sent by using the computerized list established under IC 3-7-26.3. A statement sent under this section complies with any requirement for the statement to be certified or sealed.**

SECTION 27. IC 3-8-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) This section applies to each political party that elects delegates to the party's state convention at a primary election.

(b) Delegates to a state convention shall be chosen at the primary election conducted by the political party on the first Tuesday after the first Monday in May ~~2000~~ **2006** and every two (2) years thereafter. If provided in the rules of the state committee of the political party, delegates may be elected from delegate districts in each county.

(c) Not later than noon November 30 of the year preceding the year in which the state convention is to be conducted, the state chairman of a political party shall certify the following to the election division and to each county committee of the party:

(1) The number of delegates to be elected in each county.

(2) Whether the delegates are to be elected from districts or at large in each county.

(3) If a county is to elect delegates from districts, how many districts must be established in each county.

(d) The county committee shall establish any delegate districts required to be established under subsection (c) and file descriptions setting forth the district boundaries with the county election board not later than noon December 31 of the year preceding the year the state convention is to be conducted. If the county committee does not timely file district descriptions under this subsection, the county election board shall establish districts not later than the first day that a declaration of candidacy may be filed under IC 3-8-2-4, and apportion the delegates to be elected from each district in accordance with subsection (c)."

Page 10, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 31. IC 3-8-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) Except as provided in subsection (f), if a political party has filed a statement with the election division (or any of its predecessors) that the device selected by the political party be used to designate the candidates of the political party on the ballot for all elections throughout the state, the device must be used until:

(1) the device is changed in accordance with party rules; and

(2) a statement concerning the use of the new device is filed with the election division.

(b) Except as provided in subsection (c), the device may be any appropriate symbol.

(c) A political party or an independent candidate may not use as a device:

(1) a symbol that has previously been filed by a political party or candidate with the election division (or any of its predecessors);

(2) the coat of arms or seal of the state or of the United States;

(3) the national or state flag; or

(4) any other emblem common to the people.

(d) Not later than noon, August 20, before each **general or municipal** election,

~~(1) the state chairman of each political party whose candidates are to be certified under this section; or~~

~~(2) an individual filing a petition of nomination for candidates to be certified under this section;~~

**shall file with the election division shall provide each county election board with a camera-ready copy of the device under which the candidates of the political party or the petitioner are to be listed**

so that ballots may be prepared using the best possible reproduction of the device.

(e) This subsection applies to a candidate or political party whose ~~name or device is not filed with the election division under subsection (a), and is to be printed only on ballots prepared by a county election board:~~ **to identify candidates for election to a local office.** Not later than noon, August 20, the chairman of the political party or the petitioner of nomination shall file a camera-ready copy of the device under which the candidates of the political party or the petitioner are to be listed with the county election board of each county in which the name of the candidate or party will be placed on the ballot. The county election board shall provide the camera-ready copy of the device to the town election board of a town located wholly or partially within the county upon request by the town election board.

(f) If a copy of the device is not filed in accordance with subsection ~~(d)~~ (a) or (e), or unless a device is designated in accordance with section 26 or 27 of this chapter, the ~~election division,~~ county election board or town election board is not required to use any device to designate the list of candidates.

SECTION 32. IC 3-8-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

**Chapter 8. Removal of Name from Ballot of a Candidate for Legislative or State Offices at a General Election for Disqualification or Withdrawal**

**Sec. 1. (a) This chapter applies only to a candidate for election to any of the following:**

- (1) A legislative office.
- (2) A state office other than a judicial office.
- (b) This chapter applies notwithstanding any other law relating to challenges to the qualifications of a candidate to be elected at a general election.

**Sec. 2. A candidate may not be challenged under this chapter if all of the following apply:**

- (1) The candidate's qualification was previously challenged under this chapter or other applicable law.
- (2) This challenge would be based on substantially the same grounds as the previous challenge to the candidate.
- (3) The commission conducted a hearing on the challenge and made a final determination in favor of the candidate.

**Sec. 3. (a) An individual who challenges the qualification of a candidate for election to an office must be a registered voter of the election district the candidate seeks to represent.**

(b) A challenge under this chapter must be filed with the election division not later than forty (40) days before the date of the general election at which a candidate to the office is to be elected.

(c) The challenger must file a sworn statement with the election division:

- (1) questioning the qualification of a candidate to seek the office; and
- (2) setting forth the facts known to the voter concerning this question.

**Sec. 4. The commission shall do the following not later than three (3) business days after the challenger's sworn statement is filed under section 3 of this chapter:**

- (1) Meet to hear the challenge.
- (2) Conclude the hearing.
- Sec. 5. (a) Not later than one (1) business day after concluding the hearing, the commission shall announce its determination of the matter.**

(b) If the commission does not announce a determination on the matter as provided in subsection (a), the commission is considered to have:

- (1) dismissed the challenge; and
- (2) taken final action on the challenge.
- Sec. 6. The candidate or the challenger may appeal any final action:**

- (1) that the commission has taken; or
  - (2) that the commission is considered to have taken under section 5 of this chapter;
- to the court of appeals for errors of law under the same terms,**

**conditions, and standards that govern appeals in ordinary civil actions. An assignment of errors that the commission's final action is contrary to law is sufficient to present both the sufficiency of the facts found to sustain the commission's action and the sufficiency of the evidence to sustain the finding of facts upon which the commission's action was rendered.**

**Sec. 7. (a) Regardless of the status of a challenge before the commission or the court of appeals, on noon thirty (30) days before the general election the following apply:**

- (1) The challenge is terminated.
- (2) The name of the challenged candidate may not be removed from the ballot.
- (3) The name of another individual may not replace the name of the challenged candidate on the ballot.
- (4) Any votes cast for the challenged candidate shall be canvassed, counted, and reported under the name of the challenged candidate.

(b) All of the following apply if a candidate attempts to withdraw as a candidate after noon thirty (30) days before the general election:

- (1) The name of the candidate may not be removed from the ballot.
- (2) The name of another individual may not replace the name of the candidate on the ballot.
- (3) Any votes cast for the candidate shall be canvassed, counted, and reported under the name of the candidate.

**Sec. 8. (a) This section applies if a candidate whose name remains on the ballot under section 7 of this chapter receives the most votes in the general election among all candidates for the office.**

(b) If, after the election, it is determined as provided by law that the individual was not qualified to be elected to the office, it shall be considered that:

- (1) an eligible candidate of the same political party, if any, as the ineligible candidate had been elected; and
- (2) a vacancy in the office occurred after the election.
- (c) The vacancy in the office shall be filled as otherwise provided by law.

SECTION 33. IC 3-10-1-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. (a) Precinct committeemen shall be elected on the first Tuesday after the first Monday in May ~~2002~~ **2006** and every four (4) years thereafter.

(b) The rules of a political party may specify whether a precinct committeeman elected under subsection (a) continues to serve as a precinct committeeman after the boundaries of the precinct are changed by a precinct establishment order issued under IC 3-11-1.5."

Page 12, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 36. IC 3-10-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Electors for President and Vice-President of the United States shall be elected in ~~2000~~ **2008** and every four (4) years thereafter at a general election held in accordance with 3 U.S.C. 1.

SECTION 37. IC 3-10-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. United States Senators shall be elected at a general election held in accordance with 2 U.S.C. 1 and as follows:

- (1) One (1) in ~~2000~~ **2006** and every six (6) years thereafter.
- (2) One (1) in ~~2004~~ **2010** and every six (6) years thereafter.

SECTION 38. IC 3-10-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The following public officials shall be elected in ~~2000~~ **2008** and every four (4) years thereafter:

- (1) Governor.
- (2) Lieutenant governor.
- (3) Attorney general.
- (4) Superintendent of public instruction.

SECTION 39. IC 3-10-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The following public officials shall be elected in ~~2002~~ **2006** and every four (4) years thereafter:

- (1) Secretary of state.
- (2) Auditor of state.

(3) Treasurer of state.

SECTION 40. IC 3-10-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. A prosecuting attorney shall be elected in each judicial circuit in ~~2002~~ 2006 and every four (4) years thereafter in accordance with Article 7, Section 16 of the Constitution of the State of Indiana.

SECTION 41. IC 3-10-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The names of the candidates of:

- (1) a political party;
- (2) a group of petitioners under IC 3-8-6; or
- (3) a write-in candidate for the office of President or Vice President of the United States under ~~IC 3-8-2-1.5; IC 3-8-2-2.5;~~

for electors of President and Vice President of the United States may not be placed on the ballot.

(b) The names of the nominees for President and Vice President of the United States of each political party or group of petitioners shall be placed:

- (1) in one (1) column on the ballot if paper ballots or a ballot card voting system is used;
- (2) on one (1) ballot label in one (1) column or row if voting machines are used; or
- (3) in a separate column on the ballot label if an electronic voting system is used.

(c) ~~The name of each ballot must permit a voter to cast a ballot for a write-in candidate for the office of President or Vice President of the United States shall be placed as in the manner~~ provided under IC 3-11-2-6.

SECTION 42. IC 3-10-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as otherwise provided in this chapter, a municipal primary election shall be held on the first Tuesday after the first Monday in May ~~2003~~ 2007 and every four (4) years thereafter.

(b) Each political party whose nominee received at least ten percent (10%) of the votes cast in the state for secretary of state at the last election shall nominate all candidates to be voted for at the municipal election to be held in November.

SECTION 43. IC 3-10-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Notwithstanding section 2 of this chapter, in a town that adopted an ordinance under IC 18-3-1-16(b) (before its repeal on September 1, 1981), P.L.13-1982, SECTION 3 (before its expiration on January 1, 1988), or section 2.5 of this chapter each political party shall, at the primary election in:

- (1) May ~~2002~~ 2006 and every four (4) years thereafter; and
- (2) May ~~2003~~ 2007 and every four (4) years thereafter;

nominate candidates for the election to be held under section 6(a) of this chapter, unless a primary election is not required under section 4 of this chapter. The primary election shall be conducted under this chapter.

(b) Notwithstanding section 2 of this chapter, in a town that adopted an ordinance under section 2.6 of this chapter each political party shall, at the primary election in:

- (1) May ~~2002~~ 2006 and every four (4) years thereafter; and
- (2) May ~~2004~~ 2008 and every four (4) years thereafter;

nominate candidates for the election to be held under section 6(b) of this chapter, unless a primary election is not required under section 4 of this chapter. The primary election shall be conducted under this chapter.

(c) Notwithstanding section 2 of this chapter, in a town that adopted an ordinance under section 2.6 of this chapter each political party shall, at the primary election in May ~~2004~~ 2008 and every four (4) years thereafter, nominate candidates for the election to be held under section 6(c) of this chapter, unless a primary election is not required under section 4 of this chapter. The primary election shall be held under this chapter.

SECTION 44. IC 3-10-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under IC 18-3-1-16(b) (before its repeal on September 1, 1981), P.L.13-1982, SECTION 3 (before its expiration on January 1, 1988), or section 2.5 of this chapter shall:

- (1) at the general election in November ~~2002~~ 2006 and every

four (4) years thereafter; and

(2) at the municipal election in November ~~2003~~ 2007 and every four (4) years thereafter;

elect town council members for terms of four (4) years to those offices whose terms expire at noon January 1 following the election, as provided in IC 36-5-2-3. The election shall be conducted under this chapter.

(b) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under section 2.6 of this chapter shall:

- (1) at the general election in November ~~2002~~ 2006 and every four (4) years thereafter; and
- (2) at the general election in November ~~2004~~ 2008 and every four (4) years thereafter;

elect town council members for terms of four (4) years to those offices whose terms expire at noon January 1 of the following year. The election shall be conducted under this chapter.

(c) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under section 2.6 of this chapter shall, at the general election in November ~~2004~~ 2008 and every four (4) years thereafter, elect a town clerk-treasurer and town court judge (if a town court has been established under IC 33-35-1-1) to those offices whose terms expire at noon January 1 of the following year. The election shall be conducted under this chapter."

Page 26, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 72. IC 5-10.2-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) Except as provided in subsection (b), "vested status" as used in this article means the status of having ten (10) years of creditable service.

(b) In the case of a person who is an elected county official whose governing body has provided for the county official's participation in the public employees' retirement fund under IC 5-10.3-7-2(1), "vested status" means the status of having:

- (1) at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7; ~~or~~
- (2) been elected at least two (2) times if the person would have had at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7 had the person's term of office not been shortened under a statute enacted under Article 6, Section 2(b) of the Constitution of the State of Indiana; or**
- ~~(2) (3)~~ **(3) at least ten (10) years of creditable service as a member of the fund based on a combination of service as an elected county official and as a full-time employee in a covered position.**

(c) In the case of a person whose term of office commences after the election on November 5, 2002, as Auditor of State, Secretary of State, or Treasurer of State, and who is prohibited by Article 6, Section 1 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years during any period of twelve (12) years, that person shall be vested with at least eight (8) years of creditable service as a member of the fund.

SECTION 73. IC 5-10.2-4-1.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.7. (a) This section applies only to members of the public employees' retirement fund who retire after June 30, 2002.

(b) A member is eligible for normal retirement after becoming sixty-five (65) years of age if the member:

- (1) has:
  - (A) served as an elected county official in an office described in Article 6, Section 2 of the Constitution of the State of Indiana for at least eight (8) years; or**
  - (B) been elected at least two (2) times and would have served at least eight (8) years as an elected county official in an office described in Article 6, Section 2 of the Constitution of the State of Indiana had the member's term of office not been shortened under a statute enacted under Article 6, Section 2(b) of the Constitution of the State of Indiana; and**
- (2) is prohibited by Article 6, Section 2 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years in any period of twelve (12) years.

(c) A member who:

(1) has served as an elected county official; and  
 (2) does not meet the requirements of subsection (b);  
 is eligible for normal retirement if the member has attained vested status (as defined in ~~IC 5-10-2-1-8(b)(2)~~ **IC 5-10-2-1-8(b)(3)**) and meets the requirements of section 1 of this chapter.

SECTION 74. IC 9-13-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. Except as otherwise provided in this title, a reference in this title to a federal statute or regulation relating to the National Voter Registration Act of 1993 (42 U.S.C. 1973gg) is a reference to the statute or regulation as in effect January 1, ~~2000~~ **2005**.

SECTION 75. IC 12-7-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Except as otherwise provided in this title, a reference in this title to a federal statute or regulation relating to the federal National Voter Registration Act of 1993 (42 U.S.C. 1973gg) is a reference to the statute or regulation as in effect January 1, ~~2000~~ **2005**.

SECTION 76. IC 16-18-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Except as otherwise provided in this title, a reference in this title to a federal statute or regulation relating to the federal National Voter Registration Act of 1993 (42 U.S.C. 1973gg) is a reference to the statute or regulation as in effect January 1, ~~2000~~ **2005**."

Page 27, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 78. IC 20-3-21-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The members shall be elected as follows:

- (1) Three (3) of the members elected under section 3(b)(1) of this chapter shall be elected at the primary election to be held in ~~2000~~ **2008** and every four (4) years thereafter.
- (2) Three (3) of the members elected under section 3(b)(1) of this chapter shall be elected at the primary election to be held in ~~2002~~ **2006** and every four (4) years thereafter.
- (3) The at-large member elected under section 3(b)(2) of this chapter shall be elected at the primary election to be held in ~~2004~~ **2008** and every four (4) years thereafter."

Page 28, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 80. IC 20-3-22-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The members shall be elected as follows:

- (1) Three (3) of the members shall be elected at the primary election to be held in ~~2000~~ **2008** and every four (4) years thereafter.
- (2) Two (2) of the members shall be elected at the primary election to be held in ~~2002~~ **2006** and every four (4) years thereafter."

Page 29, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 82. IC 20-4-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) In a community school corporation set up under IC 20-4-1 that has a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000), and that is the successor in interest to a school city having the same population, the governing body shall consist of a board of trustees of five (5) members elected in the manner provided in this chapter.

(b) At the ~~2000~~ **2008** primary election and at each primary election every four (4) years thereafter, there shall be elected in each school corporation covered by this chapter two (2) school trustees each of whom shall serve for four (4) years. The two (2) candidates for the office of school trustee receiving the highest number of votes at the election take office on July 1 next following the election.

(c) At the ~~2002~~ **2006** primary election and at each primary election every four (4) years thereafter, there shall be elected in each school city covered by this chapter three (3) school trustees each of whom shall serve for four (4) years. The three (3) candidates for the office of school trustee receiving the highest number of votes at the election take office on July 1 next following the election.

(d) The school trustees shall be elected at the times provided and shall succeed the retiring members in the order and manner as set forth in this section."

Page 30, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 84. IC 20-23-4-30, AS ADDED BY HEA 1288-2005, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 30. (a) This section applies to each school corporation.

(b) If the governing body is to be elected at the primary election, each registered voter may vote in the governing body election without otherwise voting in the primary election.

(c) If a tie vote occurs among any of the candidates,

- (1) ~~the judge of the circuit court; or~~
- (2) ~~in case of a united school corporation, the judge of the circuit court of the county having the most students enrolled in the united school corporation;~~

~~shall select one (1) of the candidates; who shall be declared and certified elected; the tie vote shall be resolved under IC 3-12-9-4.~~

(d) If after the first governing body takes office, there is a vacancy on the governing body for any reason, including the failure of the sufficient number of petitions for candidates being filed, whether the vacating member was elected or appointed, the remaining members of the governing body, whether or not a majority of the governing body, shall by a majority vote fill the vacancy by appointing a person from within the boundaries of the community school corporation to serve for the term or balance of the term. An individual appointed under this subsection must possess the qualifications provided for a regularly elected or appointed governing body member filling the office. If:

- (1) a tie vote occurs among the ~~remaining~~ members of the governing body **under this subsection or IC 3-12-9-4**; or
- (2) the governing body fails to act within thirty (30) days after any vacancy occurs;

the judge of the circuit court in the county where the majority of registered voters of the school corporation reside shall make the appointment.

(e) A vacancy in the governing body occurs if a member ceases to be a resident of any community school corporation. A vacancy does not occur when the member moves from a district of the school corporation from which the member was elected or appointed if the member continues to be a resident of the school corporation.

(f) At the first primary or general election in which members of the governing body are elected:

- (1) a simple majority of the candidates elected as members of the governing body who receive the highest number of votes shall be elected for four (4) year terms; and
- (2) the balance of the candidates elected as members of the governing body receiving the next highest number of votes shall be elected for two (2) year terms.

Thereafter, all school board members shall be elected for four (4) year terms.

(g) Governing body members elected:

- (1) in November take office and assume their duties on January 1 or July 1 after their election, as determined by the board of school trustees before the election; and
- (2) in May take office and assume their duties on July 1 after their election.

SECTION 85. IC 20-23-12-5, AS ADDED BY HEA 1288-2005, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The six (6) members who are elected for a position on the governing body described under section 3(b) of this chapter are determined as follows:

(1) Each prospective candidate must file a nomination petition with the ~~clerk of the circuit court at least board of elections and registration not earlier than one hundred four (104) days and not later than noon~~ seventy-four (74) days before the election at which the members are to be elected that includes the following information:

- (A) The name of the prospective candidate.
- (B) The district in which the prospective candidate resides.
- (C) The signatures of at least one hundred (100) registered voters residing in the school corporation.
- (D) The fact that the prospective candidate is running for a district position.
- (E) A certification that the prospective candidate meets the qualifications for candidacy imposed by this chapter.

SECTION 86. IC 20-23-13-1, AS ADDED BY HEA 1288-2005, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) In a community school corporation established under IC 20-23-4 that:

- (1) has a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000); and
- (2) is the successor in interest to a school city having the same population;

the governing body consists of a board of trustees of five (5) members elected in the manner provided in this chapter.

(b) At the ~~2004~~ 2008 primary election and at each primary election every four (4) years thereafter, there shall be elected in each school corporation covered by this chapter two (2) governing body members, each of whom shall serve for four (4) years. The two (2) candidates for the office of school trustee receiving the highest number of votes at the election take office on July 1 next following the election.

(c) At the ~~2002~~ 2006 primary election and at each primary election every four (4) years thereafter, there shall be elected in each school city covered by this chapter three (3) governing body members, each of whom shall serve for four (4) years. The three (3) candidates for the office of school trustee receiving the highest number of votes at the election take office on July 1 next following the election.

(d) The governing body members shall be elected at the times provided and shall succeed the retiring members in the order and manner as set forth in this section.

SECTION 87. IC 20-23-14-5, AS ADDED BY HEA 1288-2005, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. To be eligible to be a candidate for the governing body under this chapter, the following apply:

(1) Each prospective candidate must file a nomination petition with the ~~clerk of the circuit court at least board of elections and registration not earlier than one hundred four (104) days and not later than noon~~ seventy-four (74) days before the primary election at which the members are to be elected that includes the following information:

- (A) The name of the prospective candidate.
- (B) Whether the prospective candidate is a district candidate or an at-large candidate.
- (C) A certification that the prospective candidate meets the qualifications for candidacy imposed under this chapter.
- (D) The signatures of at least one hundred (100) registered voters residing in the school corporation.

(2) Each prospective candidate for a district position must:

- (A) reside in the district; and
- (B) have resided in the district for at least the three (3) years immediately preceding the election.

(3) Each prospective candidate for an at-large position must:

- (A) reside in the school corporation; and
- (B) have resided in the school corporation for at least the three (3) years immediately preceding the election.

(4) Each prospective candidate (regardless of whether the candidate is a district candidate or an at-large candidate) must:

- (A) be a registered voter;
- (B) have been a registered voter for at least the three (3) years immediately preceding the election; and
- (C) be a high school graduate or have received a:
  - (i) high school equivalency certificate; or
  - (ii) state general educational development (GED) diploma under IC 20-20-6.

(5) A prospective candidate may not:

- (A) hold any other elective or appointive office; or
- (B) have a pecuniary interest in any contract with the school corporation or its governing body;

as prohibited by law.

SECTION 88. IC 36-1-8-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 15. (a) This section is enacted to implement Article 6, Section 2(b) of the Constitution of the State of Indiana.**

**(b) This section applies to an individual:**

- (1) who was elected at least two (2) times to a county office; and**
- (2) who would have served at least eight (8) years in the**

**elected county office had the individual's term of office not been shortened under a statute enacted under Article 6, Section 2(b) of the Constitution of the State of Indiana.**

**(c) As used in this section, "benefit of office" refers to a benefit to which an individual who holds an elected county office is entitled because of a statute, an ordinance, or a contract.**

**(d) As used in this section, "county office" refers to any of the county offices referred to in Article 6, Section 2 of the Constitution of the State of Indiana.**

**(e) An individual described in subsection (b) who is otherwise entitled to a benefit of office may not be deprived of the benefit of office based on a requirement in any other statute or any ordinance or contract that to be eligible for the benefit of office an individual must hold elected county office for at least eight (8) years.**

SECTION 89. IC 36-2-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) This subsection does not apply to a county having a population of:

- (1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or
- (2) more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

The executive shall divide the county into three (3) districts that are composed of contiguous territory and are reasonably compact. The district boundaries drawn by the executive must not cross precinct boundary lines and must divide townships only when a division is clearly necessary to accomplish redistricting under this section. If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). A county redistricting commission shall divide the county into three (3) single-member districts that comply with subsection (d). The commission is composed of:

- (1) the members of the Indiana election commission;
- (2) two (2) members of the senate selected by the president pro tempore, one (1) from each political party; and
- (3) two (2) members of the house of representatives selected by the speaker, one (1) from each political party.

The legislative members of the commission have no vote and may act only in an advisory capacity. A majority vote of the voting members is required for the commission to take action. The commission may meet as frequently as necessary to perform its duty under this subsection. The commission's members serve without additional compensation above that provided for them as members of the Indiana election commission, the senate, or the house of representatives.

(c) This subsection applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). The executive shall divide the county into three (3) single-member districts that comply with subsection (d).

(d) Single-member districts established under subsection (b) or (c) must:

- (1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);
- (2) contain, as nearly as is possible, equal population; and
- (3) not cross precinct lines.

(e) A division under subsection (a), (b), or (c) shall be made:

- (1) ~~in 2001 and every ten (10) years after that; during the first year after a year in which a federal decennial census is conducted;~~ and
- (2) when the county adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e).

SECTION 90. IC 36-2-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) This subsection does not apply to a county having a population of:

- (1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or
- (2) more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

The county executive shall, by ordinance, divide the county into four (4) contiguous, single-member districts that comply with subsection (d). If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts. One (1) member of the fiscal body shall be elected by the voters of each of the four (4) districts. Three (3) at-large members of the fiscal body shall be elected by the voters of the whole county.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The county redistricting commission established under IC 36-2-2-4 shall divide the county into seven (7) single-member districts that comply with subsection (d). One (1) member of the fiscal body shall be elected by the voters of each of these seven (7) single-member districts.

(c) This subsection applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). The fiscal body shall divide the county into nine (9) single-member districts that comply with subsection (d). Three (3) of these districts must be contained within each of the three (3) districts established under IC 36-2-2-4(c). One (1) member of the fiscal body shall be elected by the voters of each of these nine (9) single-member districts.

(d) Single-member districts established under subsection (a), (b), or (c) must:

- (1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);
- (2) not cross precinct boundary lines;
- (3) contain, as nearly as possible, equal population; and
- (4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

(e) A division under subsection (a), (b), or (c) shall be made:

- (1) ~~in 2001 and every ten (10) years after that; during the first year after a year in which a federal decennial census is conducted;~~ and
- (2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e).

SECTION 91. IC 36-3-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The city-county legislative body shall, by ordinance, divide the whole county into twenty-five (25) districts that:

- (1) are compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);
- (2) contain, as nearly as is possible, equal population; and
- (3) do not cross precinct boundary lines.

This division shall be made ~~in 1992 and every ten (10) years after that; during the second year after a year in which a federal decennial census is conducted~~ and may also be made at any other time, subject to IC 3-11-1.5-32.

(b) The legislative body is composed of twenty-five (25) members elected from the districts established under subsection (a) and four (4) members elected from an at-large district containing the whole county.

(c) Each voter of the county may vote for four (4) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The four (4) at-large candidates receiving the most votes from the whole county and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(d) If the legislative body fails to make the division before the date prescribed by subsection (a) or the division is alleged to violate subsection (a) or other law, a taxpayer or registered voter of the county may petition the superior court of the county to hear and determine the matter. There may not be a change of venue from the court or from the county. The court sitting en banc may appoint a master to assist in its determination and may draw proper district boundaries if necessary. An appeal from the court's judgment must be taken within thirty (30) days, directly to the supreme court, in the same manner as appeals from other actions.

(e) An election of the legislative body held under the ordinance or

court judgment determining districts that is in effect on the date of the election is valid, regardless of whether the ordinance or judgment is later determined to be invalid.

SECTION 92. IC 36-4-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) This section applies only to second class cities.

(b) The legislative body shall adopt an ordinance to divide the city into six (6) districts that:

- (1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;
- (2) are reasonably compact;
- (3) do not cross precinct boundary lines, except as provided in subsection (c) or (d); and
- (4) contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

- (1) more than one (1) member of the legislative body elected from the districts established under subsection (b) resides in one (1) precinct established under IC 3-11-1.5 after the most recent municipal election; and
- (2) following the establishment of a legislative body district whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line: ~~except:~~

- (1) **except** when following a precinct boundary line; or
- (2) **unless** the city legislative body certifies in the ordinance that the census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:

- (1) state that the legislative body is considering the adoption of an ordinance described by this subsection; and
- (2) be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) The division under subsection (b) shall be made: ~~in 2002; every ten (10) years after that;~~

- (1) **during the second year after a year in which a federal decennial census is conducted;** and
- (2) when required to assign annexed territory to a district.

This division may be made at any other time, subject to IC 3-11-1.5-32.

(h) The legislative body is composed of six (6) members elected from the districts established under subsection (b) and three (3) at-large members.

(i) Each voter of the city may vote for three (3) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The three (3) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) If any territory in the city is not included in one (1) of the districts established under this section, the territory is included in the district that:

- (1) is contiguous to that territory; and
- (2) contains the least population of all districts contiguous to that territory.

(k) If any territory in the city is included in more than one (1) of the districts established under this section, the territory is included in the district that:

- (1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;
- (2) is contiguous to that territory; and
- (3) contains the least population of all districts contiguous to that territory.

(l) A copy of the ordinance establishing districts under this section

must be filed with the circuit court clerk of the county that contains the greatest population of the city not later than thirty (30) days after the ordinance is adopted.

SECTION 93. IC 36-4-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) This section applies to third class cities, except as provided by section 5 of this chapter.

(b) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body shall adopt an ordinance to divide the city into five (5) districts that:

- (1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;
- (2) are reasonably compact;
- (3) do not cross precinct boundary lines except as provided in subsection (c) or (d); and
- (4) contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

- (1) more than one (1) member of the legislative body elected from the districts established under subsection (b) or (j) resides in one (1) precinct established under IC 3-11-1.5 after the most recent municipal election; and
- (2) following the establishment of a legislative body district whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from the districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line: **except:**

- (1) **except** when following a precinct boundary line; or
- (2) **unless** the city legislative body certifies in the ordinance that the census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:

- (1) state that the legislative body is considering the adoption of an ordinance described by this subsection; and
- (2) be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) The division under subsection (b) or (j) shall be made: ~~in 2002, every ten (10) years after that;~~

- (1) **during the second year after a year in which a federal decennial census is conducted;** and
- (2) when required to assign annexed territory to a district.

This division may be made at any other time, subject to IC 3-11-1.5-32.

(h) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body is composed of five (5) members elected from the districts established under subsection (b) and two (2) at-large members.

(i) This subsection does not apply to a city with an ordinance described by subsection (j). Each voter of the city may vote for two (2) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The two (2) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) A city may adopt an ordinance under this subsection to divide the city into four (4) districts that:

- (1) are composed of contiguous territory;
- (2) are reasonably compact;
- (3) do not cross precinct boundary lines, except as provided in subsection (c) or (d); and
- (4) contain, as nearly as is possible, equal population.

(k) This subsection applies to a city with an ordinance described by subsection (j). The legislative body is composed of four (4) members elected from the districts established under subsection (j) and three (3) at-large members.

(l) This subsection applies to a city with an ordinance described by subsection (j). Each voter of the city may vote for three (3) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The three (3) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(m) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the city no later than thirty (30) days after the ordinance is adopted.

(n) If any territory in the city is not included in one (1) of the districts established under this section, the territory is included in the district that:

- (1) is contiguous to that territory; and
- (2) contains the least population of all districts contiguous to that territory.

(o) If any territory in the city is included in more than one (1) of the districts established under this section, the territory is included in the district that:

- (1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;
- (2) is contiguous to that territory; and
- (3) contains the least population of all districts contiguous to that territory.

SECTION 94. IC 36-4-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) This section applies to third class cities having a population of less than ten thousand (10,000). The legislative body of such a city may, by ordinance adopted before September 1, 1982, decide to be governed by this section instead of section 4 of this chapter. If this ordinance is repealed after August 31, 1982, except as a part of a codification of ordinances that reenacts the ordinance under IC 36-1-5-6, then section 4 of this chapter again applies to the city. The clerk of the legislative body shall send a certified copy of any ordinance adopted under this subsection to the secretary of the county election board.

(b) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body shall adopt an ordinance to divide the city into four (4) districts that:

- (1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;
- (2) are reasonably compact;
- (3) do not cross precinct boundary lines except as provided in subsection (c) or (d); and
- (4) contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

- (1) more than one (1) member of the legislative body elected from the districts established under subsection (b) or (j) resides in one (1) precinct established under IC 3-11-1.5 after the most recent municipal election; and
- (2) following the establishment of a legislative body district whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from the districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line: **except:**

- (1) **except** when following a precinct boundary line; or
- (2) **unless** the city legislative body certifies in the ordinance that the census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:

- (1) state that the legislative body is considering the adoption of an ordinance described by this subsection; and
- (2) be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) The division under subsection (b) or (j) shall be made: ~~in 2002, every ten (10) years after that;~~

**(1) during the second year after a year in which a federal decennial census is conducted;** and

**(2) when required to assign annexed territory to a district.**

This division may be made at any other time, subject to IC 3-11-1.5-32.

(h) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body is composed of four (4) members elected from the districts established under subsection (b) and one (1) at-large member.

(i) This subsection does not apply to a city with an ordinance described by subsection (j). Each voter may vote for one (1) candidate for at-large membership and one (1) candidate from the district in which the voter resides. The at-large candidate receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) A city may adopt an ordinance under this subsection to divide the city into three (3) districts that:

- (1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;
- (2) are reasonably compact;
- (3) do not cross precinct boundary lines, except as provided in subsection (c) or (d); and
- (4) contain, as nearly as is possible, equal population.

(k) This subsection applies to a city with an ordinance described by subsection (j). The legislative body is composed of three (3) members elected from the districts established under subsection (j) and two (2) at-large members.

(l) This subsection applies to a city with an ordinance described by subsection (j). Each voter of the city may vote for two (2) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The two (2) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(m) This subsection applies to a city having a population of less than seven thousand (7,000). A legislative body of such a city that has, by resolution adopted before May 7, 1991, decided to continue an election process that permits each voter of the city to vote for one (1) candidate at large and one (1) candidate from each of its four (4) council districts may hold elections using that voting arrangement. The at-large candidate and the candidate from each district receiving the most votes from the whole city are elected to the legislative body. The districts established in cities adopting such a resolution may cross precinct boundary lines.

(n) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the city not later than thirty (30) days after the ordinance is adopted.

(o) If any territory in the city is not included in one (1) of the districts established under this section, the territory is included in the district that:

- (1) is contiguous to that territory; and
- (2) contains the least population of all districts contiguous to that territory.

(p) If any territory in the city is included in more than one (1) of the districts established under this section, the territory is included in the district that:

- (1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;
- (2) is contiguous to that territory; and
- (3) contains the least population of all districts contiguous to that territory.

SECTION 95. IC 36-5-2-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.1. (a) The legislative body may, by ordinance, divide the town into districts for the purpose of conducting elections of town officers.

(b) A town legislative body district must comply with the following standards:

- (1) The district must be composed of contiguous territory, except for territory that is not contiguous to any other part of the

town.

(2) The district must be reasonably compact.

(3) The district must contain, as nearly as is possible, equal population.

(4) The district may not cross a census block boundary except when following a precinct boundary line or ~~when~~ **unless** the ordinance specifies that the census block has no population and is not likely to ever have population.

(5) The district may not cross precinct lines, except as provided in subsection (c).

(c) The boundary of a town legislative body district established under subsection (a) may cross a precinct boundary line if:

(1) the legislative body provides by ordinance under section 5 of this chapter that all legislative body members are to be elected at large by the voters of the whole town; or

(2) the district would not otherwise contain, as nearly as is possible, equal population.

(d) If any territory in the town is not included in one (1) of the districts established under this section, the territory is included in the district that:

- (1) is contiguous to that territory; and
- (2) contains the least population of all districts contiguous to that territory.

(e) If any territory in the town is included in more than one (1) of the districts established under this section, the territory is included in the district that:

- (1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;
- (2) is contiguous to that territory; and
- (3) contains the least population of all districts contiguous to that territory.

(f) The ordinance may be appealed in the manner prescribed by IC 34-13-6. If the town is located in two (2) or more counties, the appeal may be filed in the circuit or superior court of any of those counties.

(g) This subsection does not apply to a town with an ordinance described by subsection (h). The division permitted by subsection (a) shall be made: ~~in 2002, every ten (10) years after that;~~

**(1) during the second year after a year in which a federal decennial census is conducted,** subject to IC 3-11-1.5-32; and

**(2) when required to assign annexed territory to a municipal legislative body district.**

The division may also be made in any other year.

(h) This subsection applies to a town having a population of less than three thousand five hundred (3,500). The town legislative body may adopt an ordinance providing that:

- (1) town legislative body districts are abolished; and
- (2) all members of the legislative body are elected at large.

(i) An ordinance described by subsection (h):

(1) may not be adopted or repealed during a year in which a municipal election is scheduled to be conducted in the town under IC 3-10-6 or IC 3-10-7; and

(2) is effective upon passage.

(j) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the town not later than thirty (30) days after the ordinance is adopted.

SECTION 96. IC 36-6-6-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.5. (a) This section applies to townships in a county containing a consolidated city.

(b) The legislative body shall adopt a resolution that divides the township into legislative body districts that:

- (1) are composed of contiguous territory;
- (2) are reasonably compact;
- (3) respect, as nearly as reasonably practicable, precinct boundary lines; and
- (4) contain, as nearly as reasonably practicable, equal population.

(c) Before a legislative body may adopt a resolution that divides a township into legislative body districts, the secretary of the legislative body shall mail a written notice to the circuit court clerk. This notice must:

- (1) state that the legislative body is considering the adoption of

a resolution to divide the township into legislative body districts; and

(2) be mailed not later than ten (10) days before the legislative body adopts the resolution.

(d) The legislative body shall make a division into legislative body districts at the following times:

~~(1) In 2001;~~

~~(2) Every ten (10) years after 2002.~~

**(1) During the second year after a year in which a federal decennial census is conducted.**

~~(2) Subject to IC 3-11-1.5-32.5, whenever the boundary of the township changes.~~

(e) The legislative body may make the division under this section at any time, subject to IC 3-11-1.5-32.5."

Page 30, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 99. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "county office" has the meaning set forth in IC 36-1-8-15, as added by this act.

(b) The general assembly finds the following:

(1) That due to events that occurred at different times in Indiana's history, the beginning of the terms of certain elected county offices vary from a uniform date due to changes in the dates of general elections, vacancies in offices, and other events described by the Indiana supreme court in the following cases:

(A) Howard v. State, 10 Ind. 74 (Ind. 1857).

(B) Greible v. State, 12 N.E. 700 (Ind. 1887).

(C) State v. Menaugh, 51 N.E. 117 (Ind. 1898).

(D) Scott v. State, 52 N.E. 163 (Ind. 1898).

(2) That on many occasions at the beginning of the twentieth century, the general assembly attempted to standardize the beginning of the terms of county offices.

(3) That the voters of Indiana approved an amendment to Article 6, Section 2 of the Constitution of the State of Indiana at the November 2004 general election authorizing the general assembly to "provide by law for uniform dates for beginning the terms" of county offices.

(4) That the variation in the beginning dates of the terms of county offices is not a general condition but affects only a known and fixed set of county offices.

(5) That a statement of a rule applicable to each county office whose term varies from a uniform date would be clearer in application than a general statement of a rule to make the beginning of the terms of those county offices uniform.

(c) The general assembly enacts SECTIONS 100 through 173 of this act to:

(1) provide a rule applicable to each county office whose term of office deviates from a uniform date as of June 30, 2005; and

(2) implement Article 6, Section 2(b) of the Constitution of the State of Indiana to provide for a uniform date for beginning the terms of county offices described in Article 6, Section 2(a) of the Constitution of the State of Indiana.

(d) This SECTION expires January 1, 2018.

SECTION 100. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "clerk" refers to the clerk of the circuit court of Adams County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office on January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office on January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

(c) This SECTION expires January 1, 2016.

SECTION 101. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "treasurer" refers to the treasurer of Adams County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of treasurer at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of treasurer at the November 2008 general election is entitled to:

(A) take office on January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of treasurer at the November 2012 general election is entitled to:

(A) take office on January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

(c) This SECTION expires January 1, 2018.

SECTION 102. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "clerk" refers to the clerk of the circuit court of Bartholomew County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office on January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office on January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

(c) This SECTION expires January 1, 2016.

SECTION 103. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "clerk" refers to the clerk of the circuit court of Blackford County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of clerk at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of clerk at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

(c) This SECTION expires January 1, 2018.

SECTION 104. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "recorder" refers to the recorder of Blackford County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of recorder at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of recorder at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

















(B) serve in the office until January 1, 2015.

(c) This SECTION expires January 1, 2016.

SECTION 169. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "treasurer" refers to the treasurer of Vigo County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of treasurer at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of treasurer at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of treasurer at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

(c) This SECTION expires January 1, 2018.

SECTION 170. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "clerk" refers to the clerk of the circuit court of Wabash County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

(c) This SECTION expires January 1, 2016.

SECTION 171. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "clerk" refers to the clerk of the circuit court of Warren County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

(c) This SECTION expires January 1, 2016.

SECTION 172. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "clerk" refers to the clerk of the circuit court of Whitley County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual

qualifies; and

(B) serve in the office until January 1, 2015.

(c) This SECTION expires January 1, 2016.

SECTION 173. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "recorder" refers to the recorder of Whitley County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

(c) This SECTION expires January 1, 2016."

Renumber all SECTIONS consecutively.

(Reference is to SB 341 as printed February 1, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 1.

THOMAS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred Engrossed Senate Bill 372, 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 11, nays 0.

BEHNING, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred Engrossed Senate Bill 379, 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 30, after "cigar" insert "or pipe tobacco".

Page 3, line 18, delete "A" and insert "Except as provided in subsection (c), a".

Page 3, line 18, delete "tobacco" and insert "cigarettes".

Page 3, line 19, delete "products".

Page 3, line 23, delete "tobacco" and insert "cigarettes".

Page 3, line 24, delete "products".

Page 3, between lines 28 and 29, begin a new paragraph and insert: "(c) A merchant may make a drop shipment of tobacco products to an Indiana resident or retailer that is billed through a distributor."

Page 4, line 10, strike "alcohol and tobacco".

Page 4, line 18, strike "alcohol and tobacco".

Page 4, line 35, strike "alcohol and tobacco".

Page 4, line 42, strike "alcohol and tobacco".

Page 6, line 2, strike "alcohol and tobacco".

Page 6, line 25, strike "alcohol and".

Page 6, line 26, strike "tobacco".

Page 6, line 33, strike "alcohol and tobacco".

Page 6, between lines 35 and 36, begin a new paragraph and insert: "SECTION 14. IC 24-3-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 6. Contraband Cigarettes

Sec. 1. As used in this chapter, "commission" refers to the alcohol and tobacco commission created by IC 7.1-2-1-1.

Sec. 2. As used in this chapter, "distributor" means a distributor (as defined in IC 6-7-1-6) that holds a registration

certificate issued under IC 6-7-1-16.

Sec. 3. As used in this chapter, "importer" means a person that brings cigarettes into the United States for sale or distribution.

Sec. 4. As used in this chapter, "licensed" means holding a license issued under section 9 of this chapter.

Sec. 5. As used in this chapter, "manufacturer" means a person that manufactures or otherwise produces cigarettes to be sold in the United States.

Sec. 6. As used in this chapter, "person" has the meaning set forth in IC 6-7-1-4.

Sec. 7. As used in this chapter, "retailer" means a person that sells cigarettes to a consumer. The term includes a distributor.

Sec. 8. As used in this chapter, "stamp" has the meaning set forth in IC 6-7-1-9.

Sec. 9. (a) The commission may issue or renew a license to the following applicants:

- (1) An importer.
- (2) A manufacturer.

The commission shall prescribe the form of an application.

(b) An importer or manufacturer that conducts business in Indiana must apply under this section for a license for the importer's or manufacturer's principal place of business. An importer or manufacturer that is issued a license shall display the license at the importer's or manufacturer's principal place of business.

(c) The commission shall prescribe the form and duration of a license issued under this section. However, a license may not be valid for more than three (3) years from the date of issuance.

(d) A license issued under this section is nontransferable.

(e) The commission shall impose a fee of five hundred dollars (\$500) to issue or renew a license issued under this section.

(f) The commission shall not issue or renew a license under this section if:

- (1) the applicant owes at least five hundred dollars (\$500) in taxes imposed under IC 6-7-1-12;
- (2) the commission revoked the applicant's license within two (2) years before the application;
- (3) the applicant commits an offense under IC 6-7-1-21;
- (4) the applicant does not comply with IC 24-3-3-12; or
- (5) the applicant violates IC 24-3-4.

(g) The commission may revoke or suspend a license issued under this section if the applicant:

- (1) is not eligible to receive or renew a license under subsection (f); or
- (2) violates this chapter.

Sec. 10. (a) A distributor may apply a stamp only to cigarettes that are received from a licensed importer or licensed manufacturer.

(b) A distributor shall store stamped and unstamped cigarettes separately.

(c) A distributor may transfer unstamped cigarettes only as provided in IC 6-7-1-18.

Sec. 11. (a) A manufacturer or an importer may sell cigarettes in Indiana only to a distributor or a licensed importer.

(b) A manufacturer that sells cigarettes to a licensed importer under subsection (a) must be a licensed manufacturer.

(c) A distributor may sell cigarettes only to a distributor or a retailer.

(d) A distributor may obtain cigarettes only from another distributor, a licensed importer, or a licensed manufacturer.

(e) A retailer may obtain cigarettes only from a distributor.

Sec. 12. (a) This section does not apply to a distributor who:

- (1) is a licensed manufacturer; and
- (2) complies with section 13 of this chapter.

(b) A distributor shall report the following information for each place of business belonging to the distributor to the office of the attorney general not later than the fifteenth day of each month:

- (1) The number and brand of cigarettes:
  - (A) distributed;
  - (B) shipped into Indiana; or
  - (C) shipped within Indiana;
 during the immediately preceding month.
- (2) The name and address of each person to which cigarettes

described in subdivision (1) were distributed or shipped.

Sec. 13. (a) An importer or a manufacturer shall maintain documentation for each place of business belonging to the importer or manufacturer for each transaction other than a retail transaction with a consumer involving the sale, purchase, transfer, consignment, or receipt of cigarettes. The documentation must include:

- (1) the name and address of the parties to the transaction; and
- (2) the quantity by brand style of cigarettes involved in the transaction.

(b) Subject to subsection (c), an importer or a manufacturer shall preserve documentation described in subsection (a) at the place of business at which each transaction occurs.

(c) The commission may allow an importer or a manufacturer with multiple places of business to preserve documentation described in subsection (a) at a centralized location. However, the importer or manufacturer shall provide duplicate documentation at each place of business upon request by the commission.

(d) An importer or a manufacturer shall maintain documentation under this section for five (5) years from the date of the transaction.

(e) The commission may:

- (1) obtain access to; and
- (2) inspect at reasonable times;

the documentation maintained under this section. The commission may share the documentation with other law enforcement officials.

Sec. 14. (a) The commission may enter and inspect, without a warrant during normal business hours or with a warrant during nonbusiness hours, the facilities and records of an importer or a manufacturer.

(b) If the commission or a law enforcement officer has knowledge or reasonable grounds to believe that a vehicle is transporting cigarettes in violation of this chapter, the commission or the law enforcement officer may stop and inspect the vehicle for cigarettes being transported in violation of this chapter.

Sec. 15. (a) A person who violates this chapter is liable for a civil penalty equal to the greater of:

- (1) five (5) times the value of the cigarettes involved in the violation; or
- (2) one thousand dollars (\$1,000).

(b) A civil penalty under this section is in addition to any other penalty imposed.

Sec. 16. (a) Either or both of the following may bring an action to prevent or restrain violations of this chapter:

- (1) The attorney general or the attorney general's designee.
- (2) A person that holds a valid permit under 26 U.S.C. 5712.

(b) A person that brings an action under subsection (a) shall provide notice to the attorney general of the commencement of the action.

SECTION 15. IC 24-4-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) This section does not apply to a person who keeps available for public inspection a written authorization identifying that person as an authorized representative of the manufacturer or distributor of a product listed in subsection (b), if the authorization is not false, fraudulent, or fraudulently obtained.

(b) An unused property merchant may not offer at an unused property market for sale, or knowingly permit the sale of, baby food, infant formula, cosmetics, personal care products, nonprescription drugs, or medical devices, or cigarettes or other tobacco products."

Page 9, between lines 28 and 29, begin a new paragraph and insert: "SECTION 18. [EFFECTIVE JULY 1, 2005] Notwithstanding IC 24-3-6-12(b)(2), as added by this act, a distributor (as defined in IC 24-3-6-2, as added by this act) is not required to report the information required in IC 24-3-6-12(b)(2), as added by this act, until the later of the following:

- (1) When the attorney general becomes capable of receiving the information reported in an electronic format.
- (2) July 1, 2008."

Renumber all SECTIONS consecutively.

(Reference is to SB 379 as printed February 11, 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 Education, to which was referred Engrossed Senate Bill 598, 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 1 and 2, begin a new paragraph and insert: "SECTION 6. IC 20-5.5-7-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 11. (a) If the United States Department of Education approves a new competition for states to receive matching funds for charter school facilities, the department shall pursue this federal funding.**

**(b) The department shall use the common school fund interest balance to provide state matching funds for the federal funding described in subsection (a) for the benefit of charter schools.**

**(c) The department shall develop guidelines and the state board shall adopt rules under IC 4-22-2 necessary to implement this section."**

Page 4, between lines 38 and 39, begin a new paragraph and insert: "SECTION 10. IC 20-20-8-3, AS ADDED BY HEA 1288-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3. (a) Not earlier than January 15 or later than January 31 of each year, the governing body of a school corporation shall publish an annual performance report of the school corporation, in compliance with the procedures identified in section 7 of this chapter. The report must be published one (1) time annually under IC 5-3-1.**

**(b) The department shall make each school corporation's report available on the department's Internet web site. The annual performance report published on the Internet for a school corporation, including a charter school, must include any additional information submitted by the school corporation under section 6(3)(A) of this chapter.** The governing body of a school corporation may make the school corporation's report available on the school corporation's Internet web site.

**(c) The governing body of a school corporation shall provide a copy of the report to a person who requests a copy. The governing body may not charge a fee for providing the copy.**

SECTION 11. IC 20-20-8-6, AS ADDED BY HEA 1288-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 6. A report must contain the following:**

- (1) The information listed in section 8 of this chapter for each of the preceding three (3) years.
- (2) Additional components determined under section 7(4) of this chapter.
- (3) Additional information or explanation that the governing body wishes to include, including the following:
  - (A) Results of nationally recognized assessments of students under programs other than the ISTEP program that a school corporation, including a charter school, uses to determine if students are meeting or exceeding academic standards in grades that are tested under the ISTEP program.**
  - ~~(A)~~ **(B) Results of assessments of students under programs other than the ISTEP program that a school corporation uses to determine if students are meeting or exceeding academic standards in grades that are not tested under the ISTEP program.**
  - ~~(B)~~ **(C) The number and types of staff professional development programs.**
  - ~~(C)~~ **(D) The number and types of partnerships with the community, business, or higher education.**
  - ~~(D)~~ **(E) Levels of parental participation.**

SECTION 12. IC 20-20-8-7, AS ADDED BY HEA 1288-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2005]: **Sec. 7. The state superintendent and the state board, in consultation with school corporations, educational organizations, appropriate state agencies, and other organizations and individuals having an interest in education, shall develop and periodically revise the following for the benchmarks and indicators of performance under section 8 of this chapter and the additional components of the performance report:**

- (1) Reporting procedures, including the following:
  - (A) A determination of the information that a school corporation must compile and the information that the department must compile.
  - (B) A determination of the information required on a school by school basis and the information required on a school corporation basis.
  - (C) A common format suitable for publication, including tables, graphics, and explanatory text. **The common format must allow the inclusion of additional information described in section 6(3)(A) of this chapter that is submitted by a school corporation, including a charter school.**
- (2) Operational definitions.
- (3) Standards for implementation.
- (4) Additional components for the report that may be benchmarks, indicators of performance, or other information.

SECTION 13. IC 20-24-3-9, AS ADDED BY HEA 1288-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9. A sponsor must notify an organizer that submits a proposal under section 4 of this chapter of the:**

- (1) acceptance of the proposal; or
- (2) rejection of the proposal;

not later than ~~sixty (60)~~ **seventy-five (75)** days after the organizer submits the proposal.

SECTION 14. IC 20-24-7-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 10. (a) The department shall carry out a program to identify all federal funds for which a charter school is eligible.**

**(b) The department shall apply for all federal funds that are available for charter schools and for which Indiana is eligible.**

**(c) Upon receiving notice under IC 20-5.5-3-9 from a sponsor that a charter has been approved, the department shall immediately inform the organizer of the organizer's potential eligibility for federal charter school start-up grants.**

**(d) The department shall distribute federal charter school start-up grants to eligible organizers in a timely manner according to the department's published guidelines for distributing the grants.**

**(e) The department shall compile a biannual report and submit the report to the state office of federal grants and procurement and to charter school organizers and sponsors. The report submitted under this subsection must contain the following information for grants distributed under this section:**

- (1) Beginning and end dates for each grant cycle.**
- (2) The dates on which:**
  - (A) grant applications and requests for renewal were received; and**
  - (B) grants were awarded.**
- (3) The amount of each grant awarded.**

SECTION 15. IC 20-24-7-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 11. (a) If the United States Department of Education approves a new competition for states to receive matching funds for charter school facilities, the department shall pursue this federal funding.**

**(b) The department shall use the common school fund interest balance to provide state matching funds for the federal funding described in subsection (a) for the benefit of charter schools.**

**(c) The department shall develop guidelines and the state board shall adopt rules under IC 4-22-2 necessary to implement this section.**

SECTION 16. IC 20-24-8-2, AS ADDED BY HEA 1288-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A charter school may not do the following:

- (1) Operate at a site or for grades other than as specified in the charter.
- (2) Charge tuition to any student residing within the school corporation's geographic boundaries. However, a charter school may charge tuition for:
  - (A) a preschool program, unless charging tuition for the preschool program is barred under federal law; or
  - (B) a latch key program;
 if the charter school provides those programs.
- (3) Except for a foreign exchange student who is not a United States citizen, enroll a student who is not a resident of Indiana.
- (4) Be located in a private residence.
- (5) Provide home based instruction.

(b) A charter school is not prohibited from delivering instructional services:

- (1) through the Internet or another online arrangement; or
- (2) in any manner by computer;

if the instructional services are provided to students enrolled in the charter school in a manner that complies with any procedures adopted by the department concerning online and computer instruction in public schools.

SECTION 17. IC 20-24-8-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. A charter school may use any money distributed by law to the charter school to prepare financial reports and conduct audits that the charter school determines are necessary for the conduct of the affairs of the charter school. A financial report or an audit under this section does not replace a financial report or an audit required under IC 5-11-1-9.**

SECTION 18. IC 20-30-8-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 4.5. As used in this chapter, "school corporation" includes a charter school (as defined in IC 20-24-1-4)."**

Page 4, delete lines 39 through 42.

Page 5, delete lines 1 through 2, begin a new paragraph and insert: "SECTION 19. IC 21-3-11-5, AS AMENDED BY HEA 1288-2005, SECTION 177, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. As used in this chapter, "qualifying school corporation" means a school corporation, **including a charter school (as defined in IC 20-24-1-4)**, that has been approved under IC 20-30-8-8 to receive a grant under this chapter."

Re-number all SECTIONS consecutively.

(Reference is to SB 598 as printed February 4, 2005.) and when so amended that said bill do pass.

Committee Vote: yeas 6, nays 4.

BEHNING, Chair

Report adopted.

## ENROLLED ACTS SIGNED

The Speaker announced that he had signed House Enrolled Acts 1032, 1099, 1240, 1540, and 1600 and House Enrolled Joint Resolution 4 on March 28.

The House recessed until the fall of the gavel.

## RECESS

The House reconvened at 8:10 p.m. with the Speaker in the Chair.

Representative Dvorak, who had been excused, was present.

Representative Kuzman rose to a point of order requesting a quorum call. The Speaker ordered the roll of the House to be called to determine the presence or absence of a quorum. Roll Call 310: 67 present.

## ENGROSSED SENATE BILLS ON THIRD READING

### Engrossed Senate Bill 414

Representative T. Harris called down Engrossed Senate Bill 414 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 311: yeas 85, nays 2. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### Engrossed Senate Bill 417

Representative Thomas called down Engrossed Senate Bill 417 for third reading:

A BILL FOR AN ACT concerning corrections.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 312: yeas 84, nays 3. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### Engrossed Senate Bill 433

Representative Behning called down Engrossed Senate Bill 433 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning the arts.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 313: yeas 89, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### Engrossed Senate Bill 442

Representative Hoffman called down Engrossed Senate Bill 442 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 314: yeas 91, nays 3. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### Engrossed Senate Bill 446

Representative Wolkins called down Engrossed Senate Bill 446 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

The bill was read a third time by sections and placed upon its passage.

### HOUSE MOTION (Amendment 446-2)

Mr. Speaker: I move that Engrossed Senate Bill 446 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning water management.

Page 11, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 8. IC 14-33-16.5 IS ADDED TO THE INDIANA

CODE AS A NEW CHAPTER TO READ AS FOLLOWS  
[EFFECTIVE UPON PASSAGE]:

**Chapter 16.5. Dissolution of Smaller District and Assumption of Operations, Obligations, and Assets by Larger District**

**Sec. 1.** This chapter applies to any two (2) conservancy districts that:

- (1) are contiguous; and
- (2) share at least one (1) common purpose set forth in IC 14-33-1-1.

**Sec. 2.** As used in this chapter:

- (1) "freeholder" means an owner of real property, as reflected in the real property tax records of the county auditor;
- (2) "larger district" means, of the two (2) districts referred to in section 1 of this chapter, the one (1) that has the larger number of freeholders; and
- (3) "smaller district" means, of the two (2) districts referred to in section 1 of this chapter, the one (1) that has the smaller number of freeholders.

**Sec. 3.** (a) The freeholders of a smaller district may initiate dissolution proceedings under this chapter by filing a petition with the county auditor of the county in which most of the smaller district's area is located. The petition must be signed by at least the lesser of:

- (1) fifty (50); or
- (2) five percent (5%);

of the smaller district's freeholders.

(b) A petition under subsection (a) may be circulated and presented in separate parts. All of the parts of the petition constitute a single petition.

(c) The petitioning freeholders must sign the petition, showing:

- (1) the name and address of each petitioner; and
- (2) the date of the signature.

(d) A petition must state that the petitioners desire an election on the question of whether:

- (1) the smaller district will dissolve and becomes part of the larger district; and
- (2) the larger district will assume the smaller district's operation, obligations, and assets.

(e) A person who presents a petition from the smaller district's freeholders under this section to the county auditor must verify and certify the signatures on the petition upon oath.

**Sec. 4.** (a) Not later than thirty (30) days after a petition is filed with the county auditor under section 3 of this chapter, the county auditor shall:

- (1) prepare and certify a list of freeholders of the smaller district;
- (2) make the list available for inspection by any person; and
- (3) determine and certify whether the petition:
  - (A) was signed by the number of freeholders required under section 3(a) of this chapter; and
  - (B) otherwise meets the requirements of this chapter.

(b) A deficiency in the list of the smaller district's freeholders or an omission of the name of a freeholder does not void the election or the election's outcome.

(c) If the county auditor determines that a petition filed under section 3 of this chapter meets the requirements of this chapter, the auditor shall, not later than forty (40) days after receiving the petition, forward a notice to the board of directors of the larger district by personal delivery or by certified mail. The notice must:

- (1) inform the larger district that a petition was filed under section 3 of this chapter by the freeholders of the smaller district; and
- (2) ask if the larger district is willing and able to assume the smaller district's operation, obligations, and assets if the smaller district's freeholders vote to dissolve the smaller district.

(d) Not later than thirty (30) days after receiving the notice from the county auditor under subsection (c), the board of directors of the larger district may pass a resolution stating that:

- (1) the larger district is willing and able to assume the smaller district's operation, obligations, and assets; and
- (2) upon becoming part of the larger district, the

freeholders of the smaller district will:

- (A) become full and equal freeholders of the larger district; and
- (B) pay the same special benefits taxes and user charges generally charged by the larger district.

(e) If the board of directors of the larger district passes a timely resolution under subsection (d):

- (1) the board of directors of the larger district must forward a true and accurate copy of the resolution to the county auditor by personal delivery or by certified mail not later than ten (10) business days after the board passes the resolution; and
- (2) the board of directors of the smaller district must hold a dissolution and assumption election of the smaller district's freeholders under to this chapter.

(f) If the board of directors of the larger district:

- (1) does not pass a timely resolution under subsection (d); or
- (2) passes a timely resolution under subsection (d), but does not timely forward a copy of the resolution under subsection (e)(1);

the dissolution proceedings that began with the filing of a petition under section 3 of this chapter are ended.

**Sec. 5.** Not later than ten (10) days after the county auditor receives a resolution from the board of directors of the larger district under section 4 of this chapter, the county auditor shall, by personal delivery or by certified mail, notify the board of directors of the smaller district that the board of directors of the smaller district must hold the election referred to in section 4(e)(2) of this chapter.

**Sec. 6.** (a) Not later than ten (10) days after receipt of a notice under section 5 of this chapter, the board of directors of the smaller district shall fix the following:

- (1) A convenient and suitable place for the smaller district's election.
- (2) The date for the election that is at least sixty (60) days after the date on which the county auditor notifies the smaller district's board under section 5 of this chapter.

(b) The voting place must open at 9 a.m. local time and remain open for balloting continuously until 9 p.m. local time. If the number of freeholders in the smaller district is too great for balloting at a single voting place while allowing each freeholder a reasonable time to cast a ballot, the board shall arrange for the number of voting places necessary to accommodate the freeholders eligible to vote.

(c) Notice of the date, time, place, and purpose of the election must be given for two (2) consecutive weeks in an English language newspaper of general circulation published in each county having land in the smaller district, with the last publication:

- (1) not less than fifteen (15) days; and
- (2) not more than thirty (30) days;

before the date of the election.

(d) The board of directors of the smaller district shall also cause individual notice of the election to be given to all of the smaller district's freeholders by first class mail.

(e) The notice published under subsection (c) and the individual freeholder notice mailed under subsection (d) must be in the following form:

Notice of a Dissolution and Assumption Election  
to the Freeholders of the \_\_\_\_\_  
(insert smaller district) Conservancy District

1. You are a freeholder (i.e. a real property owner) of the \_\_\_\_\_ (insert smaller district) Conservancy District. As a freeholder, you are one of the owners of the \_\_\_\_\_ (insert smaller district) Conservancy District.
2. A legally required number of the freeholders of the \_\_\_\_\_ (insert smaller district) Conservancy District has filed a petition with the \_\_\_\_\_ (insert county name) County Auditor requesting that the \_\_\_\_\_ (insert smaller district) Conservancy District be dissolved, and that the operation, obligations, and assets of the \_\_\_\_\_ (insert smaller district) Conservancy District be assumed by the \_\_\_\_\_ (insert larger district) Conservancy District.
3. The \_\_\_\_\_ (insert larger district) Conservancy

District is contiguous to, has the same purpose as, and has a greater number of freeholders than the \_\_\_\_\_ (insert smaller district) Conservancy District.

4. The Board of Directors of the \_\_\_\_\_ (insert larger district) Conservancy District has passed a resolution stating:

A. That the \_\_\_\_\_ (insert larger district) Conservancy District is willing to assume the operation, obligations, and assets of the \_\_\_\_\_ (insert smaller district) Conservancy District; and

B. That upon becoming part of the \_\_\_\_\_ (insert larger district) Conservancy District, the freeholders of the \_\_\_\_\_ (insert smaller district) Conservancy District will become full and equal freeholders of the \_\_\_\_\_ (insert larger district) Conservancy District and be subject to and pay the same special benefits taxes and user charges generally charged by the (insert larger district) Conservancy District.

5. An election of the freeholders of the (insert smaller district) Conservancy District is set for the day of \_\_\_\_\_, \_\_\_\_\_, from 9:00 a.m. to 9:00 p.m., at the following location(s): \_\_\_\_\_.

6. The question presented for the election is whether the \_\_\_\_\_ (insert smaller district) Conservancy District should be dissolved, and whether the \_\_\_\_\_ (insert larger district) Conservancy District should assume the operations, obligations, and assets of the (insert smaller district) Conservancy District.

7. A majority of the votes cast at the election will determine the question of whether the \_\_\_\_\_ (insert smaller district) Conservancy District should be dissolved, and whether the \_\_\_\_\_ (insert larger district) Conservancy District should assume the operations, obligations, and assets of the \_\_\_\_\_ (insert smaller district) Conservancy District.

8. As a freeholder of the \_\_\_\_\_ (insert smaller district) Conservancy District, you are entitled to and encouraged to vote at the election.

/s/ Board of Directors, \_\_\_\_\_  
(insert smaller district) Conservancy District

(f) If the board of directors of the smaller district fails to hold the election as required by this chapter, the county auditor of the county in which the smaller district's petition was filed shall:

- (1) conduct the election as required by this chapter; and
- (2) bill the board of directors of the smaller district for the county auditor's costs incurred for the election.

(g) The board of directors of the smaller district shall promptly pay a bill submitted to the smaller district under subsection (f).

Sec. 7. After receiving a notice under section 5 of this chapter, the board of directors of the smaller district shall prepare and furnish ballots in sufficient number in the following form:

"Shall the \_\_\_\_\_ (insert smaller district) Conservancy District be dissolved and its operations, obligations, and assets be assumed by the \_\_\_\_\_ (insert larger district) Conservancy District?

Yes  No"

Sec. 8. After receiving a notice under section 5 of this chapter, the board of directors of the smaller district shall do the following:

- (1) Appoint an assistant secretary.
- (2) Provide a voting list at each voting place.

Sec. 9. (a) Before the voting begins under this chapter, the board of directors of the smaller district shall appoint three (3) freeholders of the district as clerks to conduct the dissolution and assumption election.

(b) Before casting a vote, each freeholder must sign the list of freeholders opposite the freeholder's name in the presence of the district secretary.

(c) If:

- (1) a clerk finds a freeholder's name is omitted from the list; and
- (2) all three (3) clerks determine that the freeholder's name should be added to the list;

the clerks shall place the freeholder's name on the list and the freeholder may vote.

Sec. 10. (a) After an election is held under this chapter, the

assistant secretary of the smaller district shall do the following:

- (1) Keep the ballots safe and secure until the end of the voting period.
- (2) At the end of the voting period, present all ballots cast to the three (3) clerks.
- (3) Record the election results in the records of the smaller district.

- (4) Certify the results of the election to the county auditor and the circuit court having supervisory jurisdiction over the smaller district as promptly as possible.

(b) The clerks of the smaller district shall do the following:

- (1) Count the ballots.
- (2) Report the results of the election to the secretary in writing over the signature of each clerk.

Sec. 11. In an election held under this chapter, a majority of all votes cast by the freeholders of the smaller district determine the question of the dissolution of the smaller district and the larger district's assumption of the smaller district's operations, obligations, and assets.

Sec. 12. The costs of a smaller district's election held under this chapter shall be paid by the smaller district.

Sec. 13. (a) In an election held under this chapter, if a majority of the freeholders of the smaller district votes to dissolve the smaller district, not later than sixty (60) days after the election, as the final action of the board of directors of the smaller district, the board shall:

- (1) make a full and final accounting to the circuit court having supervisory jurisdiction over the smaller district; and
- (2) file all records of the smaller district with the court.

(b) If the smaller district's board of directors fails to timely comply with subsection (a), the circuit court having supervisory jurisdiction over the smaller district shall order the board to comply or suffer a finding of contempt of court.

(c) The larger district shall take custody and control of the smaller district's operations, obligations, and assets on the earlier of:

- (1) the date the smaller district's board of directors complies with subsection (a)(1); or
- (2) the sixtieth day after the election.

(d) The larger district is directly responsible for payment of the smaller district's bonds or notes outstanding upon the larger district taking custody and control of the smaller district's operations, obligations, and assets.

(e) When the smaller district's board of directors complies with subsection (a), the circuit court shall issue an order:

- (1) dissolving the smaller district; and
- (2) discharging the board of directors of the smaller district."

Renumber all SECTIONS consecutively.

(Reference is to ESB 446 as reprinted March 22, 2005.)

WOLKINS

There being a two-thirds vote in favor of the motion, the motion prevailed.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed Senate Bill 446, begs leave to report that said bill has been amended as directed.

WOLKINS

Report adopted.

The question then was, Shall the bill pass?

Roll Call 315: yeas 94, nays 2. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### Engrossed Senate Bill 453

Representative Torr called down Engrossed Senate Bill 453 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 316: yeas 87, nays 6. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### **Engrossed Senate Bill 460**

Representative Ayres called down Engrossed Senate Bill 460 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning education finance.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 317: yeas 93, nays 2. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### **Engrossed Senate Bill 465**

Representative Gutwein called down Engrossed Senate Bill 465 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

On the motion of Representative Dobis the previous question was called. Roll Call 318: yeas 87, nays 10. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### **Engrossed Senate Bill 467**

Representative Buell called down Engrossed Senate Bill 467 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 319: yeas 97, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### **Engrossed Senate Bill 484**

Representative Alderman called down Engrossed Senate Bill 484 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 320: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### **Engrossed Senate Bill 518**

Representative Friend called down Engrossed Senate Bill 518 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning property.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 321: yeas 81, nays 16. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### **Engrossed Senate Bill 554**

Representative Hoffman called down Engrossed Senate Bill 554 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 322: yeas 50, nays 47. The bill failed for lack of a constitutional majority.

#### **Engrossed Senate Bill 569**

Representative Becker called down Engrossed Senate Bill 569 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was read a third time by sections and placed upon its passage. After discussion, Representative Becker withdrew the call of Engrossed Senate Bill 569.

#### **Engrossed Senate Bill 572**

Representative T. Brown called down Engrossed Senate Bill 572 for third reading:

A BILL FOR AN ACT concerning Medicaid.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 323: yeas 95, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### **Engrossed Senate Bill 578**

Representative Buell called down Engrossed Senate Bill 578 for third reading:

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

The bill was read a third time by sections and placed upon its passage.

#### HOUSE MOTION (Amendment 578-4)

Mr. Speaker: I move that Engrossed Senate Bill 578 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

Page 64, line 13, strike "finance" and insert "**and community development**".

Page 160, line 11 delete "authority." and insert "**authority, including changing the name of the Indiana housing finance authority to the Indiana housing and community development authority established by IC 5-20-1-3, as amended by this act.**".

(Reference is to ESB 578 as reprinted March 22, 2005.)

BUELL

There being a two-thirds vote in favor of the motion, the motion prevailed.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed Senate Bill 578, begs leave to report that said bill has been amended as directed.

BUELL

Report adopted.

The question then was, Shall the bill pass?

Roll Call 324: yeas 97, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### **Engrossed Senate Bill 590**

Representative Budak called down Engrossed Senate Bill 590 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 325: yeas 97, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### Engrossed Senate Bill 609

Representative Espich called down Engrossed Senate Bill 609 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage.

#### HOUSE MOTION (Amendment 609-2)

Mr. Speaker: I move that Engrossed Senate Bill 609 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

Page 9, between lines 32 and 33, begin a new paragraph and insert: "SECTION 8. IC 6-3.5-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. As used in this chapter:

"Adjusted gross income" has the same definition that the term is given in IC 6-3-1-3.5. However, in the case of a county taxpayer who is not treated as a resident county taxpayer of a county, the term includes only adjusted gross income derived from his principal place of business or employment.

"Civil taxing unit" means any entity, except a school corporation, that has the power to impose ad valorem property taxes. The term does not include a solid waste management district that is not entitled to a distribution under section 1.3 of this chapter. However, in the case of a county in which a consolidated city is located, the consolidated city, the county, all special taxing districts, special service districts, included towns (as defined in IC 36-3-1-7), and all other political subdivisions except townships, excluded cities (as defined in IC 36-3-1-7), **a public transportation corporation established under IC 36-9-4**, and school corporations shall be deemed to comprise one (1) civil taxing unit whose fiscal body is the fiscal body of the consolidated city.

"County income tax council" means a council established by section 2 of this chapter.

"County taxpayer", as it relates to a particular county, means any individual:

- (1) who resides in that county on the date specified in section 20 of this chapter; or
- (2) who maintains his principal place of business or employment in that county on the date specified in section 20 of this chapter and who does not reside on that same date in another county in which the county option income tax, the county adjusted income tax, or the county economic development income tax is in effect.

"Department" refers to the Indiana department of state revenue.

"Fiscal body" has the same definition that the term is given in IC 36-1-2-6.

"Resident county taxpayer", as it relates to a particular county, means any county taxpayer who resides in that county on the date specified in section 20 of this chapter.

"School corporation" has the same definition that the term is given in IC 6-1.1-1-16."

Page 13, line 4, strike "as" and insert "**established**".

Page 13, strike line 5.

Page 13, line 6, strike "IC 36-9-4-42;" and insert "**IC 36-9-4**;".

Page 18, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 16. IC 36-9-4-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 42. (a) A municipality or a public transportation corporation that expends money for the establishment or maintenance of an urban mass

transportation system under this chapter may acquire the money for these expenditures:

- (1) by issuing bonds under section 43 or 44 of this chapter;
- (2) by borrowing money made available for such purposes by any source;
- (3) by accepting grants or contributions made available for such purposes by any source;
- (4) in the case of a municipality, by appropriation from the general fund of the municipality, or from a special fund that the municipal legislative body includes in the municipality's budget; or
- (5) in the case of a public transportation corporation, by levying a tax under section 49 of this chapter or **by recommending an election to use revenue from the county option income taxes; as provided in subsection (c): using revenue from county option income taxes.**

(b) Money may be acquired under this section for the purpose of exercising any of the powers granted by or incidental to this chapter, including:

- (1) studies under section 4, 9, or 11 of this chapter;
- (2) grants in aid;
- (3) the purchase of buses or real property by a municipality for lease to an urban mass transportation system, including the payment of any amount outstanding under a mortgage, contract of sale, or other security device that may attach to the buses or real property;
- (4) the acquisition by a public transportation corporation of property of an urban mass transportation system, including the payment of any amount outstanding under a mortgage, contract of sale, or other security device that may attach to the property;
- (5) the operation of an urban mass transportation system by a public transportation corporation, including the acquisition of additional property for such a system; and
- (6) the retirement of bonds issued and outstanding under this chapter.

~~(c) This subsection applies only to a public transportation corporation located in a county having a consolidated city. In order to provide revenue to a public transportation corporation during a year, the public transportation corporation board may recommend and the county fiscal body may elect to provide revenue to the corporation from part the certified distribution, if any; that the county is to receive during same year under IC 6-3.5-6-17. To make the election, the county fiscal body must adopt an ordinance before September 1 of the preceding year. The county fiscal body must specify in the ordinance amount of the certified distribution that is to be used to provide revenue to the corporation. If such an ordinance is adopted, the county fiscal body shall immediately send a copy of the ordinance to the county auditor."~~

Renumber all SECTIONS consecutively.

(Reference is to ESB 609 as printed March 18, 2005.)

ESPICH

There being a two-thirds vote in favor of the motion, the motion prevailed.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed Senate Bill 609, begs leave to report that said bill has been amended as directed.

ESPICH

Report adopted.

The question then was, Shall the bill pass?

Roll Call 326: yeas 97, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### Engrossed Senate Bill 615

Representative Becker called down Engrossed Senate Bill 615 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 327: yeas 98, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

**Engrossed Senate Bill 619**

Representative Wolkins called down Engrossed Senate Bill 619 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 328: yeas 97, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

**Engrossed Senate Bill 634**

Representative Hoffman called down Engrossed Senate Bill 634 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Representative Murphy was excused from voting pursuant to House Rule 47. Roll Call 329: yeas 68, nays 28. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

**Engrossed Senate Bill 76**

Representative Noe called down Engrossed Senate Bill 76 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 330: yeas 84, nays 12. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

**Engrossed Senate Bill 218**

Representative Whetstone called down Engrossed Senate Bill 218 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was reread a third time by sections and placed upon its passage.

HOUSE MOTION  
(Amendment 218-17)

Mr. Speaker: I move that Engrossed Senate Bill 218 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

Page 2, line 10, delete "may" and insert "**shall**".  
(Reference is to ESB 218 as reprinted March 25, 2005.)

WHETSTONE

There being a two-thirds vote in favor of the motion, the motion prevailed.

COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed Senate Bill 218, begs leave to report that said bill has been amended as directed.

WHETSTONE

Report adopted.

The question then was, Shall the bill pass?

Roll Call 331: yeas 55, nays 42. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

**Engrossed Senate Bill 397**

Representative Foley called down Engrossed Senate Bill 397 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning education.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 332: yeas 93, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

**REPORTS FROM COMMITTEES**

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 88, 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.

FOLEY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 198, 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, line 18, delete "stock" and insert "**stock, dividends, profits, distributions, interest, redemption, payments on principal, or any other sum held or owed by a business association for or to a shareholder, certificate holder, member, bondholder, or other security holders of the business association,**".

(Reference is to SB 198 as printed February 18, 2005.) and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

FOLEY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 212, 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.

FOLEY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 322, 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 SECTION 1 with "[EFFECTIVE UPON PASSAGE]".

Page 3, line 3, delete "2(1)B(i)" and insert "**2(1)(B)(i)**".

Page 3, line 4, delete "(2)(1)(B)(viii)" and insert "**2(1)(B)(viii)**".

Page 3, after line 26, begin a new paragraph and insert:

"SECTION 2. 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 3. **An emergency is declared for this act."**

(Reference is to SB 322 as printed February 11, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

FOLEY, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 373, 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 11, after "(c)" insert "**As used in this section, 'deficiency' does not mean a failure by a possessor to maintain, keep up, or improve an improvement to real estate following a substantial completion of an improvement.**

**(d)".**

(Reference is to SB 373 as printed February 11, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 4.

FOLEY, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 509, 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 5-22-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Except as provided in this chapter, this article applies to every expenditure use of public funds by a governmental body.

SECTION 2. IC 5-22-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a)** Except as provided in subsection **(b)** and otherwise in this article, this article does not apply to the following:

- (1) The commission for higher education.
- (2) A state educational institution. However, IC 5-22-15 applies to a state educational institution.
- (3) Military officers and military and armory boards of the state.
- (4) An entity established by the general assembly as a body corporate and politic. However, IC 5-22-15 applies to a body corporate and politic.
- (5) A local hospital authority under IC 5-1-4.
- (6) A municipally owned utility under IC 8-1-11.1 or IC 8-1-5.
- (7) Hospitals organized or operated under IC 16-22-1 through IC 16-22-5, IC 16-23-1, or IC 16-24-1.
- (8) A library board under IC 20-14-3-14(b).
- (9) A local housing authority under IC 36-7-18.
- (10) Tax exempt Indiana nonprofit corporations leasing and operating a city market owned by a political subdivision.
- (11) A person paying for a purchase or lease with funds other than public funds.
- (12) A person that has entered into an agreement with a governmental body under IC 5-23.

(13) A municipality for the operation of municipal facilities used for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.

**(b) IC 5-22-2-13.3 and IC 5-22-3-7 apply to the entities described in subsection (a).**

SECTION 3. IC 5-22-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a)** Except as provided in subsection **(b)**, this article does not apply to the following types of activities:

- (1) A contract between governmental bodies except for a contract authorized under this article.
- (2) A public works project.
- (3) A collective bargaining agreement between a governmental body and its employees.
- (4) The employment relationship between a governmental body and an employee of the governmental body.
- (5) An investment of public funds.
- (6) A contract between a governmental body and a body corporate and politic.
- (7) A contract for social services.

**(b) IC 5-22-2-13.3 and IC 5-22-3-7 apply to:**

- (1) a contract;**
- (2) a project;**
- (3) an agreement;**
- (4) an employment relationship; or**
- (5) an investment;**

**described in subsection (a).**

SECTION 4. IC 5-22-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **Except as otherwise provided**, the definitions in this chapter apply throughout this article.

SECTION 5. IC 5-22-2-13.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.3. **"In good standing" means that a contractor, or the contractor's principal if the contractor is not an individual, has certified under penalty for perjury under IC 35-44-2-1 as a term of its contract with the governmental body, that:**

- (1) the contractor:**
  - (A) has not violated the terms of:**
    - (i) IC 24-4.7;**
    - (ii) IC 24-5-12; or**
    - (iii) IC 24-5-14;**
- in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and**
- (B) will not violate the terms of IC 24-4.7 for the duration of the contract, even if IC 24-4.7 is preempted by federal law; and**
- (2) an affiliate or principal of the contractor and any person acting on behalf of the contractor or on behalf of an affiliate or principal of the contractor:**
  - (A) has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and**
  - (B) will not violate the terms of IC 24-4.7 for the duration of the contract, even if IC 24-4.7 is preempted by federal law.**

SECTION 6. IC 5-22-3-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **(a) This section does not apply to a contract in which one (1) party is a political subdivision.**

**(b) A prospective contractor may not contract with a governmental body unless the prospective contractor is in good standing.**

**(c) The attorney general may bring an action in the circuit or superior court of Marion County to:**

- (1) void a contract under this section; and**
- (2) obtain other proper relief.**

**(d) A contract between a contractor and a governmental body is voidable at the election of the attorney general if the attorney general establishes in a civil action that:**

- (1) the certification concerning compliance with IC 24-4.7, IC 24-5-12, or IC 24-5-14 is materially false; or
- (2) the contractor, an affiliate or a principal of the contractor, or a person acting on behalf of the contractor or an affiliate or a principal of the contractor has violated the terms of IC 24-4.7, IC 24-5-12, or IC 24-5-14, even if IC 24-4.7 is preempted by federal law.

(e) If the attorney general establishes in a civil action that a contractor is knowingly, intentionally, or recklessly liable under subsection (d), the contractor is prohibited from entering into a contract with a governmental body for three hundred sixty-five (365) days after the date on which the contractor exhausts appellate remedies.

(f) In addition to any remedy obtained in a civil action brought under this section, the attorney general may obtain the following:

- (1) All money the contractor obtained through each telephone call made in violation of the terms of IC 24-4.7, IC 24-5-12, or IC 24-5-14, even if IC 24-4.7 is preempted by federal law.
- (2) The attorney general's reasonable expenses incurred in:
  - (A) investigation; and
  - (B) maintaining the civil action.
- (3) Reasonable costs and attorney's fees.

SECTION 7. IC 24-4.7-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. A telephone solicitor who fails to comply with any provision of IC 24-4.7-4 commits a deceptive act that is actionable by the attorney general under this chapter. In addition, a contractor who contracts or seeks to contract with the state:

- (1) may be prohibited from contracting with the state; or
- (2) may have an existing contract with the state voided;

if the contractor, an affiliate or principal of the contractor, or any person acting on behalf of the contractor or an affiliate or principal of the contractor does not or has not complied with the terms of this article, even if this article is preempted by federal law."

Page 4, line 19, after "." insert "**This subsection also does not apply to a violation of IC 24-4.7, IC 24-5-12, or IC 24-5-14.**"

Page 6, after line 14, begin a new paragraph and insert: "SECTION 10. IC 24-5-12-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. A seller who fails to comply with any provision of:

- (1) this chapter; or
- (2) IC 24-4.7;

commits a deceptive act that is actionable by the attorney general under IC 24-5-0.5-4(c) and is subject to the penalties set forth in IC 24-5-0.5. An action for a violation of IC 24-4.7 may be brought under IC 24-5-0.5-4(c) or IC 24-4.7-5. An action by the attorney general for a violation of this chapter or IC 24-4.7 may be brought in the circuit or superior court of Marion County.

SECTION 11. IC 32-27-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. As used in this chapter, "warranty date" means the date of the first occupancy of the new home as a residence by the initial home buyer. **one (1) of the following:**

- (1) The builder.
- (2) An individual or individuals renting the home from the builder.
- (3) An individual or individuals living in the home at the request of the builder.
- (4) The initial home buyer.

SECTION 12. IC 32-27-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) In selling a completed new home, and in contracting to sell a new home to be completed, the builder may warrant to the initial home buyer the following:

- (1) During the two (2) year period beginning on the warranty date, the new home will be free from defects caused by faulty workmanship or defective materials.
- (2) During the two (2) year period beginning on the warranty date, the new home will be free from defects caused by faulty installation of:

- (A) plumbing;
- (B) electrical;
- (C) heating;
- (D) cooling; or
- (E) ventilating;

systems, exclusive of fixtures, appliances, or items of equipment.

(3) During the four (4) year period beginning on the warranty date, the new home will be free from defects caused by faulty workmanship or defective materials in the roof or roof systems of the new home.

(4) During the ten (10) year period beginning on the warranty date, the new home will be free from major structural defects.

(b) The warranties provided in this section (or IC 34-4-20.5-8 or IC 32-15-7 before their repeal) survive the passing of legal or equitable title in the new home to a home buyer.

(c) An individual identified in section 7(1), 7(2), or 7(3) of this chapter who is selling a new home shall notify the purchaser of the home in writing on or before the date of closing or transfer of the new home of:

- (1) the warranty date (as defined in section 7 of this chapter); and
- (2) the amount of time remaining under the warranty.

SECTION 13. [EFFECTIVE UPON PASSAGE] IC 5-22-1-2, IC 5-22-1-3, IC 5-22-2-1, IC 24-4.7-5-1, and IC 24-5-12-23, all as amended by this act, and IC 5-22-2-13.3 and IC 5-22-3-7, both as added by this act, apply only to a contract entered into or renewed after the effective date of this act.

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

Renumber all SECTIONS consecutively.

(Reference is to SB 509 as reprinted March 1, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

FOLEY, Chair

Report adopted.

## 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, without amendments, Engrossed House Bills 1183 and 1653 and the same are herewith returned to the House.

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 Bills 1033, 1059, 1078, 1135, and 1553 with amendments and the same are herewith returned to the House for concurrence.

MARY C. MENDEL  
Principal Secretary of the Senate

### PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 12, Roll Call 283, on March 28, 2005. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

KLINKER

There being a constitutional majority voting in favor of the petition, the petition was adopted.

### PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 12, Roll Call 283, on March 28, 2005. In support of this petition, I submit the following reason:

"I was temporarily away from my desk and was unable to reach my desk in time to cast my vote. I intended to vote yea."

MURPHY

There being a constitutional majority voting in favor of the petition, the petition was adopted.

#### PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 12, Roll Call 283, on March 28, 2005. In support of this petition, I submit the following reason:

"I was temporarily away from my desk and was unable to reach my desk in time to cast my vote. I intended to vote yea."

POND

There being a constitutional majority voting in favor of the petition, the petition was adopted.

#### PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 12, Roll Call 283, on March 28, 2005. In support of this petition, I submit the following reason:

"I was conducting legislative business in the Senate. I intended to vote yea."

WELCH

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: adoption of the petitions of Representatives Klinker, Murphy, Pond, and Welch changes the vote tally for Roll Call 283 to 93 yeas, 0 nays.*]

#### PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 44, Roll Call 284, on March 28, 2005. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

KLINKER

There being a constitutional majority voting in favor of the petition, the petition was adopted.

#### PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 44, Roll Call 284, on March 28, 2005. In support of this petition, I submit the following reason:

"I was temporarily away from my desk and was unable to reach my desk in time to cast my vote. I intended to vote yea."

POND

There being a constitutional majority voting in favor of the petition, the petition was adopted.

#### PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 44, Roll Call 284, on March 28, 2005. In support of this petition, I submit the following reason:

"I was conducting legislative business in the Senate. I intended to vote yea."

WELCH

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: adoption of the petitions of Representatives Klinker, Pond, and Welch changes the vote tally for Roll Call 284 to 97 yeas, 0 nays.*]

#### PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 76, Roll Call 330, on March 28, 2005. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, I inadvertently push the nay button when I intended to vote yea."

COCHRAN

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 330 to 84 yeas, 12 nays.*]

#### PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 193, Roll Call 292, on March 28, 2005. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

V. SMITH

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 292 to 96 yeas, 0 nays.*]

#### PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 265, Roll Call 299, on March 28, 2005. In support of this petition, I submit the following reason:

"I was present and push the yea button, but my vote was not recorded. I intended to vote yea."

KUZMAN

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 299 to 98 yeas, 0 nays.*]

#### PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 306, Roll Call 305, on March 28, 2005. In support of this petition, I submit the following reason:

"I was present but was unable to reach my seat in time for the vote. I intended to vote yea."

BEHNING

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 305 to 96 yeas, 0 nays.*]

#### PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 335, Roll Call 308, on March 28, 2005. In support of this petition, I submit the following reason:

"I had briefly left my seat when the roll call was tallied. I intended to vote yea."

GUTWEIN

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 308 to 94 yeas, 0 nays.*]

#### PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 460, Roll Call 317, on March 28, 2005. In support of this petition, I submit the following reason:

"I was present but was unable to reach my seat in time to vote. I intended to vote yea."

BEHNING

There being a constitutional majority voting in favor of the petition, the petition was adopted.

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 460, Roll Call 317, on March 28, 2005. In support of this petition, I submit the following reason:

"I was present but was unable to reach my seat in time to vote. I intended to vote yea."

SAUNDERS

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 317 to 93 yeas, 2 nays.*]

HOUSE MOTION

Mr. Speaker: I move that Representatives Buck, Borrer, and Bottorff be added as cosponsors of Engrossed Senate Bill 64.

MURPHY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Thomas be added as cosponsor of Engrossed Senate Bill 206.

LEHE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Stevenson be added as cosponsor of Engrossed Senate Bill 242.

MESSER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Bischoff be removed as cosponsor of Engrossed Senate Bill 266.

HOFFMAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Hoy be added as cosponsor of Engrossed Senate Bill 285.

BEHNING

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Koch be added as cosponsor of Engrossed Senate Bill 298.

HINKLE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Avery and GiaQuinta be added as cosponsors of Engrossed Senate Bill 304.

ALDERMAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Behning and Kuzman be added as cosponsors of Engrossed Senate Bill 397.

FOLEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Thomas be added as cosponsor of Engrossed Senate Bill 518.

FRIEND

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Bischoff be removed as cosponsor of Engrossed Senate Bill 554.

HOFFMAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Thomas be added as cosponsor of Engrossed Senate Bill 590.

BUDAK

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Austin, the House adjourned at 10:30 p.m., this twenty-eighth day of March, 2005, until Tuesday, March 29, 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